

ORDINANCE NO. 15- 037

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING CHAPTER 10, "BUILDING CODE," OF THE CODE OF THE CITY OF GALVESTON, 1982; AS AMENDED, BY ADOPTING WITH MODIFICATIONS AND AMENDMENTS, THE "2012 INTERNATIONAL BUILDING CODE"; ESTABLISHING RELATED PERMIT FEES AND PENALTIES; ADOPTING LOCAL REGULATIONS RELATING TO ASBESTOS AND ARCHITECTURAL BARRIERS COMPLIANCE IN ACCORDANCE WITH STATE LAW; PROVIDING FOR AN EFFECTIVE DATE OF JULY 1, 2015; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

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**WHEREAS**, the City of Galveston is currently operating under the 2009 edition of the "International Building Code" ("IBC") as amended and after reviewing this code, the Building Department (staff) has noticed important differences between the contents of the 2009 edition and the 2012 edition; and,

**WHEREAS**, staff desires to keep the City of Galveston current with the most recent codes pertaining to construction and development; and,

**WHEREAS**, internationally, code officials recognize the need for modern, up-to-date building codes addressing the design and installation of building systems through requirements emphasizing performance. The 2012 International Building Code is designed to meet these needs through model code regulations that safeguard the public health and safety in all communities, large and small; and,

**WHEREAS**, regulations for Flood Damage Prevention are not adequately described in the International Building Code. Staff recommends the inclusion of Appendix P, to address the local requirements for Flood Damage Prevention; and,

**WHEREAS**, regulations for Site Inspections are not adequately described in the International Building Code. Staff recommends the inclusion of Appendix Q to address the local requirements for Site Inspections; and,

**WHEREAS**, regulations for the construction and placement of security buildings and/or guard shacks are recommended to remain as part of the IBC, as previously adopted by the City. Applicable regulations can be found in Appendix R; and,

**WHEREAS**, Staff has presented the proposed code updates and amendments to the Building Board of Adjustments and Appeals. The Building Board of Adjustments and Appeals, is comprised of local builders, architects, engineers, electrical, mechanical and plumbing contractors and was formed with the intent to have local input into the permit process as well as review potential amendments to regulatory codes; and,

**WHEREAS**, staff recommends amending Chapter 10 “The Building Code” of “The Code of the City of Galveston 1982, as amended” by adopting the 2012 International Building code, with City of Galveston amendments, L, M, N, O, P, Q, R, S and T; and selected 2012 International Building Code (IBC) appendices C, D, E, F, H, I, and K; and,

**WHEREAS**, the City Council of the City of Galveston deems it to be in the public interest to adopt the 2012 IBC, with amendments as provided below; and,

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

**SECTION 1.** The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.** The Code of the City of Galveston 1982, as amended, Article I. “International Building Code”, Chapter 10, “Building Code”, is amended to read and provide as follows:

**Sec. 10-1. Adopted.**

The **2009 2012** International Building Code, hereinafter referred to as the “Building Code of the City of Galveston (Building Code)” copies of which have this day been exhibited to and approved by the city council and certified copies of which are on file in the respective offices of the City Secretary and the Building Official of the City, is hereby adopted by reference and declared to be the building code of the City for the regulation of constructions, enlargements, alterations, repairing, moving, removing, conversions, and maintenance of buildings, signs or other structures in the city, save and except such portions as are hereinafter deleted, amended, varied or modified.

**Sec. 10.1.1 - Amendments to the **2009 2012** International Building Code.**

The **2009 2012** International Building Code adopted pursuant to the foregoing provisions of this chapter is hereby modified and amended to the extent set forth in that document entitled “Amendments for **2009 2012** International Building Code”, which is hereby incorporated as “Attachment A”, which document is hereby adopted, its contents and provisions being incorporated herein by reference, and same being available for inspection and copying in the respective offices of the City Secretary and Building Official.

The **2009 2012** International Building Code is adopted with the following selected appendices, C, D, E, F, H, I, K, L and M which may be modified and amended as shown in “Attachment A”, which are as follows:

- C      Group U—Agricultural Buildings
- D      Fire Districts
- E      Supplementary Accessibility Requirements

F	Rodent Proofing
H	Signs
I	Patio Covers
K	Administrative Provisions
L	<u>Earthquake recording instrumentation</u>
M	<u>Tsunami-Generated Flood Hazard</u>

Appendices A, B, G, and J of the 2009 2012 International Building Code are deleted in their entirety and are not adopted.

The other codes listed in Sections 101.4.1 through 101.4.7 and referenced elsewhere in the 2009 2012 International Building Code are adopted save and except such portions as are deleted, modified, or amended pursuant to relevant City Code provisions. Where differences occur between provisions of the 2009 2012 International Building Code and referenced codes and standards, the City Code provisions will control.

The Building Division of the Department of Planning and Community Development of the City of Galveston is subject to all applicable City Charter, City Code, and Personnel Rules and Regulations pertaining to jurisdiction and employment. No provision contained in the Building Code governing the employment, staffing, hiring, termination, or discipline of an official or employee shall apply. Furthermore, the Building Code shall not govern the appointment, liability and legal defense of any officer or employee.

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#### **Sec. 10-2.1. Local building code amendments and supplements thereto.**

The 2009 2012 International Building Code and revisions adopted pursuant to the provisions of the foregoing sections of this chapter are hereby modified and amended to the extent set forth in the following attached appendices which documents are hereby adopted, their contents and provisions being incorporated herein by reference, and same being incorporated herein by reference, and same being available for inspection and copying in the respective offices of the City Secretary and the Building Official:

<u>L</u>	<u>2009 IBC Schedule of Building Permit Fees</u>
<u>M</u>	<u>City of Galveston 2009 IBC Amendments</u>
N	Texas Occupations Code, Chapter 1954 "Asbestos Health Protection"
O	Texas Government Code, Chapter 469 "Elimination of Architectural Barriers"
P	Flood Damage Prevention
Q	Site Inspections
R	Guard/Security Buildings

**S** 2012 IBC Schedule of Building Permit Fees  
**T** City of Galveston 2012 IBC Amendments

**Sec. 10-2.2. - Schedule of Building Permit Fees; Penalties**

- (a) Permit fees shall be required and fees applied to the extent set forth in that certain document entitled "Schedule of Building Permit Fees" which is incorporated as "Attachment **E S**" to the **2009 2012** International Building Code, which document is hereby adopted, its contents and provisions being incorporated herein by reference, and same being available for inspection and copying in the respective offices of the City Secretary and the Building Official. Any other fees not listed in "**2009 2012** IBC Schedule of Building Permit Fees" shall be thirty-five dollars (\$35.00).
- (b) A late fee and stop work order will be issued where work for which a permit is required by this Code, is started or proceeded with, prior to obtaining said permit. The fees herein specified shall be doubled with the minimum fee being one hundred dollars (\$100.00).
- (c) Any person violating any provision of this Code shall be guilty of a Class "C" misdemeanor and upon conviction thereof shall be assessed a fine of not less than \$100 and not more than \$500; however, the maximum penalty for offenses arising under such Code governing fire safety, public health and sanitation shall not exceed the sum of two thousand dollars (\$2,000.00) Each day a violation continues shall constitute a new and separate offense;

**SECTION 3.** The Code of the City of Galveston 1982, as amended, Article I. "International Building Code", Chapter 10, "Building Code", is amended by adding "Palapa and/or Thatched Roof Structures", to read and provide as follows:

**Sec. ~~10-5, 10-5.1. — Reserved.~~ – Sec. 10-5. – Palapa and/or Thatched Roof Structures.**

Palapa and/or thatched roof structures shall be no larger than 300 square feet accessory to a main structure and shall be separated from any building and property line by at least 10 feet. The structure cannot be used with any open flame appliance or anything that produces a flame. The palapa and/or thatched roof structure shall be open on all sides and be limited to one structure per property. The owner is responsible for the application of required Fire Retardant for said palapa and/or thatched roofing. Inspection by the Fire Marshal is required on an annual basis.

**SECTION 4.** The Code of the City of Galveston 1982, as amended, Article I. "International Building Code", Chapter 10, "Building Code", is amended by adding "Detached Accessory Structure – Tool Shed, Storage Shed, Playhouses", to read and provide as follows:

**Sec. 10-7. - ~~Reserved.~~ Detached Accessory Structure - Tool Shed, Storage Shed Playhouses.**

One Story detached accessory structures used as tool and storage sheds, playhouses and similar uses provided floor area does not exceed 200 Square Feet, may have approved engineering anchoring systems.

**SECTION 5.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 6.** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**SECTION 7.** In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

**SECTION 8.** This Ordinance shall be and become effective on July 1, 2015 after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

\_\_\_\_\_  
DONNA M. FAIRWEATHER  
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on June 11, 2015 as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Secretary for the City Council  
of the City of Galveston

## Attachment “A”

### International Building Code Amendments

SECTION 101 “General” of the “International Building Code 2009 Edition” is hereby amended to read and provide as follows:

#### 101.1 Title

These regulations provisions shall be known as the Building Code of the City of Galveston, and shall be cited as such and will be referred therein as, hereinafter referred to as “this code.”

SECTION 105 “Permits” of the “International Building Code 2012 Edition” is hereby amended to read and provide as follows

#### **105.2 Work Exempt from Permit.**

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Building:

1. One story detached accessory structures, used as tool and storage sheds, playhouses and similar uses, provided the floor does not exceed 120 square feet (11.15 m2).
2. Fences not over 7 feet (2134mm) high.

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**105.3 Application for permit.** To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

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8. Department of Army Permit (DA) documentation is required by the Building Official prior to the issuance of a Building Permit to fill, dredge or construct structures in/or affecting any navigable waters of the United States (this includes all waters affected by the daily tides). Any proposed modifications to authorized work by the Department of Army shall be resubmitted to the Corp of Engineers for evaluation and approval prior to the issuance of a Building Permit by the Building Official

SECTION 113 “Board of Appeals” of the International Building Code 2012 Edition is deleted in its entirety and is hereby amended to read:

Refer to Chapter 10, Article II. Building Board of Adjustments and Appeals, of the Code of the City of Galveston

SECTION 1612 “Flood Loads” of the International Building Code 2012 Edition is hereby deleted in its entirety and is amended to read.

Refer to City Flood Prevention Ordinance No. 02-86, (herein Appendix P) which will remain in effect.

APPENDIX H. “SIGNS” shall be amended to read as follows:

SECTION H101.2 “Signs Exempt from Permits” shall be deleted in its entirety.

**2009 2012 IBC Schedule of Building Permit Fees****(A) Existing Structures & Signs****Additions, Alterations, Repairs, Storage Buildings, Garage, Roofing**

<b><u>Valuation of Work</u></b>	<b><u>Fee</u></b>
\$500.00 to \$1,000.00	<b><u>\$24.00</u></b>
\$1,001.00 to \$15,000.00	<b><u>\$29.50</u></b> for the first \$2,000.00 plus \$5.50 for each additional thousand or fraction thereof, to and including \$15,000.00.
\$15,001.00 to \$50,000.00	<b><u>\$101.00</u></b> for the first \$15,000.00 plus \$5.50 for each additional thousand or fraction thereof to and including \$50,000.00.
\$50,001.00 to \$100,000.00	<b><u>\$293.50</u></b> for the first \$50,000.00 plus \$4.50 for each additional thousand or fraction thereof to and including \$100,000.00.
\$100,001.00 to \$500,000.00	<b><u>\$518.50</u></b> for the first \$100,000.00 plus \$3.50 for each additional thousand or fraction thereof to and including \$500,000.00.
\$500,001.00 and up	<b><u>\$1,918.50</u></b> for the first \$500,000.00 plus \$2.50 for each additional thousand or fraction thereof.

**(B) New Construction**

Residential One & Two Family Dwelling	15 cents per square foot plus Site Inspection Charge and Plan checking Fee.
Commercial	20 cents per square foot for the first 20,000 square feet plus .05 per square foot there, plus Site



## Appendix S

Inspection Charge, Plan Checking Fee and Fire Marshall Fee.

(C)	<b><u>Plan Checking Fees</u></b>	When a plan is required to be submitted to the Planning Division, a Plan Checking Fee shall be assessed. Said fee shall be equal to one half of the building permit fee for Building Division review.
(D)	<b><u>Site Inspection Fees</u></b>	A Site Inspection for building layout shall be required on all new construction. Said Site Inspection fee shall be \$25.00.
(E)	<b><u>Demolition</u></b>	For the demolition of any building or structures, the fee shall be: 0 up to 100,000 cu ft. is \$50.00. 100,000+ cu ft. at \$.50/per thousand cu ft.
(F)	<b><u>Moving Permit</u></b>	The moving of any building or structure shall be \$100.00, plus Site Inspection Charge provided if the structure remains in the City limits.
(G)	<b><u>Late Fee/Stop Work Orders</u></b>	Where work for which a permit is required by this Code, is started or proceeded with, prior to obtaining said permit, the fees herein specified shall be doubled with minimum being \$100.00.
(H)	<b><u>Energy related plan review</u></b>	Plan review fee \$50.00 Inspection fee for 3 inspections \$75.00
(I)	<b><u>Re-inspection Fee (<i>1<sup>st</sup> visit</i>)</u></b>	\$50.00
	<b><u>Re-inspection Fee (<i>2 or more visits to same property for same violation</i>)</u></b>	\$200.00
(J)	<b><u>Dredging and/or Fill Permit in any Navigable Waters in the U.S.</u></b>	<b><u>\$20.00</u></b>

**City of Galveston 2009-2012 IBC Amendments**

1. Roof decking shall be a minimum of 19/32 inch plywood or 19/32 inch Oriented-Strand Board (OSB). **Structural 1 Sheathing Panels**
2. All wood frame construction shall be 16" on center or better or designed in accordance with American Society of Civil Engineers (ASCE) standard 7-05.
3. Pilings size shall be a minimum of 10" x 10" under any living or enclosed portion of a structure west of 81<sup>st</sup> street. Engineered foundation with a minimum of 8" x 8" under any living or enclosed portions of a structure east of 81<sup>st</sup> street will be reviewed. Piling replacement on existing structures less than 50% of the piling replacement may match existing piling size with engineer certification.
4. Piling depths shall be minimum 10' embedment and in accordance with FEMA regulations when located in AE or VE flood zone, west of the seawall.
5. Wall sheathing on all exterior walls shall be minimum 19/32 inch plywood or 19/32 inch Oriented-Strand Board (OSB). **Structural 1 Sheathing Panels**
6. Wood shingles shall not be allowed on roofs or exterior walls except for repair of less than 50 % of such roof or wall.
7. Enclosures below the base flood elevation:
  - A. Enclosures below base flood elevation (BFE) in VE zones, the maximum allowable enclosed area for a commercial or multifamily project allowed by code will be 899 square feet or the total square footage required by the combined foot print of the elevator shafts, an elevator lobby, and the code required stairway enclosures whichever is greater. The maximum elevator lobby shall be limited to the width of the elevator shaft(s) by a maximum of 10 feet from the face of the elevator shaft. Enclosed corridors or hallways are not allowed between the stairways and the elevator lobby if the total enclosed area exceeds 899 square feet
  - B. Insect screening, provided that no additional supports are required for screening; or wood or plastic lattice with at least 40 % of the area open and made of material no thicker than 1/2 inch; or wooden or plastic slats or shutters with at least 40 % of the area open and made of material no thicker than 1 inch and breakaway construction shall not be considered enclosure walls. Any of these systems must be designed and installed to collapse under stress without jeopardizing the structural support of the building of abnormally high tides or wind driven water is minimized.

C. A single wall may constitute an obstruction and may constitute an enclosure based on National Flood Insurance Program Regulations (NFIP).

8. Approved connectors shall be used on all framing connections in lieu of all other framing connections.
9. Collar ties shall be installed on the upper 1/3 of each set of mating rafters.
10. All steel used in structural applications including but not limited to columns, beams, brackets, base plates, bolts, nuts, washers, handrails, and lintels exposed to the weather or encapsulated outside of the main building envelope (including columns/beams/bar joists located within soffits and below exterior balconies) shall be at a minimum hot dipped galvanized after fabrication. Structural steel extending from interior spaces into soffits or below balconies is required to be hot dipped galvanized. Partially or entirely encapsulated columns outside the main building envelope shall be hot dipped galvanized in accordance with ASTM A123/A123M-09 or AISI type 504 stainless steel. A surface coating alone is not acceptable to prevent structural elements from corroding from the inside out.

The minimum coating requirements for interior structural steel not directly exposed to weather is red oxide primer unless otherwise required.

Structural steel studs and light gage structural clips, brackets, straps, etc. that are electroplate galvanized during the manufacturing process shall be primed and painted when exposed to the weather.

New or replacement window/door lintels will require hot dipped galvanized steel as the minimum acceptable metal coating in these locations.

Brick ties and nails shall be stainless steel.

## **Appendix N**

### **Texas Occupations Code § 1954.259 Chapter 1954. Asbestos Health Protection**

#### **§ 1954.259. Survey Required.**

(a) In this section, “permit” means a license, certificate, approval, registration, consent, permit, or other form of authorization that a person is required by law, rule, regulation, order, or ordinance to obtain to perform an action, or to initiate, continue, or complete a project, for which the authorization is sought.

(b) A municipality that requires a person to obtain a permit before renovating or demolishing a public or commercial building may not issue the permit unless the applicant provides:

(1) evidence acceptable to the municipality that an asbestos survey, as required by this chapter, of all parts of the building affected by the planned renovation or demolition has been completed by a person licensed under this chapter to perform a survey; or

(2) a certification from a licensed engineer or registered architect, stating that:

(A) the engineer or architect has reviewed the material safety data sheets for the materials used in the original construction, the subsequent renovations or alterations of all parts of the building affected by the planned renovation or demolition, and any asbestos surveys of the building previously conducted in accordance with this chapter; and

(B) in the engineer's or architect's professional opinion, all parts of the building affected by the planned renovation or demolition do not contain asbestos.

## Appendix O

Texas Government Code §441.001 to 498  
Chapter 469. Elimination of Architectural Barriers

### CHAPTER 469. ELIMINATION OF ARCHITECTURAL BARRIERS

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 469.001. SCOPE OF CHAPTER; PUBLIC POLICY. (a) The intent of this chapter is to ensure that each building and facility subject to this chapter is accessible to and functional for persons with disabilities without causing the loss of function, space, or facilities.

(b) This chapter relates to nonambulatory and semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination, and aging.

(c) This chapter is intended to further the policy of this state to encourage and promote the rehabilitation of persons with disabilities and to eliminate, to the extent possible, unnecessary barriers encountered by persons with disabilities whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted.

Sec. 469.002. DEFINITIONS. In this chapter:

(1) "Architect" means a person registered as an architect under Chapter 1051, Occupations Code.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities.

(5) "Engineer" means a person licensed as an engineer under Chapter 1001, Occupations Code.

(6) "Executive director" means the executive director of the department.

(7) "Interior designer" means a person registered as an interior designer under Chapter 1053, Occupations Code.

(8) "Landscape architect" means a person registered as a landscape architect under Chapter 1052, Occupations Code.

Sec. 469.003. APPLICABILITY OF STANDARDS. (a) The standards adopted under this chapter apply to:

(1) a building or facility used by the public that is constructed, renovated, or modified, in whole or in part, on or after January 1, 1970, using funds from the state or a county, municipality, or other political subdivision of the state;

(2) a building or facility described by this subsection or Subsection (b) that is constructed on a temporary or emergency basis;

(3) a building leased for use or occupied, in whole or in part, by the state under a lease or rental agreement entered into on or after January 1, 1972;

(4) a privately funded building or facility that is defined as a "public accommodation" by Section 301, Americans with

Disabilities Act of 1990 (42 U.S.C. Section 12181), and its subsequent amendments, and that is constructed, renovated, or modified on or after January 1, 1992; and

(5) a privately funded building or facility that is defined as a "commercial facility" by Section 301, Americans with Disabilities Act of 1990 (42 U.S.C. Section 12181), and its subsequent amendments, and that is constructed, renovated, or modified on or after September 1, 1993.

(b) To the extent there is not a conflict with federal law and it is not beyond the state's regulatory power, the standards adopted under this chapter apply to a building or facility constructed in this state or leased or rented for use by the state using federal money.

(c) The standards adopted under this chapter do not apply to a place used primarily for religious rituals within a building or facility of a religious organization.

(d) If any portion of a building described by Subsection (a)(1) is occupied solely for residential use and the remaining occupied portion of the building is occupied for nonresidential use, the executive director shall consider only the nonresidential portion of the building in determining whether the building complies with the standards and specifications adopted under this chapter.

[Sections 469.004-469.050 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATION AND ENFORCEMENT

Sec. 469.051. ADMINISTRATION AND ENFORCEMENT; ASSISTANCE OF OTHER AGENCIES. (a) The commission shall administer and enforce this chapter. The appropriate state rehabilitation agencies and the Governor's Committee on People with Disabilities shall assist the commission in the administration and enforcement of this chapter.

(b) In enforcing this chapter, the commission is entitled to the assistance of all appropriate elective or appointive state officials.

(c) The commission has all necessary powers to require compliance with the rules adopted under this chapter.

Sec. 469.052. ADOPTION OF STANDARDS AND SPECIFICATIONS; RULEMAKING. (a) The commission shall adopt standards, specifications, and other rules under this chapter that are consistent with standards, specifications, and other rules adopted under federal law.

(b) The standards and specifications adopted by the commission under this chapter must be consistent in effect with the standards and specifications adopted by the American National Standards Institute or that entity's federally recognized successor in function.

(c) The department shall publish the standards and specifications in a readily accessible form for use by interested parties.

Sec. 469.053. ADVISORY COMMITTEE; REVIEW OF AND COMMENT ON RULES. (a) The presiding officer of the commission, with the commission's approval, shall appoint an advisory committee for the architectural barriers program. The committee shall consist of building professionals and persons with disabilities who are familiar with architectural barrier problems and solutions. The committee shall consist of at least eight members. A majority of

the members of the committee must be persons with disabilities.

(b) A committee member serves at the will of the presiding officer of the commission.

(c) A committee member may not receive compensation for service on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member.

(d) The presiding officer of the commission, with the commission's approval, shall appoint a committee member as presiding officer for two years.

(e) The committee shall meet at least twice each calendar year at the call of the presiding officer or the commissioner.

(f) The committee periodically shall review the rules relating to the architectural barriers program and recommend changes in the rules to the commission.

(g) The commission must submit all proposed changes to any rule or procedure that relates to the architectural barriers program to the committee for review and comment before adopting or implementing the new or amended rule or procedure.

Sec. 469.054. FEES IN GENERAL. (a) The commission shall adopt fees in accordance with Section 51.202, Occupations Code, for performing the commission's functions under this chapter.

(b) The owner of a building or facility is responsible for paying a fee charged by the commission for performing a function under this chapter related to the building or facility.

(c) The commission may charge a fee for:

(1) the review of the plans or specifications of a building or facility;

(2) the inspection of a building or facility; and

(3) the processing of an application for a variance from accessibility standards for a building or facility.

Sec. 469.055. CONTRACT TO PERFORM REVIEW AND INSPECTION. The commission may contract with other state agencies and political subdivisions to perform the commission's review and inspection functions.

Sec. 469.056. INTERAGENCY CONTRACTS. A state agency that extends direct services to persons with disabilities may enter into an interagency contract with the department to provide additional funding required to ensure that the service objectives and responsibilities of the agency are achieved through the administration of this chapter.

Sec. 469.057. DUTY TO INFORM ABOUT LAW. (a) The department periodically shall inform professional organizations and others, including persons with disabilities, architects, engineers, and other building professionals, of this chapter and its application.

(b) Information about the architectural barriers program disseminated by the department must include:

(1) the type of buildings and leases subject to this chapter;

(2) the procedures for submitting plans and specifications for review;

(3) complaint procedures; and

(4) the address and telephone number of the department's program under this chapter.

(c) The department may enter into cooperative agreements to integrate information about the architectural barriers program with information produced or distributed by other public entities

or by private entities.

Sec. 469.058. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty under Subchapter F, Chapter 51, Occupations Code, on a building owner for a violation of this chapter or a rule adopted under this chapter.

(b) Each day that a violation is not corrected is a separate violation.

(c) Before the commission may impose an administrative penalty for a violation described by Subsection (a), the commission must notify a person responsible for the building and allow the person 90 days to bring the building into compliance. The commission may extend the 90-day period if circumstances justify the extension.

[Sections 469.059-469.100 reserved for expansion]

\*\*\* There is a current Chapter 469.059 entitled Complaints \*\*\*

#### SUBCHAPTER C. REVIEW AND APPROVAL REQUIRED FOR CERTAIN

##### PLANS AND SPECIFICATIONS

Sec. 469.101. SUBMISSION FOR REVIEW AND APPROVAL REQUIRED. All plans and specifications for the construction of or for the substantial renovation or modification of a building or facility must be submitted to the department for review and approval if:

(1) the building or facility is subject to this chapter; and

(2) the estimated construction cost is at least \$50,000.

Sec. 469.102. PROCEDURE FOR SUBMITTING PLANS AND SPECIFICATIONS. (a) The architect, interior designer, landscape architect, or engineer who has overall responsibility for the design of a constructed or reconstructed building or facility shall submit the plans and specifications required under Section 469.101.

(b) The person shall submit the plans and specifications not later than the 20<sup>th</sup> day after the date the person issues the plans and specifications. If plans and specifications are issued on more than one date, the person shall submit the plans and specifications not later than the 20<sup>th</sup> day after each date the plans and specifications are issued. In computing time under this subsection, a Saturday, Sunday, or legal holiday is not included.

(c) The owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, or modification of the building or facility to begin before the date the plans and specifications are submitted to the department. On application to a local governmental entity for a building construction permit, the owner shall submit to the entity proof that the plans and specifications have been submitted to the department under this chapter.

(d) A public official of a political subdivision who is legally authorized to issue building construction permits may not accept an application for a building construction permit for a building or facility subject to Section 469.101 unless the official verifies that the building or facility has been registered with the department as provided by rule.



Sec. 469.103. MODIFICATION OF APPROVED PLANS AND SPECIFICATIONS. Approved plans and specifications to which any substantial modification is made shall be resubmitted to the department for review and approval.

Sec. 469.104. FAILURE TO SUBMIT PLANS AND SPECIFICATIONS. The commission shall report to the Texas Board of Architectural Examiners, the Texas Board of Professional Engineers, or another appropriate licensing authority the failure of any architect, interior designer, landscape architect, or engineer to submit or resubmit in a timely manner plans and specifications to the department as required by this subchapter.

Sec. 469.105. INSPECTION OF BUILDING OR FACILITY. (a) The owner of a building or facility described by Section 469.101 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the commission under this chapter not later than the first anniversary of the date the construction or substantial renovation or modification of the building or facility is completed.

(b) The inspection must be performed by:

- (1) the department;
- (2) an entity with which the commission contracts under Section 469.055; or
- (3) a person who holds a certificate of registration under Subchapter E.

Sec. 469.106. BUILDINGS AND FACILITIES USED TO PROVIDE DIRECT SERVICES TO PERSONS WITH MOBILITY IMPAIRMENTS; STATE LEASES.

(a) Notwithstanding any other provision of this chapter, the commission shall require complete compliance with the standards and specifications adopted by the commission under this chapter that apply specifically to a building or facility occupied by a state agency involved in extending direct services to persons with mobility impairments. Those standards and specifications also apply to a building or facility occupied by the Texas Rehabilitation Commission.

(b) The department and the Texas Building and Procurement Commission shall ensure compliance with the standards and specifications described by Subsection (a) for a building or facility described by Subsection (a) and leased for an annual amount of more than \$12,000 or built by or for the state.

(c) Before a building or facility to be leased by the state for an annual amount of more than \$12,000 is occupied in whole or in part by the state, a person described by Section 469.105(b) must perform an on-site inspection of the building or facility to determine whether it complies with all accessibility standards and specifications adopted under this chapter.

(d) If an inspection under Subsection (c) determines that a building or facility does not comply with all applicable standards and specifications, the leasing agency or the Texas Building and Procurement Commission, as applicable, shall cancel the lease unless the lessor brings the building or facility into compliance not later than:

- (1) the 60th day after the date the person performing the inspection delivers the results of the inspection to the lessor or the lessor's agent; or
- (2) a later date established by the commission if circumstances justify a later date.

Sec. 469.107. REVIEW OF PLANS AND SPECIFICATIONS FOR STRUCTURES NOT SUBJECT TO CHAPTER. The commission may:

(1) review plans and specifications and make inspections of a structure not otherwise subject to this chapter; and

(2) issue a certification that a structure not otherwise subject to this chapter is free of architectural barriers and in compliance with this chapter.

[Sections 469.108-469.150 reserved for expansion]

#### SUBCHAPTER D. WAIVER OR MODIFICATION OF

#### ACCESSIBILITY STANDARDS

Sec. 469.151. WAIVER OR MODIFICATION PERMITTED. (a) The commission may waive or modify accessibility standards adopted under this chapter if:

(1) the commission considers the application of the standards to be irrelevant to the nature, use, or function of a building or facility subject to this chapter; or

(2) the owner of the building or facility for which a request for a waiver or modification is made, or the owner's designated agent, presents proof to the commission that compliance with a specific standard is impractical.

(b) If a request is made for waiver or modification of an accessibility standard with respect to a building described by Section 469.003(a) (3) or a building or facility leased or rented for use by the state through the use of federal money, the owner of the building or facility, or the owner's designated agent, must present to the commission the proof required by Subsection (a) (2).

Sec. 469.152. WAIVER OR MODIFICATION PROHIBITED. The commission may not waive or modify a standard or specification if:

(1) the waiver or modification would significantly impair the acquisition of goods and services by persons with disabilities or substantially reduce the potential for employment of persons with disabilities;

(2) the commission knows that the waiver or modification would result in a violation of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and its subsequent amendments; or

(3) the proof presented to the commission under Section 469.151(a) (2) is not adequate.

Sec. 469.153. MAINTENANCE OF CERTAIN INFORMATION. All evidence supporting a waiver or modification determination by the commission is a matter of public record and shall be made part of the file system maintained by the department.

[Sections 469.154-469.200 reserved for expansion]

#### SUBCHAPTER E. REGISTRATION TO PERFORM

#### REVIEWS OR INSPECTIONS

Sec. 469.201. CERTIFICATE OF REGISTRATION REQUIRED. (a) A person may not perform a review or inspection function of the commission on behalf of the owner of a building or facility unless

the person holds a certificate of registration issued under this subchapter.

(b) This section does not apply to an employee of:

- (1) the department; or
- (2) an entity with which the commission contracts

under Section 469.055.

Sec. 469.202. FEES RELATED TO CERTIFICATE OF REGISTRATION.

The commission may charge a fee for:

- (1) an application for a certificate of registration;
- (2) an examination for a certificate of registration;
- (3) an educational course required for eligibility for a certificate of registration;
- (4) issuance of an original certificate of registration;
- (5) a continuing education course required to renew a certificate of registration; and
- (6) renewal of a certificate of registration.

Sec. 469.203. APPLICATION AND ELIGIBILITY. (a) An applicant for a certificate of registration must file with the commission an application on a form prescribed by the executive director.

(b) To be eligible for a certificate of registration, an applicant must satisfy any requirements adopted by the commission by rule, including education and examination requirements.

(c) The executive director may recognize, prepare, or administer educational courses required for obtaining a certificate of registration.

Sec. 469.204. EXAMINATION. (a) The executive director may administer separate examinations for applicants for certificates of registration to perform review functions, inspection functions, or both review and inspection functions.

Sec. 469.205. ISSUANCE OF CERTIFICATE. (a) The executive director shall issue an appropriate certificate of registration to an applicant who meets the requirements for a certificate.

(b) The executive director may issue a certificate of registration to perform review functions of the commission, inspection functions of the commission, or both review and inspection functions.

Sec. 469.206. CERTIFICATE TERM. The executive director by rule shall specify the term of a certificate of registration.

Sec. 469.208. PERFORMANCE OF REVIEWS AND INSPECTIONS. (a) A certificate holder shall perform a review or inspection function of the commission in a competent and professional manner and in compliance with:

- (1) standards and specifications adopted by the commission under this chapter; and
- (2) rules adopted by the commission under this chapter.

(b) A certificate holder may not engage in false or misleading advertising in connection with the performance of review or inspection functions of the commission.

(b) Article 9102, Revised Statutes, is repealed.