

# **Houston Amendments to the *2021 International Swimming Pool and Spa Code***



Adopted by Ord. No. XXXX-XXXX<sup>1</sup>

Passed XX/XX/XXXX<sup>2</sup>

Effective XX/XX/XXXX<sup>3</sup>

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1. The City Secretary shall insert the number of the adopting ordinance.
  2. The City Secretary shall insert the date passage and approval of the adopting ordinance.
  3. The City Secretary shall insert the effective date of the adopting ordinance.

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# CHAPTER 1

## SCOPE AND ADMINISTRATION

**[A] 101.1 Title.** These regulations shall be known as the City of Houston Swimming Pool and Spa Code of ~~[NAME OF JURISDICTION]~~, hereinafter referred to as “this code,” and also known as the *Swimming Pool and Spa Code*.

The *City of Houston Construction Code* collectively includes this volume and certain other codes, pamphlets, specifications, and documents that are adopted in or by reference through the adopting ordinance, City of Houston Ordinance No. xxxx-xxxx.

**[A] 101.3 Purpose.** The purpose of this code is to establish minimum requirements to provide a reasonable level of safety, health, property protection and general welfare by regulating and controlling the design, construction, installation, quality of materials, location and maintenance or use of pools and spas. The provisions of this code shall not apply to any activity for which local regulation is preempted by federal or state law.

**[A] 102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall prevail-govern. Where, in any specific instance-case, different sections-of provisions of this code, including adopted appendices, specify different materials, different methods of construction or other requirements that differ from those provided in the City Code or other volumes of the Construction Code, including adopted appendices, other than the Fire Code and its adopted appendices and standards, the most restrictive shall prevail govern. Where, in any specific instance, the provisions of this code, including adopted appendices, specify different materials, different methods of construction, or other requirements that differ from those provided in the *Fire Code*, including adopted appendices and standards, and the *building official* and the fire marshal are unable to mutually reconcile the requirements by issuing a written interpretation, then either of them may refer the matter to the General Appeals Board created under the *Building Code*, which shall conduct a review of the matter and issue a written code interpretation based upon the apparent intent of the codes involved. Notwithstanding any other provision, interpretations that are issued by the General Appeals Board shall not be subject to further appeal. Wherever in this code reference is made to an appendix, the provisions in the appendix shall not apply unless specifically adopted.

**[A] 102.3 Maintenance.** Pools and spas and related mechanical, electrical and plumbing systems, both existing and new, and parts thereof, shall be maintained in proper operating condition in accordance with the original design in a safe and sanitary condition, as well as the provisions of Chapter 43 of the *City Code*, whichever is more restrictive. Devices or safeguards that are required by this code shall be maintained in compliance with the edition of the code under which they were installed.

The owner or the owner’s authorized agent shall be responsible for maintenance of systems. To determine compliance with this provision, the *code official* shall have the authority to require any system to be reinspected.

**[A] 103.1 Creation of agency agencies.** The ~~[NAME OF DEPARTMENT]~~ Building Code Enforcement Branch is hereby created within the jurisdiction's department known as Houston Public Works, and the official in charge thereof shall be known as the ~~code building official~~. The Houston Health Department, created in City Code Section 21-2 also shall be an enforcement agency, and the official in charge thereof shall be known as the director of public health. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

**[A] 104.6 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or where the *code official* has reasonable cause to believe that there exists in a structure or on a premise a condition that is contrary to or in violation of this code that makes the structure or premises unsafe, dangerous or hazardous, the *code official* is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the *code official* shall first make a reasonable effort to locate the owner, the owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

When, due to an emergency, entry is necessary to protect a person from imminent harm or loss of life, or when the *code official* has obtained a proper inspection warrant or other remedy provided by law to secure entry, an owner, occupant, or person in charge of any building or premise shall promptly permit entry by the *code official* for the purpose of inspection and examination pursuant to this code.

**[A] 104.8 Liability.** The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Except as otherwise provided by law, the *code official* shall not be personally liable in damages for any act or omission arising out of any official action taken to implement and enforce the provisions of this code. Additionally, except as otherwise provided by law, the *code official* shall not be personally liable in damages for any act or omission taken in the course and scope of employment. The City shall provide legal representation and indemnification to the *code official* pursuant to and in accordance with Chapter 2, Article X, of the City Code. This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

**[A] 104.8.1 Legal defenses.** Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for cost in any action, suit or processing that is instituted in pursuance of the provisions of this code.

**[A] 104.9 Modifications.** Where there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases, upon application of the owner or the owner's authorized agent, provided that the *code official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen sustainability, health, accessibility, life safety and structure requirements. The details of action granting modifications shall be recorded and entered in the files of Building Code Enforcement ~~the department of building safety.~~

**[A] 104.12.4 Construction documents.** The registered design professional shall submit to the *code official* ~~two complete sets of~~ signed and sealed construction documents for the alternative engineered design.

**[A] 105.1 Where required.** Any owner, or owner's authorized agent who desires to construct, enlarge, alter, repair, move, or demolish a pool or spa or to erect, install, enlarge, alter, repair, remove, convert or replace any system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the *code official* and obtain the required permit for the work, and no person shall cause, suffer or permit the same such work to be done unless a separate permit for each building or structure has first been obtained.

**[A] 105.3 Time limitation of application.** An application for which no permit is issued within 180 days following the date of application shall become inactive, and plans and other data submitted for review thereafter shall be returned to the applicant or destroyed by the *building official*. The *building official* is authorized to grant one or more extensions of time for additional periods not to exceed 180 days each, for a maximum of two years from the date of the original application, upon written request and justifiable cause demonstrated by the applicant. If an application for permit does not result in a building permit within two years after the date of original application the permit application shall expire. In order to renew action on an application after expiration, the applicant shall submit a new permit application and plans and shall pay a new plan review fee. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing unless such application has been pursued in good faith or a permit has been issued; except that the *code official* is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

**[A] 105.4.2 Validity.** The issuance of a permit or approval of construction documents shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or any other ordinance of the jurisdiction. Any permit presuming to give authority to violate or cancel the provisions of this code shall not be valid.

The issuance of a permit based on construction documents and other data shall not prevent the *code official* from thereafter requiring the correction of errors in said construction documents and other data or from preventing building operations being carried on thereunder where in violation of this code or of other ordinances of this jurisdiction.

A permit shall be valid only for work performed under the permit holder on the application. A new permit must be obtained if the permit holder is no longer responsible for the work performed. Provided that the *code official* has not issued a refund or given written authority to

transfer the permit from the original permit holder, the cost of the new permit shall be charged at the rate listed for the minimum fee stated in the *city fee schedule*. In the case of the death of the original permit holder, and after the new permit holder files a timely request within 45 days, the permit will be transferred to the new permit holder at no fee except for the administrative fee established in the *city fee schedule*. Applicants requiring a re-permit who fail to re-permit any applicable work within the time frames established by this code shall be subject to the permit fees established in this Code and the *city fee schedule* based on the remaining construction and uninspected work unless a specific code provision indicates otherwise. Approved plans are issued to the owner and the owner's authorized agent listed on the permit associated with the plans.

**[A] 105.4.3 Expiration.** Every permit issued shall become ~~invalid~~ inactive unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The *code official* is authorized to grant, in writing, one or more extensions of time, for a period of not more than 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

If work is not commenced under a permit within two years after the date of issuance or is abandoned at any time for a period of two years, the permit shall expire. In order to recommence work under an expired permit, the permit holder shall pay the full permit fee applicable and submit plans that comply with this code for the previously uninspected portion of the work.

**Exception:** For the purpose of issuing a certificate of occupancy or a certificate of compliance, the *code official* may, upon request, reactivate a permit and perform a final inspection of work.

**[A] 105.4.5 Suspension or revocation of permit.** The *code official* shall suspend or revoke a permit or approval issued under the provisions of this code in case of any false statement or misrepresentation of fact in the application or on the construction documents on which the permit or approval was based. Prior to taking such action, the *code official* shall provide notice of a right to a hearing on the matter pursuant to Section 117 of the *Building Code*.

**[A] 106.1 Construction documents.** Construction documents, engineering calculations, diagrams and other such data shall be submitted in accordance with the *authority having jurisdiction* ~~two or more sets~~ with each application for a permit. The *code official* shall require construction documents, computations and specifications to be prepared and designed by a registered design professional where required by state law. Construction documents shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that the work conforms to the provisions of this code, *City Code* Chapter 43, and other applicable State and Local Laws, whichever is more restrictive.

**[A] 106.2 Retention of construction documents.** ~~One set of~~ The *approved* construction documents shall ~~may~~ be retained by the *code official* for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws. One set of *approved* construction documents shall be returned to the applicant, and said set shall be printed and kept on the site of the building or work at all times during which the work authorized thereby is in progress. Approved plans shall be available to the *code official* during all inspections.



**[A] 108.2 Schedule of permit fees.** Where work requires a permit, a fee for each permit shall be paid as required, in accordance with the city fee schedule as established by the applicable governing authority.

**[A] 108.4 Work commencing before permit issuance.** ~~Any~~When any person who commences any work on a mechanical system before obtaining the necessary permits, the work shall be subject to an investigation by the code official or the health officer, for which that person shall be responsible for payment of a fee as established by the code official that shall be in addition to the required permit fees, equal to the amount of the permit fee required by this code and shall be charged in addition to the permit fee required by this code.

**[A] 108.6 Refunds.** ~~The code official is authorized to establish a refund policy.~~ may authorize refunding of any fee paid hereunder that was erroneously paid or collected due to an error by one or more city employees. This provision shall not be applicable if the error occurred because of incorrect information provided by the applicant.

The code official may authorize the refunding of not more than 90 percent of the amount in excess of the minimum permit fee paid when no work has been done under a permit issued in accordance with this code. If work has been done under the permit, no refund shall be authorized. The originally paid administrative fee and the plan review portion of the permit fee shall be nonrefundable.

The code official shall not authorize a refund of any fee paid except on written application filed by the original permit holder or authorized successor in the event of the death or incapacity of the original permit holder not later than 180 calendar days after the date of fee payment.

**[A] 110.1 General.** Construction or work for which a permit is required shall be subject to inspection by the ~~code building official~~ as well as an inspection by the health officer pursuant to City Code Section 43-9(g) and such construction or work shall remain visible and able to be accessed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinance of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the *code official* nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

**[A] 110.16 Reinspection and testing.** Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with this code. The work or installation shall then be resubmitted to the *code official* for inspection and testing.

When the code official calls for an inspection of work or corrections, and such work is not completed or such corrections are not made, a reinspection fee may be assessed for each inspection or reinspection.

This section is not to be interpreted as requiring inspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, when the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the *code official*.

To obtain a reinspection, the applicant shall make a request and pay the reinspection fee in accordance with the *city fee schedule*.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

**[A] 111.1 General.** Except as provided in Section 112.1 for mechanical, plumbing, or operating issues, the General Appeals Board, in accordance with the provisions of the *Building Code*, shall  
~~In order to hear and decide appeals of orders, decisions or determinations made by the *code official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The *code official* shall be an ex officio member of said board but shall not have a vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the *code official*.~~

**[A] 111.2 Limitations on authority.** ~~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 board shall not have authority to waive requirements of this code.~~

**[A] 111.3 Qualifications.** ~~The board of appeals shall consist of members who are qualified by experience and training and are not employees of the jurisdiction.~~

**[A] 112.1 General Membership of board.** ~~The board of appeals shall consist of five members appointed by the chief appointing authority as follows: one for 5 years, one for 4 years, one for 3 years, one for 2 years and one for 1 year. Thereafter, each new member shall serve for 5 years or until a successor has been appointed. The Mechanical Code Review Board or the Boiler Code Review and Licensing Board shall hear and decide appeals of orders, decisions or determinations made by the *building official* relative to the application and interpretations of this code relating to mechanical matters. (See Sections 110 and 111 of the *Mechanical Code*.)~~

The Plumbing Board shall hear and decide appeals of orders, decisions or determinations made by the *building official* relative to the application and interpretations of this code relating to plumbing and fuel gas matters. (See Section 107 of the *Plumbing Code*.)

The Electrical Board shall hear and decide appeals of orders, decisions or determinations made by the *building official* relative to the application and interpretations of this code relating to electrical matters. (See Section 203 of the *Electrical Code*.)

Appeals regarding operation of aquatic structures or enclosures shall be handled as provided in *City Code Chapter 43*.

**[A] 113.1 Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize any system, or cause same to be done, in conflict with or in violation of any provisions of this code.



Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$500.00 and not more than \$2,000.00 for each violation. Each day in which any violation continues shall constitute a separate offense. To the extent that any violation of any provision of this chapter also constitutes a violation of state law, then it shall be punishable as provided by the applicable state law.

**[A] 113.4 Violation penalties.** Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair a pool or spa in violation of the *approved* construction documents or directive of the *code official*, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Section 114.1 of the *Building Code* guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**[A] 114.2 Issuance.** The stop work order shall be in writing and shall be given to the owner of the property, the owner's authorized agent or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

At the time a stop work order is issued, the person performing the work and the permit holder shall also be given notice of a right to a hearing on the matter by the *code official*, who shall deliver the notice to the persons performing the work, if present at the site, or otherwise conspicuously post the notice at the site. Upon request, a hearing shall be held within three business days unless the permit holder or person who was doing 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 *code official*.

## CHAPTER 2

# DEFINITIONS

**201.3 Terms defined in other codes.** Where specific rules of construction or terms are not addressed or defined in this code and are addressed or defined in the *City Code* or another volume of the *Construction Code*, *International Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code* or *International Residential Code*, such terms or specific construction herein shall have the meanings ascribed to them as in those codes other volumes, as applicable to the construction and proposed scope of work hereunder.

### SECTION 202

### DEFINITIONS

**AUTHORITY HAVING JURISDICTION.** For the purpose of this code shall mean the City of Houston and its authorized officials, including but not limited to:

1. The health officer, which means the director of public health or the director's duly authorized designees, and
2. The building official, which 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 to the city and the said official's designees.

**BUILDING CODE.** The *City of Houston Building Code*, as adopted and amended by this *jurisdiction*.

**BUILDING OFFICIAL.** The director of Houston Public Works or the duly authorized representative designated by the director to act as the chief construction code enforcement official of the jurisdiction. The term also includes the Houston Airport Systems building official who may be designated by the building official to perform *Construction Code* permitting and enforcement activities on Houston Airport Systems premises.

**CITY CODE.** The *Code Of Ordinances* of the City of Houston, Texas.

**CITY FEE SCHEDULE.** The schedule of fees charged by the city for various permits, licenses, authorizations and services, which is maintained on the city's website.

**[A] CODE OFFICIAL.** The director of Houston Public Works and any inspector or other employee designated or appointed by that director or the director of the Houston Health Department or any inspector, health officer or other employee appointed by that director to administer and perform enforcement duties under this code, and Chapter 43 of the *City Code* and related laws officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

**CONSTRUCTION CODE.** Has the meaning ascribed in 1-2 of the *City Code*.

**ELECTRICAL CODE.** The *City of Houston Electrical Code*, as adopted and amended by this jurisdiction.

**EXISTING BUILDING CODE.** The *City of Houston Existing Building Code*, as adopted and amended by this jurisdiction.

**FIRE CODE.** The *City of Houston Fire Code*, as adopted and amended by this jurisdiction.

**[BS] FLOOD HAZARD AREA.** The greater of the following two areas:

1. The area within a flood plain subject to a 1 percent or greater change of flooding in any year.
2. The area designated as a ~~flood hazard area~~ on a community's flood hazard map, or otherwise legally designated.

**HEALTH OFFICER.** The director of the Houston Health Department or such other person as the said director may designate to administer and perform enforcement duties under this code, Chapter 43 of the *City Code*, and related laws.

**INTERNATIONAL BUILDING CODE.** The *City of Houston Building Code*, as adopted and amended by this jurisdiction.

**INTERNATIONAL ENERGY CONSERVATION CODE.** The *City of Houston Commercial Energy Code* and *Residential Energy Code*, as adopted and amended by this jurisdiction.

**INTERNATIONAL EXISTING BUILDING CODE.** The *City of Houston Existing Building Code*, as adopted and amended by this jurisdiction.

**INTERNATIONAL FIRE CODE.** The *City of Houston Fire Code*, as adopted and amended by this jurisdiction.

**INTERNATIONAL FUEL GAS CODE.** The *City of Houston Plumbing Code*, as adopted and amended by this jurisdiction.

**INTERNATIONAL MECHANICAL CODE.** The *City of Houston Mechanical Code*, as adopted and amended by this jurisdiction.

**INTERNATIONAL PLUMBING CODE.** The *City of Houston Plumbing Code*, as adopted and amended by this jurisdiction.

**INTERNATIONAL PROPERTY MAINTENANCE CODE.** Chapter 10 of the *City Code*, which includes the *Houston Building Standards Code*.

**INTERNATIONAL RESIDENTIAL CODE.** The *City of Houston Residential Code*, as adopted and amended by this jurisdiction.

**MECHANICAL CODE.** The *City of Houston Mechanical Code*, as adopted and amended by this jurisdiction.

**PARENT JURSDICTION.** The City of Houston and its authorized officials, including but not limited to:

1. The health officer, which means the director of public health or the director's duly authorized designees, and;
2. The *building official*, which 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 designees.

**[A] PERMIT.** An official document or certificate issued by the authority having parent jurisdiction that authorizes performance of a specified activity.

**PLUMBING CODE.** The *City of Houston Plumbing Code*, as adopted and amended by this jurisdiction.

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