

ORDINANCE NO. 22-10-11-04

AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, AMENDING SECTION 3.111 OF CHAPTER 3 AND ADDING SECTION 3.500 TO ARTICLE 3.000 OF APPENDIX A OF THE LAGO VISTA CODE OF ORDINANCES CREATING A REQUIREMENT FOR VARIOUS TYPES OF CONTRACTORS OR BUILDERS TO MAINTAIN A REGISTRATION IN GOOD STANDING TO OBTAIN A BUILDING PERMIT WITHIN THE MUNICIPALITY; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the City of Lago Vista, Texas is a Home Rule City; and

WHEREAS, the City Council of the City of Lago Vista has previously established requirements for obtaining construction permits within the municipality in Chapter 3 of the Code of Ordinances; and

WHEREAS, the staff and members of the community have been confronted with increasing volumes of construction activity along with subsequent violations of the existing building regulations by some contractors and builders with many of those violations having the appearance of being committed with impunity or willful neglect; and

WHEREAS, these occasional examples continue to increase and become more apparent as the increase in development activity continues; and

WHEREAS, increased construction costs and the commensurate increase in profit margins seem to be diminishing the effectiveness of various fines and fees in consistently incentivizing compliance; and

WHEREAS, the Building and Standards Commission has undertaken an extensive review of those existing regulations as well as the methods employed by other cities in the area that dates to the mid-year of 2021; and

WHEREAS, the Building and Standards Commission of the City of Lago Vista has forwarded a recommendation to the City Council to amend the requirements contained within Sections 3.111 of Chapter 3 of the Lago Vista Code of Ordinances to create a requirement for various types of contractors or builders to maintain a registration in good standing to obtain a building permit; and

WHEREAS, the Building and Standards Commission of the City of Lago Vista has also recommended the addition of Section 3.500 of Article 3.000 of Appendix A of the Lago Vista Code of Ordinances for registration fees consistent with the limitations of state statutes and estimated by the Development Services Department staff to offset some of the required administrative costs; and

WHEREAS, the City Council at its public hearing to consider this ordinance amendment held on May 5, 2022, reviewed the recommendation, and found the changes to be warranted.

WHEREAS, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:

Section 1. Findings. All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

Section 2. Amendment. The City Council of the City of Lago Vista, Texas, does hereby amend Section 3.111 of Chapter 3 of the Lago Vista Code of Ordinances as shown in **Exhibit "A"** and add Section 3.500 of Article 3.000 of Appendix A of the Lago Vista Code of Ordinances as shown in **Exhibit "B."**

Section 3. Repealer. All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

Section 4. Severability. If any section, subsection, article, paragraph, sentence, clause, phrase, or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. Penalty. Any person, firm or corporation violating any of the provisions or terms of this Ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances, Section 1.109 General Penalty for Violations of Code; Continuing Violations of the City of Lago Vista, and upon conviction shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

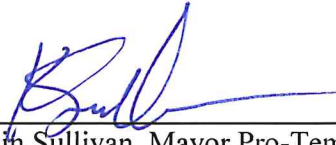
Section 6. Publication and Codification. The City Secretary is hereby directed to publish the caption of this ordinance, including the penalty, in accordance with City Charter Section 3.17 and record the attached regulation in the City's Code of Ordinances as authorized in Section 52.001 of the *Texas Local Government Code*.

Section 7. Effective Date. This Ordinance shall become effective on January 1, 2023 with a timely registration deadline of December 1, 2022.

Section 8. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Local Government Code*.

AND, IT IS SO ORDERED.

PASSED AND APPROVED this 11th day of October 2022.


Kevin Sullivan, Mayor Pro-Tem

ATTEST:


Lucy Aldrich, City Secretary



On a motion by Councilmember Roberts, seconded by Councilmember Hunt,
the above and foregoing ordinance was passed and approved.

EXHIBIT "A"

CHAPTER 3

BUILDING REGULATIONS

Sec 3.111 Contractor Registration Requirements.

- (a) General. Except as otherwise specifically exempted herein, any firm, business, individual or organization obtaining a building permit pursuant to the requirements of this chapter, or any other applicable regulations shall maintain a valid contractor registration record in good standing with the Development Services Department of the City of Lago Vista. A contractor registration application shall be signed by an authorized and qualified official of the business as prescribed by this section and be accompanied by the fee prescribed in Appendix A, Fee Schedule. Except as otherwise provided herein, contractor registrations shall expire annually on December 31, but shall also be subject to suspension or revocation for cause under the provisions of this section.
- (b) Purpose. A contractor is an individual or entity that works under a contractual agreement with a property owner or business to provide services, labor, or materials to complete a construction project. Subcontractors are individuals or entities that carry out a specific type of work or a portion of a project for a contractor, property owner, or business. The purpose of requiring contractors and subcontractors to maintain an active registration in good standing with the City of Lago Vista is to help ensure compliance with all applicable requirements, including those designed to protect residents in existing neighborhoods from the potential negative impacts of violations related to new or infill development. In addition, it seeks to protect public property and property owned by parties without a contractual relationship with a contractor or subcontractor from consequential damage caused by construction activity.
- (c) Liability. The provisions of this section shall not be construed as relieving or limiting in any way the responsibility or liability of any person, firm or corporation owning property or constructing improvements on that property from personal injury or property damage resulting from that construction activity, or resulting from the negligence or willful acts of such person, firm or corporation or its agents, employees or workmen in the design, construction, maintenance, repair, or operation permitted in accordance with the requirements of this chapter. While the City of Lago Vista will endeavor to provide information about various industry-standard measures to minimize the risk that might occur during a contract for construction services between parties, nothing in this section shall be construed as relieving or minimizing the responsibility of any of those individuals or entities. Also see minimum liability insurance requirements below.
- (d) Registration Classifications.
 - (1) General Registration Classifications. The following general classifications for contractor registration are available from the City of Lago Vista, with each classification incorporating the rights to perform the work of all subsequent listed classifications, if desired. For example, a commercial general contractor may obtain a permit for residential home

improvements, but a home improvement contractor may not obtain a permit for a new single-family residence without first completing the registration requirements for that general classification.

- (A) General Contractor / Builder: Commercial and Multifamily
 - (B) Residential Contractor / Builder: Single-family or Two-family Residential
 - (C) Demolition / Home-Moving Contractor
 - (D) Home Improvement Contractor (including accessory buildings less than 120 square feet in area, paving not within a public right-of-way, decks and fences)
- (2) Specialty Contractor Classifications. The following specialty classifications for contractor registration are available from the City of Lago Vista. Each classification is independent of the others and is required to obtain a specific type of permit. In addition to all other requirements within this section, documentation of current licenses in good standing required by the State of Texas are to be submitted with each specialty application or renewal.
- (A) Mechanical (HVAC) Contractor
 - (B) Electrical Contractor
 - (C) Plumbing Contractor
 - (D) Irrigation Contractor
 - (E) Water Well Driller
 - (F) Sanitarian (on-site septic systems)
 - (G) Tree Removal Contractor
 - (H) Swimming Pool / Spa Contractor
- (3) Exemptions.
- (A) Property owners can obtain permits for work on their primary residence that is exempt from state and local ad valorem taxes with proper documentation and an affidavit that identifies the contractors with a registration record in good standing with the City of Lago Vista. In addition, the property owner can perform work or provide consent to tenants or other occupants of the property to perform work that does not require a license from the state and may engage other parties that do not require a registration record in good standing with the City of Lago Vista.
 - (B) Specialty subcontractors not required to have a license by the State of Texas (framing, drywall, insulation, painting, etc.) may perform work under the authority and direction of a registered contractor in good standing with the City of Lago Vista. However, the registered contractor shall be responsible for compliance and documented violations by any unregistered specialty contractor performing work on their behalf.
- (e) Application Requirements.

- (1) Application Form and Fee. Contractors registering with the City of Lago Vista shall maintain the minimum levels of insurance required for each classification, provide documentation of any applicable required license from the State of Texas, and complete an application containing the following information: business name; address of business; name and contact information for the designated registered official; classification of registration (each must be separate); and insurance information. It shall also include a disclosure of all adverse judgments against the applicant or any entity with common ownership regarding a construction project or construction contract. Upon approval of the application, the fee prescribed in Appendix A, Fee Schedule, must be received before a permit may be issued to that registered contractor.
- (2) Documentation. The Building Official shall adopt rules and policies regarding the form of documentation that will be accepted as proof or verification of compliance with information required by this section, or other pertinent information that is determined to be relevant or necessary for inclusion. It shall be a violation of this chapter for any individual or entity to represent themselves in any manner whatsoever, as having a current registration in good standing with the City of Lago Vista in any classification, unless that individual or entity is completely and properly registered as provided for in this section.
- (3) Record of Issuance. The Development Services Department shall maintain a record of contractor registration records, including documentation of licenses required by the State of Texas when applicable. Required state licenses are to be issued in the name of the designated authorized and qualified official for a registered contractor and not in the name of an employee, family member, or other similar individuals that are not owners or formally designated officials of the business.
 - (A) Any permit issued to a registered contractor must be for work being done by that individual or entity. Any registered contractor obtaining or attempting to obtain permits for any other individual or entity, whether registered or not, shall cause that registration to become immediately suspended and any permit that might have been issued revoked for cause.
 - (B) Registrations are not transferable, and no holder of a registration shall allow their name or registration to be used by any other person or entity for the purpose of performing work requiring a registration in good standing under this section. In addition to any other penalties or fines prescribed by this chapter, any attempt by a registered contractor to allow an unauthorized individual or entity to perform work under the authority of that registration shall cause it to become immediately suspended.
 - (C) No individual or entity registered as a contractor in a classification shall engage in the operation of a second registered contracting operation within the same classification unless the name of the designated registered official is the same. Under those circumstances, the City of Lago Vista will treat the multiple registrations as if they are a single registration. The performance and violations record associated with one registration will be included in the registration records of all other registrations within that classification. The suspension or revocation for any registration will result in the suspension or revocation of all other registrations in that classification.
 - (D) Upon payment of the fee prescribed for a name change in Appendix A, Fee Schedule, any associated changes of insurance coverage documents, and compliance with all other requirements, the designated registered official may apply for a change in the

business name associated with a registration. However, the performance and violations record associated with that prior registration will remain unchanged.

- (E) Upon the death or disassociation of the designated registered official, a new registration is required for any new permit applications. The performance and violations record associated with the prior registration shall be transferred to the new registration when determined to be appropriate by the Building Official or the Development Services Director. When the designated registered official becomes associated with a new or other existing registration, the performance and violations record shall be transferred to that registration when determined to be appropriate by the Building Official or the Development Services Director. The new registration application shall be submitted within ten business days of the death or disassociation.

(4) Communication and Availability Requirements.

- (A) Every registered contractor must maintain a valid and verified business address and be available by telephone to enable the Building Official to efficiently communicate in case of a problem, discrepancy, or violation at a location that they appear to be responsible for. Any registered contractor in good standing shall immediately report any change of address or telephone number to allow the Development Services Department to maintain accurate registration records. Acceptable means of receiving communications include a person engaged to represent the contractor available at the address provided in the registration records, an active and valid email address and a mobile or office telephone equipped with voicemail.
- (B) Contractors with an active registration in good standing with the City of Lago Vista shall be present during construction activity performed under the authority of that registration. Present shall mean available at the construction site or at either the office address or telephone number provided in the registration records. At the request of the Building Official, registered contractors shall make themselves available at the construction site.

(5) Insurance Requirements. All contractor registration classifications shall provide insurance coverage as described below to maintain an active registration in good standing with the City of Lago Vista.

- (A) The initial application form and all renewal forms shall include the name of the insurance carrier issuing required coverage or fiscal security, the policy number, and the name, address, and telephone number of the insurance agency through which the coverage was secured. Thereafter, a contractor with an active registration in good standing must continuously maintain on file with the Development Services Department a certificate of coverage addressed to and listing the City of Lago Vista as a certificate holder.
- (B) The certificate shall be issued by a company authorized to provide insurance coverage or fiscal security in the State of Texas and in a form approved by the City Attorney. The certificate shall include a provision for a minimum ten-day written notice formally served upon the City of Lago Vista prior to any cancellation, non-renewal, or any other termination of coverage. Following termination of coverage, all work shall stop until proof of insurance is provided to the City.
- (C) Minimum Coverage.

- (i) General Liability (each occurrence). Combined property damage and bodily injury coverage:
 - (1) Tree Removal Contractor - \$100,000.00
 - (2) All other registration classifications (except Home Improvement Contractors and Irrigation Contractors that are exempt from this requirement) - \$300,000.00
- (ii) General Liability (aggregate). Combined property damage and bodily injury coverage limit:
 - (1) Tree Removal Contractor - \$300,000.00
 - (2) All other registration classifications (except Home Improvement Contractors and Irrigation Contractors that are exempt from this requirement) - \$500,000.00
- (iii) Products and Completed Operations Coverage (aggregate). Combined third-party property damage and bodily injury coverage limit:
 - (1) Tree Removal Contractor - \$100,000.00
 - (2) All other registration classifications (except Home Improvement Contractors and Irrigation Contractors that are exempt from this requirement) - \$500,000.00
- (iv) Indemnity Bond or Security. A registered contractor in good standing with any current permit shall execute and deliver a good and sufficient bond of indemnity issued by a surety authorized to conduct business in the State of Texas or equivalent fiscal security, each as approved by the City Attorney. The amount of the security shall be no less than \$10,000.00 and promptly save, protect, compensate and otherwise hold the City of Lago Vista harmless for any and all costs and expenses which might result, but not be limited to damages to streets, sidewalks, utilities, or other public property and cleanup required by Section 3.120 of this chapter by reason of carelessness or negligence in the performance of construction activity, or by reason of any defects caused from or arising from careless, negligent or imperfect procedures, or any and all acts and omissions of the registered contractor, his agents, servants, or subcontractors.
- (6) Renewals and Expirations. All contractor registrations expire on December 31 of each calendar year. Fees for the initial registration or reinstatement during a calendar year shall be pro-rated, retroactive to the first day of the registration month. Active contractor registrations in good standing with the City of Lago Vista shall be submitted for renewal no later than December 1 or the next official business day of the City when the City offices are closed, to avoid the additional fees specified in Appendix A.
- (f) Suspension or Revocation for Cause. Any registration required by this section may be suspended or revoked for cause by the Building Official of Development Services Director for violations of the provisions of this chapter or any other federal, state, or local requirement or ordinance related to construction activity.

- (1) The Building Official or Development Services Director may administratively suspend or revoke a current contractor registration after a finding of any one or more of the following reasons:
- (A) A registered contractor or its designated registered official commits three or more separate and documented violations of this chapter, the subdivision regulations or the zoning ordinance within any twelve-month period involving work performed without a required permit (including tree removal or clearing), ignoring a formal stop work order, or ignoring a formal notice of violation;
 - (B) A registered contractor or its designated registered official commits six or more separate and documented violations of this chapter, the subdivision regulations, or the zoning ordinance within any twelve-month period, regardless of the nature of the violation or the severity;
 - (C) A registered contractor or its designated registered official is convicted of any penal offense, including violations of Chapter 162 of the Texas Property Code, arising out of or related to performance under the provisions of a construction contract or suffers a judgment against them in a civil action predicated upon fraud in connection with the performance under the provisions of a construction contract;
 - (D) A registered contractor or its designated registered official is convicted of or enters a plea of guilty for a felony or misdemeanor involving moral turpitude;
 - (E) A registered contractor or its designated registered official is convicted of or enters a plea of guilty in connection with a willful violation of any building code provision adopted by a jurisdiction within the State of Texas;
 - (F) A registered contractor or its designated registered official has judicially been determined to have abandoned, willfully failed to complete required work, or willfully deviated from or disregarded the approved plans or specifications for work required by a valid construction contract;
 - (G) A registered contractor or its designated registered official has judicially been determined to have knowingly made substantial misrepresentations or is otherwise responsible for assertions, representations or statements which are false, deceptive or misleading in the procurement of a construction contract;
 - (H) A registered contractor or its designated registered official knowingly makes any false statement as to a material matter, including the use of a false or fictitious name or address, in an application for registration, renewal, appeal or reinstatement under the provisions of this section;
 - (I) A registered contractor or its designated registered official fails to notify the Building Official in a timely manner of any change in the ownership, management, or business name, or otherwise performs work requiring a permit within the municipal limits under any name other than the one registered;
 - (J) A registered contractor or its designated registered official obtains a permit requiring registration for an unregistered contractor or one whose registration is suspended or revoked; or

- (K) A registered contractor or its designated registered official performs any work requiring a permit while the registration is suspended or revoked.
- (2) Based on the severity of the violation and any extenuating circumstances determined to be relevant, the Building Official or Development Services Director may take any of the following actions regarding a required contractor registration when one or more of the events immediately above have been confirmed or otherwise documented:
 - (A) Suspend the registration for ninety days (precluding any new permit applications or approvals for that duration, but otherwise leaving the registration record intact);
 - (B) Suspend the registration for one hundred eighty days (precluding any new permit applications or approvals for that duration, but otherwise leaving the registration record intact); or
 - (C) Revoke the registration indefinitely pending reinstatement by the Building and Standards Commission.
- (3) A determination by the Building Official or Development Services Director that a suspension or revocation of a contractor registration is warranted shall be written and include a list of all documented violations and any additional basis for the action taken. This written determination shall be forwarded to the registered contractor by certified mail with a return receipt requested, using the address in the current registration records. If the delivery fails or is refused, the notice shall be deemed to have occurred on the date of the delivery attempt certified by the USPS. The required mailing may be waived by the registered contractor pending a willingness to provide a signed copy of the written determination acknowledging its receipt.
- (g) Completion of permitted work in progress. A suspension, revocation, or expiration of a contractor's registration does not relieve an individual or entity from the responsibility to complete all current obligations previously permitted or eliminates any associated liability. All other ordinance provisions shall remain applicable, and subsequent violations will result in applicable fees and penalties and be documented for consideration following appeals or reinstatement applications.
 - (h) Appeals and Reinstatement.
 - (1) Appeals of a Suspension or Revocation.
 - (A) The determination by the Building Official or Development Services Director that a suspension or revocation is warranted can be appealed to the Building and Standards Commission based on an alleged error or erroneous conclusion. The appeal shall consist of a formal letter to the Building and Standards Commission alleging the specific errors made and accompanied by the fee specified in Appendix A, Fee Schedule. The right to appeal the determination of the Building Official or Development Services Director regarding a suspension or revocation expires fifteen calendar days following receipt of the written notice, or the next official business day of the City when the City offices are closed. Following this deadline, the suspension or revocation becomes final.
 - (B) A timely appeal of a suspension or revocation determination by the Building Official or Development Services Director stays all enforcement related to the suspension or

revocation. Pending a final determination, a registered contractor otherwise in good standing may continue to seek and receive permits. The appeal shall be heard at a public meeting of the Building and Standards Commission at a location and on a date and time no sooner than 10 calendar days following formal written notice by the contractor challenging the determination to suspend or revoke their registration. The decision of the Building and Standards Commission on a contractor suspension or revocation appeal shall be final, absent relief from a court of proper jurisdiction.

(2) Reinstatement of an Expired or Revoked Registration.

- (A) Contractor registrations that have been revoked must be approved for reinstatement by the Building and Standards Commission in addition to submitting or updating all required registration documentation and records.
- (B) A reinstatement request does not stay enforcement and absent a successful appeal, a contractor with an expired or revoked registration is not eligible to obtain permits until an active registration in good standing is re-established following reinstatement. Reinstatement requests shall be accompanied by the required application form and the fee specified in Appendix A, Fee Schedule.
- (C) A request for reinstatement pursuant to a final revocation determination will not be accepted until at least one year has passed since the effective date of the revocation, as a suspension for 180 days was considered insufficient by the Building Official or Development Services Director and that determination withstood an appeal, or a timely appeal was not submitted.
- (D) Reinstatement decisions by the Building and Standards Commission are appealable to the City Council. The appeal shall consist of a formal letter to the City Council that includes the specific basis for the appeal and accompanied by the fee specified in Appendix A, Fee Schedule.
- (E) A subsequent reinstatement request is prohibited for at least twelve months from the latest denial. However, there is no other limitation on the number of times a contractor may apply for reinstatement.
- (F) No provision of this section shall be construed to mean that a formerly registered contractor is entitled to reinstatement following either revocation for cause or expiration. Instead, the historic performance and violation record shall be considered relevant and subject to scrutiny. Reinstatement shall require a finding by the Building and Standards Commission or the City Council on appeal, that substantial compliance with all applicable regulations and requirements is expected.

EXHIBIT "B"

APPENDIX A

FEE SCHEDULE

ARTICLE 3.000 BUILDING RELATED FEES

Section 3.500 Contractor Registration Fees

- (a) Annual Fee (pro-rated by month for initial registration)
 - (1) General Contractor / Builder: Commercial and Multifamily: \$240.00
 - (2) Residential Contractor / Builder: Single-family or Two-family Residential: \$240.00
 - (3) Demolition / Home Moving Contractor: \$240.00
 - (4) Home Improvement Contractor (including accessory buildings less than 120 square feet in area, paving not within a public right-of-way, decks, and fences): \$120.00
 - (5) Tree Removal Contractor: \$120.00
 - (6) Specialty Contractor Classifications with licenses required by the State of Texas: fee exempt
- (b) Additional fee for expired or late registration renewal: equal to the annual or pro-rated monthly fee
- (c) Appeal of registration suspension or revocation: \$250.00
- (d) Request for reinstatement of revoked registration to Building and Standards Commission: \$350.00
- (e) City Council appeal of reinstatement denial by the Building and Standards Commission: \$350.00

CHAPTER 3

BUILDING REGULATIONS

Sec 3.111 ~~Applicant's Liability Contractor Registration Requirements.~~

~~The provisions of this article shall not be construed as relieving or limiting in any way the responsibility or liability of any person, firm or corporation erecting or owning any structure from personal injury or property damage resulting from the erection of a structure, or resulting from the negligence or willful acts of such person, firm or corporation or its agents, employees or workmen in the design, construction, maintenance, repair, operation, or removal of any structure in accordance with the permit issued under the provisions of this article.~~

- (a) General. Except as otherwise specifically exempted herein, any firm, business, individual or organization obtaining a building permit pursuant to the requirements of this chapter, or any other applicable regulations shall maintain a valid contractor registration record in good standing with the Development Services Department of the City of Lago Vista. A contractor registration application shall be signed by an authorized and qualified official of the business as prescribed by this section and be accompanied by the fee prescribed in Appendix A, Fee Schedule. Except as otherwise provided herein, contractor registrations shall expire annually on December 31, but shall also be subject to suspension or revocation for cause under the provisions of this section.
- (b) Purpose. A contractor is an individual or entity that works under a contractual agreement with a property owner or business to provide services, labor, or materials to complete a construction project. Subcontractors are individuals or entities that carry out a specific type of work or a portion of a project for a contractor, property owner, or business. The purpose of requiring contractors and subcontractors to maintain an active registration in good standing with the City of Lago Vista is to help ensure compliance with all applicable requirements, including those designed to protect residents in existing neighborhoods from the potential negative impacts of violations related to new or infill development. In addition, it seeks to protect public property and property owned by parties without a contractual relationship with a contractor or subcontractor from consequential damage caused by construction activity.
- (c) Liability. The provisions of this section shall not be construed as relieving or limiting in any way the responsibility or liability of any person, firm or corporation owning property or constructing improvements on that property from personal injury or property damage resulting from that construction activity, or resulting from the negligence or willful acts of such person, firm or corporation or its agents, employees or workmen in the design, construction, maintenance, repair, or operation permitted in accordance with the requirements of this chapter. While the City of Lago Vista will endeavor to provide information about various industry-standard measures to minimize the risk that might occur during a contract for construction services between parties, nothing in this section shall be construed as relieving or minimizing the responsibility of any of those individuals or entities. Also see minimum liability insurance requirements below.

(d) Registration Classifications.

- (1) General Registration Classifications. The following general classifications for contractor registration are available from the City of Lago Vista, with each classification incorporating the rights to perform the work of all subsequent listed classifications, if desired. For example, a commercial general contractor may obtain a permit for residential home improvements, but a home improvement contractor may not obtain a permit for a new single-family residence without first completing the registration requirements for that general classification.

- (A) General Contractor / Builder: Commercial and Multifamily
- (B) Residential Contractor / Builder: Single-family or Two-family Residential
- (C) Demolition / Home-Moving Contractor
- (D) Home Improvement Contractor (including accessory buildings less than 120 square feet in area, paving not within a public right-of-way, decks and fences)

- (2) Specialty Contractor Classifications. The following specialty classifications for contractor registration are available from the City of Lago Vista. Each classification is independent of the others and is required to obtain a specific type of permit. In addition to all other requirements within this section, documentation of current licenses in good standing required by the State of Texas are to be submitted with each specialty application or renewal.

- (A) Mechanical (HVAC) Contractor
- (B) Electrical Contractor
- (C) Plumbing Contractor
- (D) Irrigation Contractor
- (E) Water Well Driller
- (F) Sanitarian (on-site septic systems)
- (G) Tree Removal Contractor
- (H) Swimming Pool / Spa Contractor

(3) Exemptions.

- (A) Property owners can obtain permits for work on their primary residence that is exempt from state and local ad valorem taxes with proper documentation and an affidavit that identifies the contractors with a registration record in good standing with the City of Lago Vista. In addition, the property owner can perform work or provide consent to tenants or other occupants of the property to perform work that does not require a license from the state and may engage other parties that do not require a registration record in good standing with the City of Lago Vista.

- (B) Specialty subcontractors not required to have a license by the State of Texas (framing, drywall, insulation, painting, etc.) may perform work under the authority and direction of a registered contractor in good standing with the City of Lago Vista. However, the registered contractor shall be responsible for compliance and documented violations by any unregistered specialty contractor performing work on their behalf.

(e) Application Requirements.

- (1) Application Form and Fee. Contractors registering with the City of Lago Vista shall maintain the minimum levels of insurance required for each classification, provide documentation of any applicable required license from the State of Texas, and complete an application containing the following information: business name; address of business; name and contact information for the designated registered official; classification of registration (each must be separate); and insurance information. It shall also include a disclosure of all adverse judgments against the applicant or any entity with common ownership regarding a construction project or construction contract. Upon approval of the application, the fee prescribed in Appendix A, Fee Schedule, must be received before a permit may be issued to that registered contractor.
- (2) Documentation. The Building Official shall adopt rules and policies regarding the form of documentation that will be accepted as proof or verification of compliance with information required by this section, or other pertinent information that is determined to be relevant or necessary for inclusion. It shall be a violation of this chapter for any individual or entity to represent themselves in any manner whatsoever, as having a current registration in good standing with the City of Lago Vista in any classification, unless that individual or entity is completely and properly registered as provided for in this section.
- (3) Record of Issuance. The Development Services Department shall maintain a record of contractor registration records, including documentation of licenses required by the State of Texas when applicable. Required state licenses are to be issued in the name of the designated authorized and qualified official for a registered contractor and not in the name of an employee, family member, or other similar individuals that are not owners or formally designated officials of the business.
 - (A) Any permit issued to a registered contractor must be for work being done by that individual or entity. Any registered contractor obtaining or attempting to obtain permits for any other individual or entity, whether registered or not, shall cause that registration to become immediately suspended and any permit that might have been issued revoked for cause.
 - (B) Registrations are not transferable, and no holder of a registration shall allow their name or registration to be used by any other person or entity for the purpose of performing work requiring a registration in good standing under this section. In addition to any other penalties or fines prescribed by this chapter, any attempt by a registered contractor to allow an unauthorized individual or entity to perform work under the authority of that registration shall cause it to become immediately suspended.
 - (C) No individual or entity registered as a contractor in a classification shall engage in the operation of a second registered contracting operation within the same classification unless the name of the designated registered official is the same. Under those circumstances, the City of Lago Vista will treat the multiple registrations as if they are a single registration. The performance and violations record associated with one

registration will be included in the registration records of all other registrations within that classification. The suspension or revocation for any registration will result in the suspension or revocation of all other registrations in that classification.

- (D) Upon payment of the fee prescribed for a name change in Appendix A, Fee Schedule, any associated changes of insurance coverage documents, and compliance with all other requirements, the designated registered official may apply for a change in the business name associated with a registration. However, the performance and violations record associated with that prior registration will remain unchanged.
- (E) Upon the death or disassociation of the designated registered official, a new registration is required for any new permit applications. The performance and violations record associated with the prior registration shall be transferred to the new registration when determined to be appropriate by the Building Official or the Development Services Director. When the designated registered official becomes associated with a new or other existing registration, the performance and violations record shall be transferred to that registration when determined to be appropriate by the Building Official or the Development Services Director. The new registration application shall be submitted within ten business days of the death or disassociation.

(4) Communication and Availability Requirements.

- (A) Every registered contractor must maintain a valid and verified business address and be available by telephone to enable the Building Official to efficiently communicate in case of a problem, discrepancy, or violation at a location that they appear to be responsible for. Any registered contractor in good standing shall immediately report any change of address or telephone number to allow the Development Services Department to maintain accurate registration records. Acceptable means of receiving communications include a person engaged to represent the contractor available at the address provided in the registration records, an active and valid email address and a mobile or office telephone equipped with voicemail.
- (B) Contractors with an active registration in good standing with the City of Lago Vista shall be present during construction activity performed under the authority of that registration. Present shall mean available at the construction site or at either the office address or telephone number provided in the registration records. At the request of the Building Official, registered contractors shall make themselves available at the construction site.

(5) Insurance Requirements. All contractor registration classifications shall provide insurance coverage as described below to maintain an active registration in good standing with the City of Lago Vista.

- (A) The initial application form and all renewal forms shall include the name of the insurance carrier issuing required coverage or fiscal security, the policy number, and the name, address, and telephone number of the insurance agency through which the coverage was secured. Thereafter, a contractor with an active registration in good standing must continuously maintain on file with the Development Services Department a certificate of coverage addressed to and listing the City of Lago Vista as a certificate holder.
- (B) The certificate shall be issued by a company authorized to provide insurance coverage or fiscal security in the State of Texas and in a form approved by the City Attorney. The

certificate shall include a provision for a minimum ten-day written notice formally served upon the City of Lago Vista prior to any cancellation, non-renewal, or any other termination of coverage. Following termination of coverage, all work shall stop until proof of insurance is provided to the City.

(C) Minimum Coverage.

(i) General Liability (each occurrence). Combined property damage and bodily injury coverage:

- (1) Tree Removal Contractor - \$100,000.00
- (2) All other registration classifications (except Home Improvement Contractors and Irrigation Contractors that are exempt from this requirement) - \$300,000.00

(ii) General Liability (aggregate). Combined property damage and bodily injury coverage limit:

- (1) Tree Removal Contractor - \$300,000.00
- (2) All other registration classifications (except Home Improvement Contractors and Irrigation Contractors that are exempt from this requirement) - \$500,000.00

(iii) Products and Completed Operations Coverage (aggregate). Combined third-party property damage and bodily injury coverage limit:

- (1) Tree Removal Contractor - \$100,000.00
- (2) All other registration classifications (except Home Improvement Contractors and Irrigation Contractors that are exempt from this requirement) - \$500,000.00

(iv) Indemnity Bond or Security. A registered contractor in good standing with any current permit shall execute and deliver a good and sufficient bond of indemnity issued by a surety authorized to conduct business in the State of Texas or equivalent fiscal security, each as approved by the City Attorney. The amount of the security shall be no less than \$10,000.00 and promptly save, protect, compensate and otherwise hold the City of Lago Vista harmless for any and all costs and expenses which might result, but not be limited to damages to streets, sidewalks, utilities, or other public property and cleanup required by Section 3.120 of this chapter by reason of carelessness or negligence in the performance of construction activity, or by reason of any defects caused from or arising from careless, negligent or imperfect procedures, or any and all acts and omissions of the registered contractor, his agents, servants, or subcontractors.

(6) Renewals and Expirations. All contractor registrations expire on December 31 of each calendar year. Fees for the initial registration or reinstatement during a calendar year shall be pro-rated, retroactive to the first day of the registration month. Active contractor registrations in good standing with the City of Lago Vista shall be submitted for renewal no later than December 1 or

the next official business day of the City when the City offices are closed, to avoid the additional fees specified in Appendix A.

- (f) Suspension or Revocation for Cause. Any registration required by this section may be suspended or revoked for cause by the Building Official of Development Services Director for violations of the provisions of this chapter or any other federal, state, or local requirement or ordinance related to construction activity.
- (1) The Building Official or Development Services Director may administratively suspend or revoke a current contractor registration after a finding of any one or more of the following reasons:
 - (A) A registered contractor or its designated registered official commits three or more separate and documented violations of this chapter, the subdivision regulations or the zoning ordinance within any twelve-month period involving work performed without a required permit (including tree removal or clearing), ignoring a formal stop work order, or ignoring a formal notice of violation;
 - (B) A registered contractor or its designated registered official commits six or more separate and documented violations of this chapter, the subdivision regulations, or the zoning ordinance within any twelve-month period, regardless of the nature of the violation or the severity;
 - (C) A registered contractor or its designated registered official is convicted of any penal offense, including violations of Chapter 162 of the Texas Property Cod, arising out of or related to performance under the provisions of a construction contract or suffers a judgment against them in a civil action predicated upon fraud in connection with the performance under the provisions of a construction contract;
 - (D) A registered contractor or its designated registered official is convicted of or enters a plea of guilty for a felony or misdemeanor involving moral turpitude;
 - (E) A registered contractor or its designated registered official is convicted of or enters a plea of guilty in connection with a willful violation of any building code provision adopted by a jurisdiction within the State of Texas;
 - (F) A registered contractor or its designated registered official has judicially been determined to have abandoned, willfully failed to complete required work, or willfully deviated from or disregarded the approved plans or specifications for work required by a valid construction contract;
 - (G) A registered contractor or its designated registered official has judicially been determined to have knowingly made substantial misrepresentations or is otherwise responsible for assertions, representations or statements which are false, deceptive or misleading in the procurement of a construction contract;
 - (H) A registered contractor or its designated registered official knowingly makes any false statement as to a material matter, including the use of a false or fictitious name or address, in an application for registration, renewal, appeal or reinstatement under the provisions of this section;

- (I) A registered contractor or its designated registered official fails to notify the Building Official in a timely manner of any change in the ownership, management, or business name, or otherwise performs work requiring a permit within the municipal limits under any name other than the one registered;
 - (J) A registered contractor or its designated registered official obtains a permit requiring registration for an unregistered contractor or one whose registration is suspended or revoked; or
 - (K) A registered contractor or its designated registered official performs any work requiring a permit while the registration is suspended or revoked.
- (2) Based on the severity of the violation and any extenuating circumstances determined to be relevant, the Building Official or Development Services Director may take any of the following actions regarding a required contractor registration when one or more of the events immediately above have been confirmed or otherwise documented:
- (A) Suspend the registration for ninety days (precluding any new permit applications or approvals for that duration, but otherwise leaving the registration record intact);
 - (B) Suspend the registration for one hundred eighty days (precluding any new permit applications or approvals for that duration, but otherwise leaving the registration record intact); or
 - (C) Revoke the registration indefinitely pending reinstatement by the Building and Standards Commission.
- (3) A determination by the Building Official or Development Services Director that a suspension or revocation of a contractor registration is warranted shall be written and include a list of all documented violations and any additional basis for the action taken. This written determination shall be forwarded to the registered contractor by certified mail with a return receipt requested, using the address in the current registration records. If the delivery fails or is refused, the notice shall be deemed to have occurred on the date of the delivery attempt certified by the USPS. The required mailing may be waived by the registered contractor pending a willingness to provide a signed copy of the written determination acknowledging its receipt.
- (g) Completion of permitted work in progress. A suspension, revocation, or expiration of a contractor's registration does not relieve an individual or entity from the responsibility to complete all current obligations previously permitted or eliminates any associated liability. All other ordinance provisions shall remain applicable, and subsequent violations will result in applicable fees and penalties and be documented for consideration following appeals or reinstatement applications.
- (h) Appeals and Reinstatement.
- (1) Appeals of a Suspension or Revocation.
- (A) The determination by the Building Official or Development Services Director that a suspension or revocation is warranted can be appealed to the Building and Standards Commission based on an alleged error or erroneous conclusion. The appeal shall consist of a formal letter to the Building and Standards Commission alleging the specific errors made and accompanied by the fee specified in Appendix A, Fee Schedule. The right to

appeal the determination of the Building Official or Development Services Director regarding a suspension or revocation expires fifteen calendar days following receipt of the written notice, or the next official business day of the City when the City offices are closed. Following this deadline, the suspension or revocation becomes final.

- (B) A timely appeal of a suspension or revocation determination by the Building Official or Development Services Director stays all enforcement related to the suspension or revocation. Pending a final determination, a registered contractor otherwise in good standing may continue to seek and receive permits. The appeal shall be heard at a public meeting of the Building and Standards Commission at a location and on a date and time no sooner than 10 calendar days following formal written notice by the contractor challenging the determination to suspend or revoke their registration. The decision of the Building and Standards Commission on a contractor suspension or revocation appeal shall be final, absent relief from a court of proper jurisdiction.

(2) Reinstatement of an Expired or Revoked Registration.

- (A) Contractor registrations that have been revoked must be approved for reinstatement by the Building and Standards Commission in addition to submitting or updating all required registration documentation and records.
- (B) A reinstatement request does not stay enforcement and absent a successful appeal, a contractor with an expired or revoked registration is not eligible to obtain permits until an active registration in good standing is re-established following reinstatement. Reinstatement requests shall be accompanied by the required application form and the fee specified in Appendix A, Fee Schedule.
- (C) A request for reinstatement pursuant to a final revocation determination will not be accepted until at least one year has passed since the effective date of the revocation, as a suspension for 180 days was considered insufficient by the Building Official or Development Services Director and that determination withstood an appeal, or a timely appeal was not submitted.
- (D) Reinstatement decisions by the Building and Standards Commission are appealable to the City Council. The appeal shall consist of a formal letter to the City Council that includes the specific basis for the appeal and accompanied by the fee specified in Appendix A, Fee Schedule.
- (E) A subsequent reinstatement request is prohibited for at least twelve months from the latest denial. However, there is no other limitation on the number of times a contractor may apply for reinstatement.
- (F) No provision of this section shall be construed to mean that a formerly registered contractor is entitled to reinstatement following either revocation for cause or expiration. Instead, the historic performance and violation record shall be considered relevant and subject to scrutiny. Reinstatement shall require a finding by the Building and Standards Commission or the City Council on appeal, that substantial compliance with all applicable regulations and requirements is expected.

APPENDIX A

FEE SCHEDULE

ARTICLE 3.000 BUILDING RELATED FEES

Section 3.500 Contractor Registration Fees

- (a) Annual Fee (pro-rated by month for initial registration)
 - (1) General Contractor / Builder: Commercial and Multifamily: \$240.00
 - (2) Residential Contractor / Builder: Single-family or Two-family Residential: \$240.00
 - (3) Demolition / Home Moving Contractor: \$240.00
 - (4) Home Improvement Contractor (including accessory buildings less than 120 square feet in area, paving not within a public right-of-way, decks, and fences): \$120.00
 - (5) Tree Removal Contractor: \$120.00
 - (6) Specialty Contractor Classifications with licenses required by the State of Texas: fee exempt
- (b) Additional fee for expired or late registration renewal: equal to the annual or pro-rated monthly fee
- (c) Appeal of registration suspension or revocation: \$250.00
- (d) Request for reinstatement of revoked registration to Building and Standards Commission: \$350.00
- (e) City Council appeal of reinstatement denial by the Building and Standards Commission: \$350.00
