

ORDINANCE 226-C-2021

AN ORDINANCE AMENDING A CERTAIN SECTION OF CHAPTER 3-3 – BUSINESS AND INDUSTRY REGULATIONS, LICENSES AND PERMITS OF THE CITY CODE OF ORDINANCES AND ORDINANCE 226 TO INCLUDE THE CONTRACTOR REGISTRATION/LICENSING REQUIREMENTS, PROVIDING SEVERABILITY, SETTING AN EFFECTIVE DATE, AND TO AMEND THE UNIVERSAL CITY CODES ACCORDINGLY.

WHEREAS, the City Council of Universal City seeks to provide for safe and orderly construction activities within the corporate limits of the City; and

WHEREAS, the City Council of Universal City seeks to deter shabby craftsmanship and substandard work by contractors; and

WHEREAS, the City Council of Universal City strives to protect citizens from illegitimate and unscrupulous contractors; and

WHEREAS, the City Council of the Universal City is authorized to regulate construction pursuant to the City's general police powers and Texas Local Government Code Chapters 51, 54, 214, and 217; and

WHEREAS, pursuant to Texas Local Government Code Chapter 214 the City Council of Universal City is expressly authorized to establish procedures to adopt building regulations, establish local amendments to standard codes, and provide for the administration and enforcement of the codes; and

WHEREAS, the City Council of Universal City has previously adopted the authorized building codes, and finds it to be in the public interest to register contractors performing work in accordance with those codes; and

WHEREAS, the City Council of Universal City finds that the municipal registration of certain construction contractors is necessary for the protection of the public health, safety, and general welfare; and

WHEREAS, the City Council of Universal City finds rules and fees provided herein to be reasonable and necessary.

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

Section 1. Amendments. That the following Section of Ordinance 226 of the Universal City Code of Ordinances shall be amended in its entirety to read:

ARTICLE IV. – CONTRACTOR REGISTRATION / STATE LICENSING

Section 3-3-40 – Contractor Types and Registration Requirements

1. General Contractor Types

For building permitting purposes, the City shall recognize the following three (3) general contractor types:

- (a) General Contractor – a person or business entity that contracts to be in charge of a commercial building project and/or new residential building project, involving the use of subcontractors, and has a minimum of five (5) years of provable experience as a commercial contractor; documentation may need to be submitted, as determined by the Building Official or the Development Services Director.
- (b) Home Improvement Contractor – a person or business entity that contracts to be in charge of a residential (single and two-family dwellings only) remodel building project, involving the use of subcontractors, and has a minimum of five (5) years of provable experience as a residential contractor; documentation may need to be submitted, as determined by the Building Official or the Development Services Director.
- (c) Limited General Contractor – a person or business entity with special qualifications, as determined by the Building Official or Development Services Director, that contracts to be in charge of a

specific part of a commercial or residential building project, either a new or remodel project.

2. Trades and Subcontractor Types

For building permitting purposes, the City shall recognize the following five (5) trades and subcontractor types:

- (a) Mechanical Contractor
- (b) Plumber
- (c) Electrician
- (d) Water Treatment / Irrigation Specialist
- (e) Electrical Sign Contractor

3. Registration Requirements

Contractors performing work within the City of Universal City that requires a building permit shall register with the City prior to the issuance of the building permit in accordance with the requirements identified in Table 1: Contractor Registration Requirements.

Table 1: Contractor Registration Requirements

	Home Improvement Contractor	General Contractor	Limited General Contractor	Mechanical Contractor	Plumber	Electrician	Water Treatment / Irrigation Specialists	Electrical Sign Contractor
Application	X	X	X	X	X	X	X	X
Driver's License	X	X	X	X	X	X	X	X
Texas State License (non-TCEQ)				X	X	X		X
TCEQ License							X	
Criminal History	X	X	X					
Surety Bond	X	X			X		X	
Certificate of Insurance	X	X		X	X	X		X
Liability Release (Hold Harmless)			X					

Notes:

- 1. X indicates information/document required
- 2. Water Treatment Specialists/Irrigation Specialists are limited to installing backflow devices, water softeners, and irrigation systems, as indicated by their state license.
- 3. Criminal History – A copy of a complete criminal history search provided by the Texas Department of Public Safety or the State in which the applicant’s driver’s license was issued. Criminal history search results cannot be more than one-month old from the date of contractor application submittal. A criminal history search is required for each applicant, partner, or corporate officer for the contracting business.
- 4. Certificate of Insurance with Universal City named as the Certificate Holder and a minimum of \$300,000 General Liability for claims for property damage, or bodily injury regardless of whether the claim arises from negligence or on a contract claim, or higher amount if required by the State of Texas for that particular contractor type. The insurance shall run for a concurrent term with the registration.
- 5. Surety Bond in the amount of \$5,000 using the City’s Bond form.
- 6. Plumbers can provide either a Certificate of Insurance or a Surety Bond.
- 7. Liability Release using the City’s release form.
- 8. Contractor registration is valid for one year and can be renewed annually.

Section 3-3-41 – Powers and duties of City Building Official

In addition to the powers and duties elsewhere prescribed in this article, the City Building Official shall have the power and duty to keep all records of registrations applied for, issued, refused and cancelled. Such records shall be open to the public for inspection during regular business hours. The City Building Official shall further have the power and duty to recommend for adoption, amendment or

repeal to the City Council such rules and regulations not inconsistent with the provisions of this article as may be necessary for the proper administration and enforcement hereof.

Section 3-3-42 – Registration—required; exceptions

It shall be unlawful for any person to maintain, own or operate a commercial contracting or residential improvement contracting business, or to act as a salesperson of said business, unless registration with the City is first obtained as provided herein.

However, where a building permit is required, registration with the City shall not be required in accordance with the following:

- (a) A homeowner may pull a permit for renovations and additions to an existing home, but may not pull a permit for mechanical, electrical, plumbing or irrigation work. However, in order to pull said permit, a homeowner must occupy the home and have a homestead exemption on the property. Upon request from the City, a homeowner shall demonstrate in writing that he/she qualifies for the homestead exemption on the subject property. Note that rental properties do not qualify for the registration exception in this section. When a qualified homeowner pulls a permit, the contractor does not need to register with the City. To restate, mechanical, electrical, plumbing and irrigation contractors must register with the City and pull required permits. A homeowner is hereby advised that if a homeowner pulls a permit, then the homeowner bears 100% liability for the project.

Section 3-3-43 – Same—Fees

The fees for the initial registration (general, trades and subcontractor types) to conduct a commercial or residential improvement business and annual registration renewal shall be as prescribed in section 1-4-40(E).

Section 3-3-44 – Same—Qualifications of registrant

- (a) Applicants for registration required by this article shall establish to the satisfaction of the City Building Official a minimum of the following:
 - (i) The existence and maintenance of a bona fide office, equipped with telephone, for the conducting of said contractor business;
 - (ii) That if applicant is not an individual proprietor (owner) of said contractor business for which application is made, authority from such business to submit said application on its behalf;
 - (iii) That neither applicant, nor partner or corporate officer in said contractor business on whose behalf the application is submitted, has ever been convicted of any penal offense arising out of or related to the performance of commercial or residential improvements nor convicted of a felony or a misdemeanor involving moral turpitude during a five (5) year period immediately preceding the date of the application;
 - (iv) That applicant, or the entity upon whose behalf the application is submitted, is qualified by either training or experience to conduct said contracting business or to sell said contracting services; and
 - (v) That neither applicant, nor any partner or corporate officer in said contractor business upon whose behalf the application is made, has been convicted of a violation of this article.
- (b) In addition to the foregoing requirements, the City Building Official may require that the applicant furnish information reasonably pertinent to the determination of the applicant's fitness to be issued such registration, or any renewal thereof. Upon review of submitted and available information, the City Building Official may either approve or deny said application.

Sec. 3-3-45. - Same—Application; issuance; refusal.

Applications, accompanied by the fee, shall be submitted to the City Building Official in a form established by the City and the Building Official shall investigate and examine the qualifications and fitness of the applicant. Within a period of thirty (30) days from receipt of an application in proper form, the City Building Official shall issue or refuse a registration to the applicant. If issuance of a registration is refused, the City Building Official shall inform the applicant the reason for said refusal and, if requested by the applicant, shall provide said reason in writing.

Sec. 3-3-46. - Same—Term; transferability; who must be qualified; posting; renewal; duplicate.

- (a) All registrations shall be for a period of one (1) year.
- (b) No registration shall be assignable or transferable.
- (c) The owner of a commercial contracting or residential improvement contracting business and all partners of a partnership and all officers of a corporation who are actively engaged in the performance of said contractor business must qualify for a registration. The registration will be issued to owner of said business, partnership or corporation.
- (d) Each registration issued pursuant to this article shall be posted and kept in some visible place in said commercial contracting or residential improvement contracting business.
- (e) Any registration, which has not been suspended or revoked, may, upon the payment of the required renewal fee prescribed in this article, be renewed for an additional period of one (1) year from its expiration, upon filing of an application for renewal on a form to be prescribed by the City.

Sec. 3-3-47. - Same—Cancellation.

- (a) A contractor's registration shall be revoked by the City in the event said registrant, or any proprietor, partner or corporate officer is convicted of any penal offense arising out of or related to the performance of said commercial contracting or residential improvement contracting business or suffers judgment against him in a civil action predicated upon fraud in connection with the performance of said contracting business.
- (b) The City Building Official may revoke a registration for any one or more of the following reasons:
 - (i) Conviction of the registrant or any proprietor, partner or corporate officer thereof of a felony or misdemeanor involving moral turpitude;
 - (ii) The making of any false statement as to a material matter in an application for registration, renewal thereof or hearing in connection with same;
 - (iii) Conviction of violation of the building code of the City;
 - (iv) Violation of any provision of this article;
 - (v) Upon abandonment or willful failure to perform any commercial or residential improvement contract or project in or undertaken by a contractor; or willful deviation from or disregard of plans or specifications in any material respect;
 - (vi) Upon substantial misrepresentation on part of contractor in the procurement of a commercial or residential improvement contract;
 - (vii) Upon determination of fraud on the part of a contractor in the execution of or in the material alteration of any commercial or residential improvement contract or mortgage, promissory note or other document relating to said contract;
 - (viii) Upon determination that contractor prepared or accepted any mortgage, promissory note or other evidence of indebtedness pertaining to a commercial or residential improvement transaction with knowledge that it equaled a greater monetary obligation than the agreed consideration for the commercial or residential improvement work;
 - (ix) Contractor directly or indirectly publishing any advertisement relating to a commercial or residential improvement which contains assertions, representations or statements which are false, deceptive or misleading;

- (x) Failure of contractor to notify the City Building Official of any change in the ownership, management, business name or location of his registered business office; or
- (xi) Contractor conducting a commercial contracting or residential improvement contracting business in any name other than the one registered.
- (c) Notification of cancellation of the registration hereunder shall be made in writing by mailing such notice by certified or registered mail to the registrant at his last known business address.

Sec. 3-3-48. - Appeals—From registration denial.

The action of the City Building Official in refusing to grant a registration shall be appealable by applicant or his representative filing a written notice of appeal with the Development Services Director appealing such determination to the Board of Appeals. Such notice of appeal shall be filed within ten (10) days after the notification herein.

Sec. 3-3-49. - Same—From registration cancellation.

The cancellation of a registration hereunder shall become final within ten (10) days after the notification provided for in [section 3-3-47](#) herein unless registrant within such ten (10) day period files a written notice of appeal with the Development Services Director appealing such determination to the Board of Appeals.

- Section 2. Recitals. The recitals set out above are adopted herein for all purposes.
- Section 3. Conflict with City Ordinances. All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.
- Section 4. Continuation clause. All provisions of the Code of Ordinances of the City of Universal City not herein amended or repealed shall remain in full force and effect.
- Section 5. Conflict of Laws. If any section of this Ordinance is in conflict with State or Federal law, then the applicable State or Federal law shall control.
- Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word of the Ordinance is for any reason held to be unconstitutional, such holdings shall not affect the validity of the remaining parts of this Ordinance.
- Section 7. Repealer clause. All other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.
- Section 8. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 9. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.
- Section 10. Effective Date: This ordinance shall become effective on 21 April 2021.
- Section 11. The City of Universal City Code of Ordinances shall be amended accordingly.

PASSED, on first reading by the City Council of the City of Universal City on this the 6th day of April 2021.

PASSED AND APPROVED, on second reading by the City Council of the City of Universal City on this the 20th day of April 2021.

Attest:	<hr/> Mayor John Williams
<hr/> Kristin Mueller, City Clerk	<hr/> Matthew J. Longoria, City Attorney