

ORDINANCE O-53-19

AN ORDINANCE OF THE CITY OF ATHENS, TEXAS, REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 5 OF THE CITY OF ATHENS CODE OF ORDINANCES ENTITLED BUILDINGS AND STRUCTURES IN ORDER TO ADOPT THE 2015 EDITIONS OF THE INTERNATIONAL BUILDING, RESIDENTIAL, MECHANICAL, PLUMBING, FUEL GAS, SWIMMING POOL AND SPA, AND ENERGY CONSERVATION CODES; TO ADOPT THE 2014 EDITION OF THE NATIONAL ELECTRICAL CODE; AND RE-ESTABLISH REGULATIONS FOR THE MOVING AND WRECKING OF BUILDINGS, FLOOD DAMAGE AND PREVENTION, SUBSTANDARD BUILDINGS, AND CONSTRUCTION OF FENCES.

WHEREAS, the City of Athens, Texas seeks to regulate and govern the conditions and maintenance of all property, buildings, and structures in order to ensure that such structures within the corporate boundaries of the city are safe, sanitary, and fit for occupation and use;

WHEREAS, on March 23, 1998, the City of Athens approved Ordinance O-10-98 to adopt standards and regulations for the construction of fences;

WHEREAS, on January 8, 2001, the City of Athens approved Ordinance O-1-01 to adopt standards and regulations for the moving and wrecking of buildings;

WHEREAS, on November 23, 2009, the City of Athens approved Ordinance O-25-09 to adopt standards and regulations on flood damage and prevention;

WHEREAS, on May 9, 2011, the City of Athens approved Ordinance O-12-11 to adopt standards and regulations for vacant, substandard and uninhabitable buildings;

WHEREAS, on August 12, 2007, the City of Athens approved Ordinance O-45-07 to adopt the 2005 edition of the National Electrical Code;

WHEREAS, on October 22, 2007, the City of Athens approved Ordinances O-40-07, O-41-07, O-42-07, O-43-07, O-44-07 and O-45-07 to adopt the 2006 editions of the International Building, Residential, Mechanical, Plumbing, Fuel Gas and Energy Conservation Codes;

WHEREAS, the City of Athens desires to re-establish and update where needed standards and regulations for the construction of fences, the moving and wrecking of buildings, flood damage and prevention, and vacant, substandard and uninhabitable buildings;

WHEREAS, the City of Athens desires to update the adopted building, residential, mechanical, electrical, plumbing, fuel gas and energy conservation codes to reflect current standards of practice within the building and construction industry;

WHEREAS, the City of Athens desires to adopt regulations governing swimming pools, spas, hot tubs, aquatic facilities and related equipment to reflect current standards of practice within the building and construction industry; and

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

That the Code of Ordinances of the City of Athens, Texas is amended to reflect the repeal and re-adoption of Chapter 5 in its entirety as shown below. For clarity, new text is highlighted.

(Repeal the existing Chapter 5 of the Code of Ordinances of the City of Athens in its entirety and replace with text shown below).

Chapter 5 - BUILDINGS AND STRUCTURES

ARTICLE I. - IN GENERAL

Sec. 5-1. - Fire limits.

The fire limits of the city are designated and established to coincide with and include all the areas zoned "commercial" in the comprehensive zoning ordinance of the city, or any amendments thereof.

Sec. 5-2. - Permit fees.

The fee for each permit shall be as set forth in the City of Athens Development Fee Chart, Schedule A, as now or hereafter amended.

City of Athens Development Permit Fee Chart	
SCHEDULE A	
Type of Permit	Fee
Residential Building Permit (Valuation up to \$5000)	\$25.00
Residential Building Permit (Valuation \$5,001-\$10,000)	\$50.00
Residential Building Permit (Valuation \$10,001-\$25,000)	\$75.00 + \$5.00 for each additional \$1,000 over \$10,000
Residential Building Permit (Valuation over \$25,000)	\$150.00 + \$4.00 for each additional \$1,000 over \$25,000

\$25,001-\$50,000)	\$25,000
Residential Building Permit (Valuation \$50,001-\$100,000)	\$250.00 + \$3.00 for each additional \$1,000 over \$50,000
Residential Building Permit (Valuation \$100,001-\$500,000)	\$400.00 + \$2.00 for each additional \$1,000 over \$100,000
Residential Building Permit (Valuation \$500,001 or more)	\$850.00 + \$1.00 for each additional \$1,000 over \$500,000
Commercial Building Permit (Valuation up to \$5,000)	\$25.00
Commercial Building Permit (Valuation \$5,001-\$10,000)	\$75.00
Commercial Building Permit (Valuation \$10,001-\$25,000)	\$125.00 + \$6.00 for each additional \$1,000 over \$10,000
Commercial Building Permit (Valuation \$25,001-\$50,000)	\$200.00 + \$5.00 for each additional \$1,000 over \$25,000
Commercial Building Permit (Valuation \$50,001-\$100,000)	\$300.00 + \$3.50 for each additional \$1,000 over \$50,000
Commercial Building Permit (Valuation \$100,001-\$500,000)	\$450.00 + \$2.50 for each additional \$1,000 over \$100,000
Commercial Building Permit (Valuation \$500,001-\$1,000,000)	\$1,250.00 + \$1.75 for each additional \$1,000 over \$500,000
Commercial Building Permit (Valuation \$1,000,001 or more)	\$2,000.00 + \$1.00 for each additional \$1,000 over \$100,000,000
Mechanical Permit	\$20.00
Electrical Permit	\$20.00
Plumbing Permit	\$20.00
Irrigation Permit	\$20.00
Certificate of Occupancy	\$100.00
Demolition Permit	\$40.00
Carport Permit	\$20.00
Canopy or Tent Permit	\$20.00
Sign Permit	\$20.00 per sign
Tree Removal Permit	\$20.00
Curb Cut Permit	\$40.00
House Moving Permit	\$200.00
Driveway/Patio Permit	\$20.00
Excavation/Grading Permit	\$100.00
Fence Permit	\$25.00
Open Burning Permit (10' x 10' x 4')	\$20.00
Open Burning Permit (30' x 30' x 10')	\$50.00
Annual Open Burning Permit (20 acres or more)	\$300.00

Fire Works Stand	\$50.00 per stand
Carnivals and Fairs	\$65.00
Underground Fire Service Mains	\$65.00
Kitchen Hood System	\$65.00
Fire Alarm System	\$100.00 for first 25 devices + \$0.25 for each additional device over 25
Fire Sprinkler System	\$100.00 for first 25 heads + \$0.25 for each additional head over 25
First Reinspection Fee	\$0.00
Subsequent Reinspection Fee	\$80.00 each
General Contractor Registration	\$50.00 annually
Mechanical Contractor Registration	\$50.00 annually
Irrigation Contractor Registration	\$50.00 annually
Backflow Tester Registration	\$50.00 annually
Electrical Contractor Registration	\$0.00
Electrical Sign Contractor Registration	\$0.00
Fire Contractor Registration	\$0.00

Sec. 5-3. - Codes commission.

That the city council shall appoint a codes commission for the purpose of granting exceptions to the following codes:

1. International Building Code
- International Plumbing Code
3. National Electric Code
4. International Residential Code
5. International Mechanical Code
6. International Fuel Gas Code
7. International Energy Conservation Code
8. International Swimming Pool & Spa Code

The duties of the codes commission shall include, but not be limited to, having the authority to review plans and specifications for structures intended for public access. The purpose of this board is to consider exceptions that are appropriate and consistent with the intent of the code from which the exception is requested and to consider the planned use of the structure. The exception should be considered on the basis of technical requirements but must not increase danger to the lives or property of the owners, employees or potential patrons of the building in question. Should the use of the structure later change in any way from that presented at the time the exception(s) is granted by the board, the approved exception(s) is void and the building inspector is ordered to close the establishment until the building is in compliance with codes as written and in effect before the board granted the exception(s), or the owner or representative is

granted exception(s) by the board as may be needed for the change in use. The building official must cause the termination of water and electrical service to the structure to insure the safety of the public and adjacent buildings.

The codes commission shall consist of the following members:

1. One (1) licensed plumber;
- One (1) licensed electrician;
3. One (1) licensed heat and air person;
4. One (1) representative from an electrical utility company;
5. One (1) certified architect;
6. One (1) registered professional civil engineer;
7. Fire marshal; shall serve as an ex officio non-voting member;
8. Building official; shall serve as an ex officio non-voting member.

All other building inspection, building examination, licensing, mechanical inspection and construction inspection is hereby delegated to the codes commission and any and all such other duties as may be prescribed by the city council pertaining to buildings, permitting, licensing and inspection thereof or any part or any appurtenances thereto.

Sec. 5-4. - Penalty for violation.

All persons who violate the provisions of this chapter, shall, upon conviction, be deemed guilty of a Class C misdemeanor, and fined not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00) for each offense. Each day in violation shall constitute as a separate violation.

Sec. 5-5 – 5.19 – Reserved.

ARTICLE II. – BUILDING CODE

Sec. 5-20. – International Building Code – Adoption.

There is hereby adopted the 2015 International Building Code regulating and governing the conditions and maintenance of all property, buildings and structures; by providing standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in the City of Athens; providing for the issuance of permits and collection of fees therefor, repealing Ordinance No. O-40-07 of the City of Athens and all other ordinances or parts of laws in conflict therewith. Amendments to the 2015 International Building Code are hereby adopted as shown in Appendix B of the City of Athens Code of Ordinances. If any conflict exists between or among any of the codes, standards or any other ordinance of the city, then the most restrictive

code, standard or ordinance shall apply, and the city shall have the authority to resolve such conflict or disputes.

Sec. 5-21 – Permit Fees

The fees for all permits required by this section are to be in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).

Sec. 5-22. - Registration required.

- a. It shall be unlawful for any person, firm or corporation to erect, construct, remodel or demolish any dwelling, building or other structure within the City of Athens unless such person, firm or corporation is registered, as hereinafter provided, with the City. Such person, firm or corporation shall be herein termed "Registrant." In extending the rights and privileges of such registration, the City makes no statement of the technical competency of those so registered, and no manner of license is required.
- b. An applicant for registration under this section shall provide the following information:
 1. A copy of the applicant's Driver's License;
 2. Other pertinent information as deemed necessary by the Building Official.

Every registrant shall notify the office of the building inspector to ensure the accurate revision of registration information, including changes of address or telephone number, within ten (10) days from when previous information supplied if his application is made invalid for any reason.

- c. Building Official Shall Respond. After application for registration has been received by the building official, he/she shall act promptly to issue the registration or to determine on what basis the registration may not be issued. The building official shall so respond not later than two (2) weeks following application.
- d. Expiration and Renewal of Registration. Registration shall expire annually and shall be routinely reactivated by payment of the annual registration fee if application information remains accurate. A registration may be renewed, as herein provided, at any time from sixty (60) days preceding the date of expiration through thirty (30) days following the date of expiration. A registration not renewed for thirty (30) days beyond the date of expiration shall require resubmittal of registration information and payment of registration fee.
- e. Transfer of Registration Prohibited. No registrant under this section shall allow his registration, by name or other identification, to be transferred or assigned to, or in any manner directly or indirectly used by, any person, firm or corporation other than the one to whom issued by the building inspector for any purpose.

- f. Exemption for Homeowners. No such registration procedures shall be required for the homeowner to serve as the general contractor on his/her own homesteaded single-family residential property when he/she has his/her legal residence there and is the primary person performing the work. Work authorized on an existing structure shall include repair, maintenance, remodeling, alteration, new additions and demolitions. Notwithstanding such relief from registration, all requirements for permits and inspections for the work shall remain in force.
- g. Registration Fee. The contractor registration fee required by this section is to be in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).

Sec. 5-23 – 5.29 – Reserved.

ARTICLE III. – RESIDENTIAL CODE

Sec. 5-30. – International Residential Code – Adoption.

There is hereby adopted the 2015 International Residential Code regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress in the City of Athens; providing for the issuance of permits and collection of fees therefor, repealing Ordinance No. O-42-07 of the City of Athens and all other ordinances or parts of laws in conflict therewith. Amendments to the 2015 International Residential Code are hereby adopted as shown in Appendix B of the City of Athens Code of Ordinances. If any conflict exists between or among any of the codes, standards or any other ordinance of the city, then the most restrictive code, standard or ordinance shall apply, and the city shall have the authority to resolve such conflict or disputes.

Sec. 5-31 – Permit Fees

The fees for all permits required by this section are to be in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).

Sec. 5-32. - Registration required.

The contractor registration requirements of this section are to be in accordance with Sec. 5-22.

Sec. 5-33 – 5.39 – Reserved.

ARTICLE IV. – MECHANICAL CODE

Sec. 5-40. – International Mechanical Code – Adoption.

There is hereby adopted the 2015 Mechanical Code regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the City of Athens; providing for the issuance of permits and collection of fees therefor, repealing Ordinance No. O-43-07 of the City of Athens and all other ordinances or parts of laws in conflict therewith. Amendments to the 2015 International Mechanical Code are hereby adopted as shown in Appendix B of the City of Athens Code of Ordinances. If any conflict exists between or among any of the codes, standards or any other ordinance of the city, then the most restrictive code, standard or ordinance shall apply, and the city shall have the authority to resolve such conflict or disputes.

Sec. 5-41 – Permit Fees

The fees for all permits required by this section are to be in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).

Sec. 5-42. - License required.

- a. It shall be unlawful for any person, firm or corporation to erect, install, enlarge, alter, repair, remove, convert or replace a mechanical system within the city limits of Athens unless such person, firm or corporation is registered as herein provided with the City.
- b. An applicant for registration under this section shall provide the following information:
 1. A copy of the applicant's Driver's License;
 2. A copy of the applicant's Air Conditioning and Refrigeration License issued or recognized under the Texas Occupations Code;
 3. A certificate of general liability insurance which meets or exceeds the minimum requirements prescribed by the Texas Department of Licensing and Registration;
 4. Other pertinent information as deemed necessary by the Building Official.

Every registrant shall notify the office of the building inspector to ensure the accurate revision of registration information, including changes of address or telephone number, within ten (10) days from when previous information supplied if his application is made invalid for any reason.

- c. Building Official Shall Respond. After application for registration has been received by the building official, he/she shall act promptly to issue the registration or to determine on what basis the registration may not be issued. The building official shall so respond not later than two (2) weeks following application.
- d. Expiration and Renewal of Registration. Registration shall expire annually and shall be routinely reactivated by payment of the annual registration fee if application information remains accurate. A registration may be renewed, as herein provided, at any time from sixty (60) days preceding the date of expiration through thirty (30) days following the date of expiration. A registration not renewed for thirty (30) days beyond the date of expiration shall require resubmittal of registration information and payment of registration fee.
- e. Transfer of Registration Prohibited. No registrant under this section shall allow his registration, by name or other identification, to be transferred or assigned to, or in any manner directly or indirectly used by, any person, firm or corporation other than the one to whom issued by the building inspector for any purpose.
- f. Exemption for Homeowners. No such registration procedures shall be required for the homeowner to serve as the mechanical contractor on his/her own homesteaded single-family residential property when he/she has his/her legal residence there and is the primary person performing the work. Work authorized on an existing structure shall include repair, maintenance, remodeling, alteration, new additions and demolitions. Notwithstanding such relief from registration, all requirements for permits and inspections for the work shall remain in force.
- g. Registration Fee. The contractor registration fee required by this section is to be in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).

Sec. 5-43 – 5.49 – Reserved.

ARTICLE V. – PLUMBING CODE

DIVISION 1. – PLUMBING AND IRRIGATION

Sec. 5-50. – International Plumbing Code – Adoption.

There is hereby adopted the 2015 Plumbing Code regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the City of Athens; providing for the issuance of permits and collection of fees therefor, repealing Ordinance No. O-41-07 of the City of Athens and all other ordinances or parts of laws in conflict therewith.

Amendments to the 2015 International Plumbing Code are hereby adopted as shown in Appendix B of the City of Athens Code of Ordinances. If any conflict exists between or among any of the codes, standards or any other ordinance of the city, then the most restrictive code, standard or ordinance shall apply, and the city shall have the authority to resolve such conflict or disputes.

Sec. 5-51 – Permit Fees

The fees for all permits required by this section are to be in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).

Sec. 5-52. - License required.

- a. It shall be unlawful for any person, firm or corporation to erect, install, enlarge, alter, repair, remove, convert or replace a plumbing or irrigation system within the city limits of Athens unless such person, firm or corporation is registered as herein provided with the City.
- b. An applicant for plumbing contractor registration under this section shall provide the following information:
 1. A copy of the applicant's Driver's License;
 2. A copy of the applicant's Plumbing License issued or recognized under the Texas Occupations Code;
 3. A certificate of general liability insurance which meets or exceeds the minimum requirements prescribed by the Texas State Board of Plumbing Examiners;
 4. Other pertinent information as deemed necessary by the Building Official.
- c. An applicant for irrigation contractor registration under this section shall provide the following information:
 1. A copy of the applicant's Driver's License;
 2. A copy of the applicant's Landscape Irrigator License issued or recognized by the Texas Commission on Environmental Quality;
 3. A certificate of general liability insurance which meets or exceeds the minimum requirements prescribed by the Texas Commission on Environmental Quality;
 4. Other pertinent information as deemed necessary by the Building Official.
- d. Every registrant shall notify the office of the building inspector to ensure the accurate revision of registration information, including changes of address or telephone number,

within ten (10) days from when previous information supplied if his application is made invalid for any reason.

- e. Building Official Shall Respond. After application for registration has been received by the building official, he/she shall act promptly to issue the registration or to determine on what basis the registration may not be issued. The building official shall so respond not later than two (2) weeks following application.
- f. Expiration and Renewal of Registration. Registration shall expire annually and shall be routinely reactivated by payment of the annual registration fee if application information remains accurate. A registration may be renewed, as herein provided, at any time from sixty (60) days preceding the date of expiration through thirty (30) days following the date of expiration. A registration not renewed for thirty (30) days beyond the date of expiration shall require resubmittal of registration information and payment of registration fee. No fee shall be required to register as a plumbing contractor.
- g. Transfer of Registration Prohibited. No registrant under this section shall allow his registration, by name or other identification, to be transferred or assigned to, or in any manner directly or indirectly used by, any person, firm or corporation other than the one to whom issued by the building inspector for any purpose.
- h. Exemption for Homeowners. No such registration procedures shall be required for the homeowner to serve as the plumbing contractor on his/her own homesteaded single-family residential property when he/she has his/her legal residence there and is the primary person performing the work. Work authorized on an existing structure shall include repair, maintenance, remodeling, alteration, new additions and demolitions. Notwithstanding such relief from registration, all requirements for permits and inspections for the work shall remain in force.
- i. Registration Fee. The contractor registration fee required by this section is to be in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).

DIVISION 2. – CROSS-CONNECTION AND BACKFLOW CONTROL

Sec. 5-53. – Declaration of Purpose.

The purpose of this division is:

- a. To protect the public potable water supply of the City of Corsicana from the possibility of contamination or pollution by isolating within the water customer's internal distribution system(s) or the customer's private water system(s) such contaminants or pollutants that could backflow into the public water system;
- b. B. To promote the elimination or control of existing cross connections, actual or potential, between the customer's in-plant potable water system(s) and non-potable water

systems, plumbing fixtures and industrial piping systems; and C. To provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems.

Sec. 5-54. – Cross Connection/Backflow Unlawful.

- a. It should be unlawful for any person to install any water operated equipment or mechanism, or use any water treating chemical or substance if it is found that such equipment, mechanism, chemical or substance may cause pollution or contamination of the city's potable water supply. Such equipment or mechanism may be permitted only when equipped with an approved backflow prevention assembly.
- b. No connection shall exist that allows water to be returned to the public drinking water supply system.

Sec. 5-55 – Administrative Authority.

The Administrative Authority shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of said Administrative Authority, an approved backflow-prevention assembly is required (at the customer's water service connection; or within the customer's private water system) for the safety of the water system, the Administrative Authority or his designated agent shall give notice in writing to said customer to install such an approved backflow-prevention assembly(s) at specific location(s) on said customer's premises. The customer shall immediately install such approved assembly(s) at the customer's own expense, and, failure, refusal or inability on the part of the customer to install, have tested and maintain said assembly(s) shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

Sec. 5-56 – Definitions of terms.

Administrative Authority. The "Building Official" as defined in the International Building Code.

Auxiliary Water Supply. Any water supply on or available to the premises other than the City's water supply, including water from another public water supply or any natural source such as a well, spring, river or "used waters" or "industrial fluids."

Backflow Prevention Device Tester. An individual that has been certified in accordance with Texas Commission on Environmental Quality (TCEQ) rules for the purpose of testing backflow prevention devices:

- a. *General Testers:* "General testers" are qualified to test and repair backflow prevention devices on any domestic, commercial, industrial or irrigation system.
- b. *Fireline Testers:* "Fireline testers" are approved to test only devices on firelines and must be employed by an approved fireline contractor.

City. The City of Athens, Texas, and its duly authorized representatives.

Chief Building Official. The Chief Building Official of the City of Athens.

Confined Space. Means a space that;

- a. Is large enough and so configured that a person can bodily enter and perform assigned work; and
- b. Has limited or restricted means for entry and exit (For example, tanks, vaults, pits and other storage areas with limited access); and
- c. Is not designed for continuous personnel occupancy.

Cross-Connection. The term "cross-connection" shall mean any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross-connections.

- a. The term "direct cross-connection" shall mean a cross-connection shall mean a cross-connection which is subject to both back-siphonage and backpressure.
- b. The term "indirect cross-connection" shall mean a cross-connection which is subject to back siphonage only.

Cross-Connection Controlled. A connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

Environmental Health Officer. The Environmental Health Officer of the City.

Hazard, Degree of. The term "degree of hazard" shall mean either a pollutional (non-health contamination) or health hazard and is derived from the evaluation of conditions within a system.

- a. Health Hazard. The term "health hazard" shall mean an actual or potential threat contamination of a physical or toxic nature to the public potable water system or consumer's potable water system that would be a danger to human health.
- b. Plumbing Hazard. The term "plumbing hazard" shall mean an internal or plumbing cross-connection in a consumer's potable water system that may be a pollutional contamination type hazard. This includes but it not limited to cross-connection to toilets.
- c. Pollutional Hazard. The term "pollutional hazard" shall mean an actual or potential threat to the physical properties of the water system or the portability of the public or the consumer's potable water system but which would not constitute a health or system hazard as defined.
- d. System Hazard. The term "system hazard" shall mean an actual or potential threat of severe danger to the physical properties of the public or the consumer's potable water system or a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

Industrial Fluids System. Any system containing a fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentrations which would constitute a hazard if introduced into an approved water supply.

Non-potable Water. Water which is not safe for human consumption or which is of questionable potability.

OSHA. Is the Occupational Safety and Health Administration.

Reduced Pressure Principle Device. An assembly of two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure relief valve located between the check valves and at the same time below the first check valve.

Service Connection. The connection from the City's potable water system to the customer's service line.

TCEQ means the Texas Commission on Environmental Quality.

Used Water. Any water supplied by Athens Water Utilities from the potable water system to a consumer's water system after it is passed through the point of delivery and is no longer under the sanitary control of the Athens Water Utilities Division.

Water Utilities Superintendent. The Water Utilities Superintendent of the City of Athens.

Sec. 5-56 – Utility System.

- a. The Athens Utility System shall consist of the source facilities and the distribution system and shall include only those facilities of the water system under the complete control of the City to the point where the customer's system begins. That point shall be the first connection beyond the meter union or the discharge union of the meter setter, if a meter setter is present.
- b. The source shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system.
- c. The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.
- d. The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system which are utilized in conveying utility-delivered domestic water to points of use.

Sec. 5-56 – Cross-connection control.

- a. No water service connection to any premises shall be installed or maintained by the City unless the water supply is protected as required by state law, state regulation and this article. Service of water to any premises shall be discontinued by the Utility if a backflow prevention device required by this article is not properly installed, tested or maintained. Additionally, service will be discontinued if it is found that a backflow prevention device has been removed, bypassed or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

- b. The customer's system shall be open for inspection at all reasonable times to authorized representatives of the Water Utilities Department, Environmental Health or Building Inspection Divisions of the City to determine whether cross-connections or other structural or sanitary hazards (including violations of these regulations) exist. When such a condition becomes known, the Water Utilities Superintendent or Environmental Health Officer shall deny or immediately discontinue service to the premises depending on the extent of the hazard by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with state law and City Ordinances relating to plumbing and water supply as well as the regulations adopted pursuant thereto. Any cost of such disconnection and the estimated cost of re-connection must be paid by the customer before service shall be restored.
- c. No cross-connection shall be permitted between any system of piping supplied by water from the mains of the Water Utilities Division and any other source of supply, either public or private, or any secondary supply known to be unsafe for drinking water, such as shallow wells, reused industrial supplies, raw service water or swimming pools, unless approved by the Utilities Superintendent and properly protected.
- d. A Customer Service Inspection Certificate must be completed prior to providing continuous (permanent) water service to new construction, when the Water Utilities Superintendent or designee has reason to believe cross-connections or other unacceptable plumbing practices exist or after any material improvement, correction or addition to the private plumbing facilities. On all new and transferred (transfer of occupancy or ownership) water services, the customer must sign a Water Service Agreement. If this transferred service is nonresidential, a Customer Service Inspection Certificate must be completed. These customer service inspections shall be conducted by Building Inspections staff (for all new plumbing or plumbing improvements requiring a building permit) and Water Utilities staff (on plumbing systems requiring inspections not affected by building permits). Permanent water service cannot be supplied unless the required inspections are completed. Fees for these inspections will be established by Ordinances of the City Council.
- e. The Water Utilities Superintendent shall administer an inspection program to assure that backflow devices on City property are properly maintained and operated.
- f. All presently installed backflow prevention devices which do not meet the requirements of this article but were approved devices for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements, be exempt from the requirements of this article so long as the Water Utilities Superintendent, Chief Building Official and the Environmental Health Officer are satisfied that the devices will satisfactorily protect the City and/or customer systems. Whenever the existing device is moved from its present location or when the Water Utilities Superintendent and/or Chief Building Official find that the continued use of the device would constitute a hazard, the unit shall be replaced by an approved backflow prevention device meeting the requirements of this article at the owner's expense.
- g. If a cross-connection/backflow contamination situation arises, the Water Utilities Superintendent may recommend to the City Manager a Boil Water Order. The time for

said Order shall be determined by the City Manager in consultation with staff, after verification by laboratory analysis.

- h. All cases of cross-connection/backflow contamination shall be reported to the Environmental Health Officer. Information on such cases shall also be submitted to the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research as information data only. Each backflow incident shall also be reported to the Texas Commission on Environmental Quality.
- i. Any water-hauling apparatus taking water from the City's system must do so with a City-approved meter with a double check device attached. Type of apparatus used must be noted on temporary construction meter application.
- j. No connection shall exist that allows water to be returned to the public drinking water supply system.
- k. The City of Athens Water Utilities Division shall be responsible for the inspection and testing of all backflow prevention devices installed or existing on City property or in a City right-of-way that supply water to City-owned or City-maintained facilities. Backflow prevention devices installed downstream of the water meter or those installed in a building shall be the responsibility of the property owner. Inspections and testing shall be conducted when a device is installed or repaired at reasonable intervals but in no event shall the inspection be conducted less than every year on all backflow prevention devices except those devices installed for irrigation systems (unless the irrigation system has been designated as a health or system hazard by Utilities Superintendent, Chief Building Official or the Environmental Health Officer). It is highly recommended by the City that all backflow prevention devices be tested on at least an annual basis for the safety and wellbeing of the owner or user of the device.
- l. For each backflow prevention device on private property, except irrigation double checks, the owner of such device shall register said device with the City annually. The Utilities Division shall keep a current inventory of all devices except irrigation devices. It will be required that the testing of these devices be conducted annually, and copies of backflow prevention device test and maintenance reports be maintained by the owner for at least five years and a copy provided to the Water Utilities Division. The fee for this registration shall be in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).
- m. All certified backflow prevention device testers installing, repairing or testing devices within the City of Athens shall be registered with the City of Athens Development Services Department. An applicant for backflow prevention assembly contractor registration under this section shall provide the following information:
 - 1. A copy of the applicant's Driver's License;
 - 2. A copy of the applicant's Backflow Prevention Assembly Tester License issued or recognized by the Texas Commission on Environmental Quality;
 - 3. Other pertinent information as deemed necessary by the Building Official.
- n. Testers must show proof of liability insurance each year when renewing registration. The coverage amount shall be one million dollars.

- o. Testers must follow the strict safety precautions and follow OSHA guidelines when entering confined spaces to test backflow prevention devices. A copy of the confined space entry permits must be submitted with the backflow prevention device test sheet (if applicable).
- p. Testers must be test gauges tested for accuracy on an annual basis and calibrated in accordance with the University of Southern California's Foundation of Cross-Connection Control and Hydraulic Research and/or the American Water Works Association (AWWA) Manual of Cross Connection Control (Manual M-14). Test gauge serial numbers must be included on each backflow prevention device test and maintenance report submitted. Accuracy tests will be conducted by the City at no charge to the tester.

Sec. 5-57 – Backflow prevention device installation requirements.

- a. Residential Water Service. The minimum service size for a residential lot shall be a one-inch service line with a 5/8 " or one-inch diameter yoke. Larger size residential water services shall be equipped with a separate cross-connection control device. If the service is installed for irrigation only, it shall be equipped with a separate cross-connection control device regardless of size.
- b. Regardless of size, all commercial, retail and industrial water services shall be equipped with a separate cross-connection control device as detailed in the Athens Plumbing Code.
- c. All backflow/back-siphonage prevention assemblies shall be installed in accordance with the Athens Plumbing Code.
- d. All devices in City rights-of-way or easements dedicated to the City shall be inspected by the Athens Water Utilities Division upon completion of said installation. All devices installed on private property shall be inspected by the Building Inspection Department upon completion of said installation.
- e. Test valves shall be required on all devices.
- f. Identification, including the size, model number and serial number, shall be placed on the actual unit at least 1/4" inches in height and of durable marking material.
- g. A plumbing permit must be obtained for installation of all backflow prevention devices on private property or on irrigation systems.
- h. All approved backflow devices shall be nonremovable and installed in such a manner that removal of a device would prohibit water flow.
- i. All backflow prevention devices shall be tested by a certified backflow prevention device tester upon installation.
- j. Anytime a backflow prevention device is installed in a piping system with a water heater of any type, the property owner shall be informed by the person or persons installing the device that thermal expansion will occur in a closed loop system. With a backflow device in the loop a closed system is created, not allowing any return flow (backflow) into the City's system.
- k. All backflow prevention devices installed in the City of Athens must comply with this chapter as follows:

1. Summary. This chapter is designed to allow backflow prevention devices of the reduced pressure and double check valve types. The sizes included in this specification are ¾", 1", 2", 3", 4", 6", 8" and 10" devices. The devices furnished under this specification shall meet or exceed AWWA Standard, unless stated otherwise in the specific requirements listed below. Additionally, any device furnished under these specifications shall meet the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research requirements.

2. Specific Requirements.

a. Main Case. The main case shall be constructed in such a manner as to allow removal of the check mechanisms from the top of the device.

b. Test Valves. The device shall be equipped with test valves so that the device can be tested in the field. All test valves and fittings shall be made of copper alloy and the valves shall be of the ball valve type.

c. In Line Valves. The in-line valves furnished under these specifications shall be all bronze for ¾" through 2" devices, and the Open System & Yoke (OS & Y) resilient seat type for 3" and above shall meet AWWA Standard #510-92 and #511-92 or any revision thereafter and shall be OS & Y. The valves shall be assembled one on each end of the double check housing.

d. Factory Testing. The device manufacturer shall supply a factory test tag with each assembly furnished under this specification.

e. Identification Markings. The device shall be marked with a dry stamp or metal stamped tag, identifying the following items:

1. Brand Name

2. Type (RP or DC)

3. Size

4. Model Number

5. Direction of Flow

6. Serial Number

7. Maximum Operating Pressure

8. Maximum Operating Water Temperature

NOTE. Any device furnished to or installed in the City shall meet the specifications listed above. Any deviations from the specifications must be set forth in detail and the City shall be sole judge as to whether such deviations constitute unacceptable variances from the standards established in these specifications.

3. A reduced pressure principal backflow device shall be installed above ground or in a facility if any of the following applications are utilized in the structure being supplied water by the City of Athens Water System:

- Aircraft
- Amusement Parks
- Automotive Plants
- Automated Film Processor
- Autopsy Facilities
- Auxiliary Water Systems
- Beverage Bottling Plants
- Boilers (Large)
- Breweries
- Buildings with Sewer Ejectors
- Building with Water Storage Tanks, or Non-Potable Water Sources
- Canneries
- Car Wash Facilities
- Carbonated drink Facilities
- Centralized Heating and Air Conditioning Plants Chemical Plants Using a Water Process
- Chemical Plants Manufacturing, Processing Compounding or with Treatment
- Chemical treatment lawn application system
- Chemically treated fire sprinkler system
- Cold Storage Plants
- Colleges
- Commercial Laundries
- Convalescent Homes
- Cooling system
- Creameries
- Dairies
- Dental Buildings
- Dry Cleaning Processing
- Dye Works

- Fabricating Plants
- Film Laboratories
- Food Processing or canning operation
- Gas Production Properties, Storage or Transmission Facilities Gravel Plants
- Holding Tank Reservoir
- Hospitals
- Industrial process where water is used to clean or manufacture products
- Laboratories
- Landscape nursery
- Laundromat
- Manufacturing Plants
- Meat Processing or packaging operation
- Medical clinic
- Metal Plating Industries
- Metal Processing
- Metal Manufacturing or Cleaning Facilities
- Metal Fabricating Plants
- Missile Plants
- Morgue
- Mortuaries
- Motion Picture Studios
- Nursing Homes
- Petroleum Processing Operation
- Sanitarium
- Sewage lift or grinder station
- Steam generating operation
- Solar energy system
- Veterinary clinic

4. In some applications not listed above, a reduced pressure principle device may be required by the Water Utilities Superintendent and/or Chief Building Official.

5. All fire lines shall utilize a double check/detector check, unless required otherwise by the Water Utilities Superintendent.
6. The City shall establish a program to educate the public on the hazards associated with cross-connections and backflow by use of educational bulletins and brochures.

Sec. 5-58 – Grease traps/interceptors.

All food establishments having a food waste disposal or a discharge of more than fifty gallons per minute shall discharge into an oil and grease interceptor as shown in "Exhibit B." Establishments with a discharge of fifty gallons per minute or less shall discharge into at least a 100 lb. size grease trap. An approved grease interceptor or grease trap complying with the provisions of this section shall be installed in the waste line leading from sinks, drains and other fixtures or equipment in establishments such as restaurants, cafes, lunch counters, cafeterias, bars and clubs, hotel, hospital, sanitarium, factor or school kitchens or other establishments where grease may be introduced into the drainage or sewage system in quantities that can effect line introduced into the drainage or sewage system in quantities that can effect line stoppage or hinder sewage treatment or private sewage disposal. A grease trap is not required for individual dwelling units or for any private living quarters.

Sec. 5-59 – Water piping systems.

Any water piping system as allowed by the International Plumbing Code, with the exception of PVC and CVPC piping, shall be allowed for domestic water plumbing purposes for use in structures within the City of Athens.

ARTICLE VI. – FUEL GAS CODE

Sec. 5-60. – International Fuel Gas Code – Adoption.

There is hereby adopted the 2015 Fuel Gas Code regulating and governing fuel gas systems and gas-fired appliances in the City of Athens; providing for the issuance of permits and collection of fees therefor, repealing Ordinance No. O-44-07 of the City of Athens and all other ordinances or parts of laws in conflict therewith. Amendments to the 2015 International Fuel Gas Code are hereby adopted as shown in Appendix B of the City of Athens Code of Ordinances. If any conflict exists between or among any of the codes, standards or any other ordinance of the city, then the most restrictive code, standard or ordinance shall apply, and the city shall have the authority to resolve such conflict or disputes.

Sec. 5-61 – 5.69 – Reserved.

ARTICLE VII. – SWIMMING POOL AND SPA CODE

Sec. 5-70. – International Swimming Pool and Spa Code – Adoption.

There is hereby adopted the 2015 International Swimming Pool and Spa Code regulating and governing the design, construction, alteration, movement, renovation, replacement, repair and maintenance of swimming pools, spas, hot tubs, aquatic facilities and related equipment in the City of Athens; providing for the issuance of permits and collection of fees therefor, repealing all ordinances of the City of Athens or parts of laws in conflict therewith. Amendments to the 2015 International Swimming Pool and Spa Code are hereby adopted as shown in Appendix B of the City of Athens Code of Ordinances. If any conflict exists between or among any of the codes, standards or any other ordinance of the city, then the most restrictive code, standard or ordinance shall apply, and the city shall have the authority to resolve such conflict or disputes.

Sec. 5-71 – 5.79 – Reserved.

ARTICLE VIII. – ENERGY CONSERVATION CODE

Sec. 5-80. – International Energy Conservation Code – Adoption.

There is hereby adopted the 2015 International Energy Conservation Code regulating and governing energy-efficient building envelopes and installation of energy-efficient mechanical, lighting and power systems in the City of Athens; providing for the issuance of permits and collection of fees therefor, repealing Ordinance No. O-45-07 of the City of Athens and all other ordinances or parts of laws in conflict therewith. Amendments to the 2015 International Energy Conservation Code are hereby adopted as shown in Appendix B of the City of Athens Code of Ordinances. If any conflict exists between or among any of the codes, standards or any other ordinance of the city, then the most restrictive code, standard or ordinance shall apply, and the city shall have the authority to resolve such conflict or disputes.

Sec. 5-81 – 5.89 – Reserved.

ARTICLE IX. – ELECTRICAL CODE

DIVISION 1. - GENERALLY

Sec. 5-90. - Definitions.

As used in this article, the following terms shall have the respective meaning ascribed to them:

Electrical contractor: Any person engaged in the business of or holding himself out to the public as being engaged in the business of designing, installing, erecting, repairing or altering electrical wires or conductors to be used for light, heat, power or signaling purposes. The term includes the installation or repair of ducts, raceways or conduits for the reception or protection of wires or conductors and the installation or repair of any electrical machinery, apparatus or system used

for electrical light, heat, power or signaling. The term includes service entrance conductors as defined by the National Electric Code.

Electrician: Any person who works for or under the supervision of an electrical contractor providing labor for installing, erecting, repairing or altering electrical wires or conductors to be used for light, heat, power or signaling purposes. The term includes the installation or repair of ducts, raceways or conduits for the reception or protection of wires or conductors and the installation or repair of any electrical machinery, apparatus or system used for electrical light, heat, power or signaling. The term includes service entrance conductors as defined by the National Electric Code.

Sec. 5-91. - Scope of article.

This article shall apply to and govern the installation of all electrical wiring, devices and equipment within or on buildings, structures or other premises for the transmission, distribution or utilization of electrical energy for light, heat or power purposes.

Anyone acting as an electrical contractor or electrician as defined in this article shall comply with the Texas Department of Licensing and Regulation's Laws and Administrative Rules as they relate to electrical licensing except as where otherwise stated in this article.

Sec. 5-92. - Electrical inspector.

- a. There is created the office of city electrical inspector, who shall be appointed by the city administrator or his or her designee. He or she shall receive such compensation as shall be provided by the council.
- b. The city electrical inspector and his or her assistants are authorized, empowered and directed to regulate and supervise generally all electrical apparatus and machinery, and the stringing, placing and attaching of electric lights and power, telephone and telegraph wires, radio aerials, TV antennas and other electrical wires of any nature whatsoever, now or hereafter placed, and in any manner directly attached to any building, or any tent or similar structure in the city, and to inspect and reinspect all such electrical apparatus, machinery and wires which the inspector considers to be of sufficient importance or hazard to require such inspection, so as to prevent fires, accidents or injuries to persons or property, and to cause all such electrical apparatus, machinery and wires to be so constructed, placed, supported and guarded as not to cause fire or accident or endanger life or property; and all such electrical apparatus, machinery and wires now existing or hereafter placed shall be subject to such inspection and supervision.
- c. The city electrical inspector and his or her assistants are vested with full authority to enter any building or premises and any manhole, subway or plant at any time in the discharge of their duties and to pass upon and decide any question arising under the provisions of the ordinances relative to the manner of construction or the materials and devices to be used in the erection, alteration or repair of any electrical apparatus, machinery, wires and materials.

Sec. 5-93. - Work by homeowner.

Nothing herein contained shall prohibit any homeowner from personally installing electrical conductors or equipment in his or her own single-family home in which he or she resides,

provided such owner shall file with the electrical inspector plans and specifications, satisfy the electrical inspector as to his ability to install electrical wiring and equipment, apply for and secure a permit and pay the required fees therefore, perform all work in accordance with this article, apply for and obtain inspection and receive proper certificate of approval.

Sec. 5-94. - Modification or waiver of regulations.

The electrical regulations of this article may be modified or waived by special permission in particular cases where such modification or waiver is reasonable, does not differ from the intent of the article, does not create an injustice or does not impair the safety of persons or property. Such permission shall in all cases be obtained from the city electrical inspector in writing prior to starting the work, and a copy of the permission shall be filed in the office of the city electrical inspector.

Sec. 5-95. - Permits and inspections—Permit required; application; scope.

It shall be unlawful for any person to install, alter or repair any electrical wiring, device or equipment subject to the provisions of this article, without first securing a permit therefore from the electrical inspector. Applications for such permits shall be made in writing to the electrical inspector stating the location of the work to be done, a description of the work and whether it will consist of a new installation or addition thereto or repair or alteration of an old installation and the name of the owner or occupant of the building or premises. The permit, when issued, shall be to such applicant and shall be for such installation as described in the application. No deviation shall be made from the installation so described without the written approval of the electrical inspector.

Sec. 5-96. - Same—Permit exemptions.

- a. No permit shall be required for the installation of electrical wiring, devices and equipment installed by or for a utility company operating under a franchise from the city to transmit and sell electrical energy provided such electrical wiring, devices and equipment are for the use of the utility company in its operation as a public utility as provided for in its franchise.
- b. No permit shall be required for the installation of wiring devices and equipment for railroads or interurban on their own property, telephone and telegraph companies engaged in the business of supplying communication service and operating under a franchise from the city.
- c. Permits will not be required for maintenance work done by any person through an employee or employees regularly employed to do such maintenance work solely on or within the premises or property owned or controlled by such person; provided, however, such maintenance work shall not include the installation of any new work or additions to existing installations.

Sec. 5-97. - Same—Fees.

Before any permit is granted for the installation, alteration or repair of any electrical wiring, devices or equipment, the person making application for such permit shall pay to the city a fee in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).

Sec. 5-98. - Same—Notice and performance of inspections.

- a. Upon the completion of the installation of any electrical wiring, devices or equipment, it shall be the duty of the person installing same to notify the electrical inspector and the inspector shall inspect the installation within twenty-four (24) hours after notice is given.
- b. If upon inspection it is found that any part of the installation does not comply with the provisions of this article, the inspector shall give notice of the violation to the person to whom the permit was issued.
- c. When an installation, upon inspection, is found to comply with all the requirements of this article, the inspector shall issue a certificate of approval to the person installing the work. Such certificate shall authorize the connection of the installation to the electric service and the use of the installation.

Sec. 5-99 - Reserved.

DIVISION 2. - INSTALLATION STANDARDS

Sec. 5-100. - Code and amendments adopted.

There is hereby adopted by the City of Athens, for the purpose of establishing rules and regulations for the construction, alteration, removal and maintenance of electric wiring and apparatus, the National Electric Code, being particularly the 2014 edition thereof with all present and future amendments and such portions as are hereinafter deleted, modified or amended as shown in Appendix B of the City of Athens Code of Ordinances, save and except such portions as are in conflict with this Code of Ordinances. If any conflict exists between or among any of the codes, standards or any other ordinance of the city, then the most restrictive code, standard or ordinance shall apply, and the city shall have the authority to resolve such conflict or disputes.

Sec. 5-101. - Wiring to be encased in conduit.

All electrical wiring for light, heat, power or other purposes hereafter installed in the city, as respectively described in the following subsections, shall in all cases be contained and encased in approved metallic conduit, viz.:

- a. All wiring is to be encased in all commercial (C), retail (R), industrial (I) and office (O) zonings and in any residential structure over three (3) floors in height.
- b. Wiring for decorative lighting and window displays; provided, however, the electrical inspector may grant permission for a period not to exceed ten (10) days for temporary decorative or window displays to be installed with open wiring, after which period such installation shall be removed. The inspector may, however, grant an extension of ten (10) days after inspection of temporary wiring, if found safe.
- c. All electrical wiring in buildings known in the building trade as "fireproof" or "slow-burning" construction.
- d. All garden-type apartment houses shall be wired so as to provide separate metering, fuses and disconnects for each apartment or at the option of the owner may use the main disconnect or fuse and be contained and encased in approved metallic or other approved conduit.

- e. All electrical wiring in grain elevators or places used for the storage of gasoline or other readily inflammable materials, machine shops, freight houses and in other commercial buildings where electrical energy is used to operate machines or appliances for profit; provided, this shall not include any electrical device or equipment used exclusively for household purposes.
- f. Wiring incidental to the installation of electrical motors where such motors are $\frac{1}{2}$ horsepower or more, the conduit shall come flush with the side of the motor and be equipped with an approved fitting; window air conditioners may be plugged into a socket with an approved cord and receptacle.
- g. In residences, all service entrance installations from entrance to meter sockets shall be in conduit or approved service entrance cable with approved fittings. All meter sockets shall be grounded in an approved manner. All service entrance wires not enclosed in conduit will be fused within ten (10) feet of entrance.
- h. All supply wiring for electrical and neon signs as follows: All transformers will be installed in a metal encased box grounded in a proper and approved manner, except within metal enclosed signs all concealed high tension wires will be enclosed in glass tubing or equivalent and all joints in tubing will be covered in sleeves of glass; all connection in wire will have approved connectors for the voltage upon which they work.

All wiring installed in conduit underground or in concrete slabs or other masonry in direct contact with moist earth or in other permanently moist locations where subject to condensation or moisture, the conductors shall be of the type specifically approved for this purpose.

Armored cable, known to the electrical trade as "MC," will not be approved for use as metallic conduit in any new buildings, and will only be approved when it is impossible to install other types of approved conduits in buildings already constructed.

Any approved flex wiring method (MC cable) in new construction and remodels shall not exceed eight (8) feet after entry into ceiling area.

MC cable may also be used to loop light fixtures, provided proper strapping is in accordance with National Electric Code.

Flexible conduit may be used if in accordance with National Electric Code.

Sec. 5-102. - General provisions.

- a. All joints shall be made by an approved connector.
- b. Whenever a fuse is required by the provisions of this article, the requirement may be met by the use of an approved circuit breaker for such purpose. If a circuit breaker is used, there shall be an overcurrent unit in each ungrounded conductor of the circuit.

Sec. 5-103. - Services.

- a. Service entrance wires shall be in approved metallic conduit with approved fittings and shall have a capacity of sixty (60) amperes or more. No service conductor shall be smaller than number six (6) gauge wire. Commercial and industrial installations and all residences having a connected load of two thousand (2,000) watts or more, shall have a

three-wire service installed. Except by special permission of the electrical inspector, the service entrance shall not be less than twelve (12) feet nor more than twenty-five (25) feet from the ground level. Where one (1) service is installed to supply several installations or customers within the same building, the main cabinet and cutoffs must be accessible at all times to each of the occupants or customers supplied from such service.

- b. The main disconnect shall conform to the National Electric Code, Article 230-70, stating all services shall have a main disconnect when there are more than six (6) sets of switches.
- c. Any electric wiring in the city which does not conform with this article and is found hazardous by the electrical inspector shall be corrected so as to conform with the provisions of this article at such time as the service is disconnected and before it is again connected. However, if in the opinion of the electrical inspector the hazard is sufficient to warrant, immediate correction may be required in conformance herewith, and the electrical inspector may cause the service to be disconnected until corrected.
- d. The foregoing provision shall also apply to any and all outdoor neon or electrical signs attached or connected to any building within the city.
- e. Only copper conductors shall be permitted within structures in the city.
- f. Aluminum wiring shall be used only when installed by existing electrical utility provider.
- g. Rules and regulations of the existing power and light companies relating to service and meter installations for the kind and character of service to be rendered, as passed and approved by the city council from time to time, are incorporated herein and made a part hereof.

Sec. 5-104. - Electric signs.

- a. All classes of electric signs, whether of the gas tube, receptacle or reflector type, including gas tube window signs and outside building outlining, shall be considered electric signs within the meaning of this article. Portable inside displays or small signs using self-contained transformers with current consumption may be connected by attachment plug to present circuit, providing all other requirements of this article are complied with.
- b. All signs must bear the Underwriters' Laboratories, Inc., inspection label or shall be inspected and approved by the electrical inspector before being installed.

Secs. 5-105—5-109. - Reserved.

ARTICLE X. - MOVING AND WRECKING BUILDINGS

Sec. 5-110. - Application for moving permit.

- a. It shall be unlawful for any person, firm or corporation to move onto any property for the purpose of preparing to move a structure on to such property or off of such property without first making an application for moving permit with the building official of the

City of Athens. Application shall be made by the individual, firm or corporation that will be directly responsible for moving the structure. The application will be valid for a period of ninety (90) working days from time the application is made. The application may with conditions, be renewed one time for a period of forty-five (45) working days.

- b. This section of the article does not apply to those structures which by their design are intended to be transported.

Sec. 5-111. - Requirements for application for moving permit.

1. Before an application for moving permit will be issued, the following will be required:
2. Name of applicant;
3. Address of applicant;
4. Applicant's drivers license number;
5. Provide physical address and legal description of property where structure is to be removed and/or located on;
6. Size and height of structure application is being made for
7. Provide written proof that all property taxes are paid on all subject property; and
8. Provide written proof that any and all liens placed on the subject property by the City of Athens are paid in full.

Sec. 5-112. - Application for moving permit—Fee.

A non-refundable fee of one hundred dollars (\$100.00) shall be paid at the time the application for moving permit is made. A one thousand dollars (\$1,000.00) deposit for performance and damage deposit, as set out in section 5-63 below, shall also be paid at this time.

Sec. 5-113. - Performance and damage deposit.

A deposit of one thousand dollars (\$1,000.00) (cash, cashier's check or money order) shall be made at the time the application for moving permit is made. Upon completion of the project, within the allotted time, and there being no outstanding damage claims, the deposit will be refunded in full with the express agreement that the city is to retain said money for a period of twenty (20) working days after the structure reaches its new location. If within said time it shall appear to the city council of the city that any damage as been done to the streets, or any wires, or any trees or any other private or public property, in the opinion of said city council, then the city council shall, by resolution, assess the amount of such damage, after viewing the alleged property injured, either in favor of the city or the owner of the property in front of which the trees or other injured property may be situated or the owner of any private property alleged to have been injured; and the finding of said city council shall be final. The deposit of the money above referred to with the building official shall be held to be an express agreement to the terms and provisions of this article. Should the building official upon compliance with this article by any person, firm or corporation decline to issue such permit, an appeal may be had to the city

council of the city which may, if it deems proper, by resolution, authorize such use of the street avenue or alley.

If the project is not completed within the allotted time, the applicant forfeits the deposit. If the applicant can show good cause and application is made not less than ten (10) working days prior to expiration, the application may be renewed one time for a period of forty-five (45) working days. An additional fee of one hundred dollars (\$100.00) must be paid for the application to be renewed. A new deposit will not be required if the application is renewed within ten (10) days prior to the expiration of the original application. If the applicant allows the permit to expire, a new deposit of one thousand dollars (\$1,000.00) must be paid. It will be at the discretion of the director of public works and/or the building official to determine whether the applicant has met the intent of this section.

Sec. 5-114. - Moving permit.

- a. It shall be unlawful for anyone to move or cause to be moved a structure from one location to another within the City of Athens or to move a structure from outside the City of Athens to a location within the City of Athens or to move a structure from within the City of Athens to outside the city or to move a structure through the City of Athens without first securing a moving permit. The moving permit must be obtained at least seventy-two (72) hours prior to moving the structure. A structure being moved through the City of Athens on State Highway shall not require a permit, however, escort fees shall apply.
- b. If the structure is to move to a location within the City of Athens, a building permit shall also be obtained for the property onto which said structure is being moved. The permit will be valid for ninety (90) working days in which time any alterations, repairs, additions and or any other work necessary to make the structure suitable for occupancy shall be done. The owner shall keep the property free from high weeds and of any and all rubble and rubbish that may accumulate on the property during this time.
- c. Subsection (a) of this section does not apply to those structures which by their design are intended to be transported.

Sec. 5-115. - Requirements for moving permit.

1. Before a moving permit will be issued, the following information will be required:
2. Name of applicant;
3. Address of applicant;
4. Applicant's driver's license number;
5. Provide physical address and legal description of property where structure is to be removed and/or located on;
6. Size and height of structure;
7. One thousand dollars (\$1,000.00) refundable performance and damage deposit;
8. General public liability insurance;

9. Route to be taken (approved by Athens Police Department) including a map showing the route to be taken indicating width of streets and height of overhead utility lines; and

10. Date and time structure is to be moved to be approved by the Athens Police Department upon at least seventy-two (72) hours' notice.

Sec. 5-116. - Moving permit/escort fee.

Before a moving permit will be issued a fee in accordance with Schedule A [see section 5-5] must be paid. An escort fee of fifty dollars (\$50.00) per hour-per officer for each section of the structure to be moved must also be paid for the assistance of the Athens Police Department for traffic control needed related to the moving of the structure. A moving permit will not be issued if the applicant is in violation of this article related to previously issued moving permit.

Sec. 5-117. - Public liability insurance.

Any person, firm or corporation desiring to move a structure as provided in section 5-64 of this article shall have on file with the building official of the City of Athens a copy of Certificate of Commercial General Liability Insurance with no deductible, with the following limits:

1. Each occurrence—\$500,000.00;
2. Fire damage (any one fire)—\$50,000.00;
3. Medical expense (any one person)—\$5,000.00;
4. Personal and advertising injury—\$300,000.00;
5. General aggregate—\$1,000,000.00; and
6. Products-Comp/Op Agg—\$1,000,000.00.

The City of Athens shall be named as co-insured. A current copy of insurance shall be presented each time a request for a moving permit is made.

Sec. 5-118. - Compatibility.

Any person, firm or corporation desiring to move a structure onto any lot within the City of Athens must provide proof that the structure being moved onto said lot is compatible in size and value to any structure within two hundred (200) feet of the location to which said structure is to be moved. If in the opinion of the building official said structure is not compatible in value and size, as aforesaid, then a permit as provided for herein will not be issued.

Sec. 5-119. - Demolition of structures.

It shall be unlawful for anyone to occupy any lot within the City of Athens for the purpose of demolishing a structure without first obtaining a demolition permit. All property taxes on the property and structure must be current. Any lien placed on the property by the City of Athens for the abatement of a nuisances must be paid. The permit will be valid for ninety (90) working days. If after ninety (90) working days the structure is not completely removed, the applicant may apply for a forty-five (45) working day extension if he/she can show good cause as to why the structure was not removed under the original permit. The permit fee shall be in accordance

with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2). The property shall be free of all rubble and debris upon the expiration of the demolition permit.

Sec. 5-120. - Penalty.

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be assessed a fine of from two hundred dollars (\$200.00) to five hundred dollars (\$500.00) per day for each day the violations exist.

Secs. 5-121—5-129. - Reserved.

ARTICLE XI. - FLOOD DAMAGE PREVENTION

Sec. 5-130. - Statutory authorization.

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City of Athens, Texas does ordain as follows.

Sec. 5-131. - Findings of fact.

- a. The flood hazard areas of Athens, Texas are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- b. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Sec. 5-132. - Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

Sec. 5-133. - Methods of reducing flood losses.

In order to accomplish its purposes, this article uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Sec. 5-134. - Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the one (1) percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with an one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A

on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). The elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has an one (1) percent chance of equaling or exceeding that level in any given year - also called the base flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS). See flood elevation study.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See regulatory floodway.

Functionally dependent use means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or;
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes

are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is (i) built on a single chassis; (ii) four hundred (400) square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See area of special flood hazard.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic

structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Sec. 5-135. - Lands to which this article applies.

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Athens, Texas.

Sec. 5-136. - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Henderson County, Texas and Incorporated Areas," dated April 5, 2010, with accompanying flood insurance rate maps dated April 5, 2010, and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

Sec. 5-137. - Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this article.

Sec. 5-138. - Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

Sec. 5-139. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 5-140. - Interpretation.

In the interpretation and application of this article, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 5-141. - Warning and disclaimer or liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

Sec. 5-142. - Designation of the floodplain administrator.

The city manager or designee is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

Sec. 5-143. - Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this article.
2. Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this article.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with section 5-136, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of sections 5-146—5-152.
9. When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one (1) foot, provided that the community first completes all of the provisions required by Section 65.12.

Sec. 5-144. - Permit procedures.

- a. Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 5-147(2);
 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 5. Maintain a record of all such information in accordance with subsection 5-143(1);
- b. Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
 1. The danger to life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

Sec. 5-145. - Variance procedures.

- a. The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this article.
- b. The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.
- c. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- d. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- e. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this article.
- f. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 5-144(b) of this article have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
- g. Upon consideration of the factors noted above and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (section 5-132).
- h. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- i. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's

continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

j. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
2. Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- k. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in subsection 5-145(a)—(i) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Sec. 5-146. - Provisions for flood hazard reduction—General standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Sec. 5-147. - Same—Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) section 5-136, (ii) subsection 5-147(8), or (iii) subsection 5-148(c), the following provisions are required:

1. *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to two (2) feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in subsection 5-144(a)(1), is satisfied.
2. *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to two (2) feet above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.
3. *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two (2) openings on separate walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. *Manufactured homes.*
 - a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral

movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

- b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to two (2) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
 - i. The lowest floor of the manufactured home is at two (2) feet above the base flood elevation, or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
5. *Recreational vehicles.* Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than one hundred eighty (180) consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of subsection 5-144(a), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

Sec. 5-148. - Same—Standards for subdivision proposals.

- a. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 5-131—5-133 of this article.
- b. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of section 5-137; section 5-144; and the provisions of sections 5-146—5-152 of this article.
- c. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions

which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to section 5-136 or subsection 5-143(8) of this article.

- d. Base flood elevation data shall be generated by a detailed engineering study for all Zone A areas, within one hundred (100) feet of the contour lines of Zone A areas, and other streams not mapped by FEMA, as indicated on the community's FIRM.
- e. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- f. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Sec. 5-149. - Same—Standards for areas of shallow flooding (AO/AH Zones).

Located within the areas of special flood hazard established in section 5-136, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to two (2) feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
2. All new construction and substantial improvements of non-residential structures;
 - a. Have the lowest floor (including basement) elevated to two (2) feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified), or
 - b. Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the base flood elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in section 5-144 are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

Sec. 5-150. - Floodways.

Located within areas of special flood hazard established in section 5-136, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. If subsection 5-150(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 5-146—5-152.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.

Sec. 5-151. - Severability.

If any section, clause, sentence, or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this article.

Sec. 5-152. - Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) for each violation, and in addition shall pay all costs and expenses involved in the case. Each day a violation occurs is a separate offense. Nothing herein contained shall prevent the City of Athens from taking such other lawful action as is necessary to prevent or remedy any violation.

Secs. 5-153—5-159. - Reserved.

ARTICLE XII. - VACANT, SUBSTANDARD, UNINHABITABLE BUILDINGS

Sec. 5-160. - Purpose.

This article is adopted so that the city council may promote the public health, safety, and general welfare within the city through the proper securing of vacant structures and the regulation of substandard buildings. By requiring the securing of vacant structures and the repair, removal, and/or demolition of substandard buildings, the city council seeks to protect property values and prevent bodily injury, death, and property damage within the city limits.

Sec. 5-161. - Definitions.

As used in this article, the following terms shall be defined as follows:

Appraised value means the value given the structure by the Henderson County, Texas Appraisal District Office.

Building means any structure of any kind or any part thereof, including a wall, slab, porch, foundation, the collapsed remains of a structure, or any other portion of a building, wall, or fence that was erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

City means the City of Athens, Texas.

City council means the City Council of the City of Athens.

Code enforcement officer means the code enforcement officer or officers or their designee for the City of Athens, Texas, including, but not limited to, any other appointed person or authority on behalf of the city to enforce this article. The code enforcement officer is vested with complete authority to enforce this article as required by Texas law, including, but not limited to, the authority to issue tickets, citations, and notices required hereunder and/or by the Texas Local Government Code. The city administrator may appoint city staff as the city administrator deems appropriate to serve as the code enforcement officer.

Commercial strip center means any commercial, industrial, or other non-residential property on which two (2) or more businesses operate in the same building or improvement.

Demolish means to tear down, destroy, dismantle, or otherwise abolish the existence of a building or structure in a lawful manner and to remove all remaining pieces, parts, rubbish, and traces of the building or structure. This includes, but shall not be limited to, the removal of the slab, foundation, stairs, porch, or any other portion thereof when practicable and unless extreme circumstances present such demolition.

Diligent effort means a reasonable effort to determine the identity and address of an owner, a lien holder, or a mortgagee including a search of at least one (1) or more following records:

1. County real property records of the county in which the building is located;
2. Appraisal district records of the appraisal district in which the building is located;
3. Records of the Secretary of State;
4. Assumed name records of the county in which the building is located; or
5. City utility records.

Minimum housing standards means those standards found in the city's adopted standard building, electrical, plumbing, gas, mechanical, and fire prevention codes.

Owner means any person, agent, firm or corporation, named in the real property records of the county where the building is located as owning the property.

Securing means measures that assist in making the property inaccessible to unauthorized persons, including, but not limited to, the repairing of fences and walls, erecting fences or walls, chaining/padlocking of gates, the repair or boarding of door, window or other openings.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner, or

any part thereof, including a wall, slab, portion, foundation, or the collapsed remains of a structure.

Vacant means a property which is lacking habitual presence of human beings who have a legal right to be on the property, or at which substantially all lawful business operations or residential occupancy has ceased. In determining whether a property is vacant, it is relevant to consider, among other factors, the percentage of overall square footage of any building on the property or floor to the occupied space; the condition and value of any items in the property and the presence of rental or for sale signs on the property; provided that multi-family residential property containing three (3) or more dwelling units shall be considered vacant when the majority of all of the dwelling units become unoccupied and a majority remain unoccupied. A property shall not be considered vacant which is being currently marketed "For Sale By Owner" or by a licensed real estate professional hired by the former or current occupant of the property (currently marketed shall mean that the structure is listed on the multiple listing service, the structure is available to prospective buyers for viewing, and a reasonable asking price has been disclosed. Properties marketed as "For Sale By Owner" shall be limited to six-months from the date the owner commenced efforts to sell the property. The property shall be considered vacant following this six-month period. The code enforcement officer may use the assessed market value of the property as last determined by the tax assessor to determine if the asking price disclosed by the owner is reasonable), and to which the water service has not been shut off. A commercial strip center shall be deemed to be vacant for all portions of the commercial strip center determined to be vacant in accordance with this article. All portions of the commercial strip building that are not vacant may continue to remain in operation.

Sec. 5-162. - Securing vacant structures.

- a. Owners shall have the responsibility for maintaining all vacant dwellings units, dwellings, structures, principal buildings, pools or spas, and accessory buildings in a locked or closed condition so that they cannot be entered without an unlawful break-in. The code enforcement officer may, to assure compliance with this section, order an owner to board a structure.
 1. Owners shall obtain a permit prior to boarding.
 2. Boarding of a structure shall be required for all doors and windows on ground level and those doors and windows accessible to grade by stairs or permanently fixed ladders or within ten (10) feet of grade.
 3. Boards shall be cut and attached to fit the size of the opening.
 4. At least one (1) door boarded at the grade level shall be maintained with locks or hinges to permit entry for inspection purposes.
 5. Boards shall be painted or stained to match existing exterior of the structure.
 6. Screening or alternate methods of boarding may be permitted when approved by the code enforcement officer.
 7. The owner of a structure boarded under this section shall be required; upon notification, to provide entry to the structure to the code enforcement officer at least once every twelve (12) months, for inspection purposes, or at any time when the structure has been unlawfully entered.

8. The owner of a structure boarded under this section shall notify the code enforcement officer in writing no later than ten (10) days after the sale of the structure or the un-boarding of the property.
9. Properly post the property against trespass as designated by the code enforcement officer pursuant to Section 30.05 of the Texas Penal Code, including all amendments and supplements thereto.
- b. In all cases where a building or structure constitutes a nuisance to the general public because it is vacant and open to unauthorized entry, the code enforcement officer may notify the owner to secure the building or structure within twenty-four (24) hours. In the event the owner fails to secure the building or structure in that time, the code enforcement officer may take whatever measures are necessary to secure the building. The cost of such measures shall be recovered in the same manner as described in section 5-134 of this article.
- c. *Alternatives to boarding.* The code enforcement officer may, in his or her sole discretion, determine if an alternate method, including but not limited to, is better suited to properly secure the structure.

Sec. 5-163. - Emergencies.

- a. *Emergency defined.* For the purpose of this article, an emergency is hereby defined as any case where it reasonably appears there is immediate danger to the health, life, safety or welfare of any person because of a dangerous condition which exists in violation of this article.
- b. *Authority.* In any emergency case, the code enforcement officer shall have the power to take emergency measures to abate or to correct such dangerous condition. The emergency power herein granted shall include power to cause the immediate vacation of any building and the summary correction of any emergency condition which exists in violation of this article, including but not limited to demolition of dangerous buildings.
- c. *Emergency order not appealable.* No appeal to the substandard building commission shall lie from an emergency order, and such order shall not be reviewed or stayed other than by a district court of Henderson County, Texas.
- d. *Costs of abatement.* The costs of emergency abatement shall be recovered as provided in section 5-134 of this article for the recovery of costs.

Sec. 5-164. - Substandard declaration.

Any building or structure requiring repair, removal, or demolition, as described and defined herein below shall be, and the same are, hereby declared to be a danger to the public health and welfare, a public nuisance and/or unlawful.

Sec. 5-165. - Inspections.

An inspection shall be made of every building located within the city which is suspected of being in violation of this article. The city's code enforcement officer is hereby authorized to conduct

inspections of buildings suspected of being in violation of this article and take such actions as may be required to enforce the provisions of this article.

Sec. 5-166. - Notice of violation.

- a. Whenever a violation of this article has been found by the code enforcement officer, a public hearing by the substandard building commission shall be provided to determine whether the building should be declared a danger to the public health and welfare, a public nuisance and/or unlawful.
- b. A notice of the violation shall be sent to the occupant, if any, and record owner/s, lien holder/s or mortgagee/s. Such notice shall be in writing and shall be served by personal delivery or by certified mail, return receipt requested. Notice to the occupant of the property does not require the occupant's name.
- c. The city shall make a diligent effort to discover each mortgagee and lien holder before issuing notice of the hearing.
- d. Notice shall be served to all unknown owners, lien holders, or mortgagees, by posting a copy of the notice on the front door of each affected structural improvement situated on the property and as close to the front door as practicable.
- e. If the owner's address is different than the address shown for the property involved, notice shall be served to the other address of the owner. Such notice shall be in writing and shall be served by personal delivery or by certified mail, return receipt requested.
- f. The notice of violation may be filed in the Official Public Records of Real Property of Henderson County, Texas.
- g. The notice shall contain:
 1. The name and address of the owner of the property,
 2. The names of all persons to whom notice is being served,
 3. The street address and legal description of the premises,
 4. The date of inspection,
 5. The nature of the violation,
 6. The date, time and location of the hearing, and
 7. A statement that the owner, lien holder, or mortgagee will be required to submit at the public hearing proof of the scope of any work that may be required to comply with the city's building ordinances and fire code and the time it will take to reasonably perform the work.
- h. After all attempts to notify owners, lien holders and mortgagees under this article have been made and documented, any refusal to accept or claim hand-delivered, mailed or posted notice will not affect the validity of the notice.
- i. All owners, lien holders, mortgagees, and other persons maintaining any interest in the property shall be required to personally appear before the substandard building commission and at all hearings concerning the property. This is a mandatory requirement

and the code enforcement officer does not maintain authority to eliminate this requirement.

Sec. 5-167. - Application of standards.

- a. The following standards shall be utilized in determining whether a building should be ordered repaired, removed, or demolished:
 1. The building or structure has been damaged by fire, earthquake, tornado, wind, flood, vandals or any other cause, to such an extent that the structural strength or stability thereof is subject to partially or fully collapsing.
 2. The building or structure was constructed or maintained in violation of any provision of the city's building codes, fire code or any other applicable ordinance or law of the city, county, state, or federal government.
 3. Any wall or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle one-third (1/3) of its base.
 4. The foundation or the vertical or horizontal supporting members are twenty-five (25) percent or more damaged or deteriorated.
 5. The non-supporting coverings of walls, ceilings, roofs, or floors are fifty (50) percent or more damaged or deteriorated.
 6. The structure has improperly distributed loads upon the structural members, or they have insufficient strength to be reasonably safe for the purpose used.
 7. The structure or any part thereof has been damaged by fire, water, earthquake, wind, tornado, vandalism, or other cause to such an extent that it has become dangerous to the public health, safety and welfare.
 8. A portion of a building or structure remains on a site when construction or demolition work is abandoned.
 9. A door, aisle, passageway, stairway, fire escape or other means of egress is not of sufficient width or size, or is damaged, dilapidated, obstructed or otherwise unusable, or so arranged so as not to provide safe and adequate means of egress in case of fire or panic.
 10. The structure, because of its condition, is unsafe, unsanitary, or dangerous to the health, safety or general welfare of the city's citizens including all conditions conducive to the harboring of rats or mice or other disease carrying animals or insects reasonably calculated to spread disease.
 11. The structure has been found to contain molds which are known to be harmful to humans, and that remediation of such mold contamination would exceed fifty (50) percent of the value of the structure.
 12. Whenever the building or structure has been so damaged by fire, wind, tornado, earthquake or flood, or has become so dilapidated or deteriorated as to become:
 - a. An attractive nuisance to children;

- b. A harbor for vagrants, criminals or immoral persons; or as to
 - c. Enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
- 13. A portion of the building or member or appurtenance thereof (e.g. porch, chimney, signs) is likely to fall, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- 14. The building or structure has any portion, member or appurtenance, ornamentation on the exterior thereof which is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of safely resisting wind pressure, snow, ice, or other loads.
- 15. The electrical system is totally or partially damaged, destroyed, removed or otherwise made inoperable, unsafe or hazardous.
- 16. The plumbing system is totally or partially damaged, destroyed, removed or otherwise made inoperable or unsanitary.
- 17. The mechanical system or any portion of the mechanical system is totally or partially damaged, destroyed, removed or otherwise made inoperable or unsafe.
- 18. The building or structure, because of obsolescence, dilapidated condition, deterioration or damage is detrimental to the sale, loan or taxable values of surrounding properties or which renders such surrounding properties uninsurable or which constitutes a blighting influence upon the neighborhood or which constitutes an eyesore so as to deprive owners or occupants of neighboring property of the beneficial use and enjoyment of their premises or which presents an appearance which is offensive to persons of ordinary sensibilities.

Sec. 5-168. - Substandard building commission.

- a. The substandard building commission of the city shall continue to serve in its current capacity.
- b. The previous membership and voting requirements for the building standards commission of the city created by Ordinance No. A-3031, Article III, and Ordinance No. A-3038 are hereby repealed.
- c. The substandard building commission shall continue to be comprised of five (5) individual members. There are hereby created five (5) places for the commission. Members of the substandard building commission shall serve staggered two-year terms. The city administrator shall stagger the terms of the members as of the date of this article based upon the tenure of service of the current members of the substandard building commission.
- d. Each member of the substandard building commission shall in addition to other qualifications prescribed by state law be a citizen of the United States of America and a resident citizen of the City of Athens, shall be qualified to vote in the State of Texas and the City of Athens, shall be eighteen (18) years of age, shall have been such resident citizen of the City of Athens for a period of not less than six (6) months immediately preceding the date of appointment to the substandard building commission. If any

member fails to maintain all of the foregoing qualifications or shall be absent from three (3) consecutive regularly scheduled meetings without valid excuse, the city council must at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth herein and in the City Charter.

- e. Members of the substandard building commission are and shall be eligible for re-appointment and are not subject to term limitations.

Sec. 5-169. - Hearing.

- a. There shall be a public hearing scheduled before the substandard building commission. The date of the hearing shall not be less than ten (10) days after notice is made, as described in section 5-166.
- b. If at the public hearing evidence is provided that the building is in violation of this article, the city shall require the owner, lien holder, or mortgagee of the building to repair, remove, or demolish the building within thirty (30) days, unless it is proven at the hearing that the work cannot reasonably be done in thirty (30) days.
- c. If the substandard building commission allows more than thirty (30) days for the building to be repaired, removed, or demolished, the substandard building commission shall establish specific time schedules for the work to be commenced and finished and shall require the owner, lien holder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the substandard building commission.
- d. The substandard building commission shall not allow the owner, lien holder or mortgagee more than ninety (90) days to repair, remove, or demolish the building unless a detailed plan and time schedule for the work are submitted at the hearing and it is proven at the hearing that the work cannot reasonably be completed within ninety (90) days. Additionally, the owner, lien holder, and/or mortgagee must submit written work progress reports to the code enforcement officer every thirty (30) days to demonstrate compliance with the time schedule established. The owner, lien holder, and/or mortgagee may also be required to submit progress reports more frequently if required by the code enforcement officer.
- e. In any case where fifty (50) percent of structure is damaged or deteriorated, a building shall be demolished or removed, and in all cases where a structure cannot be repaired so that it will no longer exist in violation of the provisions of this article, it shall be demolished or removed. In the case of a commercial strip center, that portion of the structure that is damaged or deteriorated shall be demolished or removed but the portion remaining in operable condition shall be permitted to remain so long as practicable.

Sec. 5-170. - Appeal.

In accordance with Section 214.0012 of the Local Government Code, the owner, lien holder, or mortgagee shall have the right to appeal the decision made at the hearing to a district court. A notice of appeal must be filed with the district court within thirty (30) calendar days from the date the order is mailed to the owner, lien holder or mortgagee, as provided herein. The petitioner shall provide the city with evidence that an appeal has been made to district court within thirty (30) days.

Sec. 5-171. - Order for repair, removal, or demolition.

- a. If the building is ordered to be repaired, removed, or demolished, the city shall promptly mail a copy of the order by certified mail, return receipt requested, to the owner of the building and to any lien holder or mortgagee of the building. The city shall make a diligent effort to discover each mortgagee and lien holder having an interest in the building or property on which the building is located.
- b. If demolition or removal of the building or structure is ordered, demolition or removal shall not occur until the municipal court judge has issued a seizure and demolition warrant supported by a probable cause affidavit stating that:
 1. The city has complied with the procedures set forth in this article;
 2. Demolition has been ordered by the city; and
 3. The time for appeal of the order to district court has expired and no appeal has been taken or, in the alternative, the order was appealed to district court but the appeal has been finally resolved in a manner that does not prevent the city from proceeding with removal or demolition.
- c. Owners must obtain building permits from the City of Athens, Texas and comply with all federal, state, and local laws for any new construction occurring following the demolition, removal, or repair of a structure arising under this article.

Sec. 5-172. - Notice of repair, removal, or demolition.

Within ten (10) days after the date that the order is issued, the city shall:

1. File a copy of the order in the office of the city secretary; and
2. Publish a notice in a newspaper where the building is located stating:
 - a. The street address or legal description of the property;
 - b. The date of the hearing;
 - c. A brief statement indicating the results of the order; and
 - d. Instructions as to where a complete copy of the order may be obtained.

Sec. 5-173. - Demolition, removal, and repair expenses.

- a. Whenever it is discovered upon reinspection that the owner, mortgagee or lien holder has failed to either repair, remove, or demolish the building within the allotted time, the city, or its authorized agent, may repair, remove, or demolish said building or cause the same to be done and charge the expenses incurred in doing such work or having the same done to the owner of said land.
- b. If the owner fails or refuses to comply with the demand for compliance in the notification within the requirements of such notification, the City of Athens may do work or make improvements required to abate violation, pay for the work done or improvements made, and charge the expenses to the owner of the property as provided herein. The property owner will have twenty (20) days to reimburse the City of Athens from the completion date of such work to abate the violation(s) at the property.

- c. In the event the owner fails or refuses to pay such expenses charged to the owner, within twenty (20) days after the abatement work is completed, a lien may be obtained. The lien and other expenses incurred to the City of Athens may be filed against the property. Expenses will include, but not be limited to, an administrative fee of two hundred fifty dollars (\$250.00), fees to file lien, fees to release lien, postage fees, courier fees, legal fees, publication fees, posting fees, and any other fees charged to or incurred by the City of Athens.
- d. If such work is done at the expense of the city, then said expense shall be assessed against any salvage resulting from the demolition of the building and against the lot, tract, or parcel of land, or the premises upon which such expense was incurred, and shall be considered a lien against the property as described in section 5-174.
- e. For the purposes of this section, any repair, alteration or improvement made to a building by the city will only be to the extent necessary to bring the building into compliance with the city's minimum building and fire code standards and only if the building is a residential building with ten (10) or fewer dwelling units; provided however, the City of Athens may elect to obtain a judicial determination by a decree of a court of competent jurisdiction of the existence, in fact, of a public nuisance in cases contemplated by this article. Such judicial determination may include any available remedy for the abatement of such a nuisance.

Sec. 5-174. - Assessment of lien.

- a. When the city incurs expenses to repair, remove, or demolish a building under this article, the city places a lien against the property on which the building is located, unless it is a homestead as protected by the Texas Constitution. The lien arises and attaches to the property when the notice of the lien is recorded and indexed with the County Clerk of Henderson County, Texas. The notice shall contain:
 - 1. The name and address of the owner, if that information can be determined with a reasonable effort;
 - 2. A legal description of the property on which the building was located;
 - 3. The amount of expense incurred by the city;
 - 4. The balance due; and
 - 5. The date on which said work was done or improvements made.
- b. The city shall have a privileged lien on such lot, lots, or other premises or real estate upon which said building was located, to secure the expenditure so made, which said liens shall be second only to tax liens and liens for street improvements; and said amount shall bear ten (10) percent interest from the date such statement was filed in accordance with section 342.007 of the Texas Health and Safety Code and/or bear interest at the maximum rate permitted by Texas law. It is further provided that for any such expenditure and interest, as aforesaid, suit may be instituted and recovered, and foreclosure of said lien may be made in the name of the city; and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or expense.

- c. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses.
- d. Water and electric services shall not be connected to any property on which a lien arising under this article remains unpaid. Water and electric services shall only be activated upon complete payment of all costs encompassed by the privileged lien on the subject property.
- e. No certificate(s) of occupancy shall be issued by the city on any property until any lien arising under this article has been fully paid.

Sec. 5-175. - Penalties for violation.

- a. *Enforcement.* The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance.
- b. *Criminal prosecution.* Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00), except as may be otherwise expressly provided by state law. Each day that a provision of this article is violated shall constitute a separate offense. An offense under this article is a misdemeanor.
- c. *Civil remedies.* Nothing in this article shall be construed as preempting or waiving the rights of third parties from instituting any action for remedies against site operators or permittees. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including, but not limited to the following:
 - 1. Injunctive relief to prevent specific conduct that violates the article or to require specific conduct that is necessary for compliance with the article;
 - 2. A civil penalty up to one thousand dollars (\$1,000.00) a day, or ten dollars (\$10.00) a day for each violation if the owner shows that the property is the owner's lawful homestead, when it is shown that the defendant was actually notified of the provisions of the article and after receiving notice committed acts in violation of the article or failed to take action necessary for compliance with the article; and
 - 3. All other available relief whether at law or in equity.

Sec. 5-176. - Liability.

Neither the city nor any authorized agent acting under the terms of this article shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this article.

Secs. 5-177—5-179. - Reserved.

ARTICLE XIII. - CONSTRUCTION OF FENCES

Sec. 5-180. - Permit required.

a. Generally. It shall be unlawful for anyone to construct or have constructed any kind of fence on any residential, multifamily, commercial or industrial zoned lot without first obtaining a building permit from the office of the building official.

b. Exceptions:

1. Pens or kennels limited in area to two hundred (200) square feet located behind front setback line used for confinement of domestic animals.
2. Repair of existing fence of one hundred dollars (\$100.00) or less, no permit required.

Sec. 5-181. - Application.

Any person must provide the following information when applying for a permit to construct a fence:

1. Name of property owner.
2. Local address where fence is to be constructed.
3. Type of fence.
4. Height of fence.
5. Graphic outline of property to be fenced, with the fence signified by dark lines.
6. Approximate value of fence.

Sec. 5-182. - Fees.

The fees for all permits required by this section are to be in accordance with City of Athens Development Fee Chart, Schedule A (see Sec. 5-2).

Sec. 5-183. - Public property.

No fence, fence braces, post or guy wires for such fence shall be constructed upon or caused, allowed or permitted to protrude over property that the city or general public has dominion or control over.

Sec. 5-183. - Height limitation.

a. Residential and multifamily zoned lots:

1. No fence or wall may be erected or placed on any residential or multifamily zoned lot to a height to exceed eight (8) feet above ground level, except that no fence or wall which is adjacent to the street, located in a front or side corner yard, shall exceed a height of three (3) feet.
2. Exception: Where included in subdivision final plat and approved by planning and zoning commission.

- b. Where such lot line is adjacent to nonresidential property there shall be an eight-foot limit on the height of a fence or wall along such lot line.
- c. Commercial and industrial zoned lots shall have no fence or wall constructed or placed with a height to exceed eight (8) feet.

Sec. 5-185. - Fence location.

- a. It shall be the responsibility of the property owner to ensure that the fence or wall is constructed or placed within their property line. No fence or wall shall encroach on the property line.
- b. No fence or wall shall be constructed or placed as to obstruct the clear visibility of any intersection. A vision triangle shall be maintained by connecting a diagonal line connecting two (2) points measured twenty (20) feet equidistant from the corner of the two (2) intersecting property lines adjacent to the public right-of-way. On commercial or industrial zoned lots, the fence or wall shall not obstruct the visibility of a driveway intersecting a public street or right-of-way.
- c. Fences or walls shall be placed as to not interfere with the maintenance of any utilities. The city shall not be responsible for the replacement of fences or walls built over dedicated utility easements if the fence or wall must be removed for maintenance purposes.
- d. No fence or wall shall be constructed or placed within ten (10) feet from the back of curb, or if no curb is present, within ten (10) feet of the edge of street or alley pavement regardless of location of property line.

Sec. 5-186. - Construction requirements.

- a. Fences or walls shall be constructed as to not interfere with natural drainage.
- b. Only an ornamental fence may be constructed or placed in the front or side corner yard building setback area. The solid area of the fence shall not exceed fifty (50) percent of the total area of the fence.
- c. The minimum gauge of wire for a wire mesh fence shall be not less than eleven (11) and the minimum wire mesh size shall not be less than two and one-quarter (2¼) inches.
- d. No fence shall be electrically charged or constructed to be electrically charged.
- e. In order to allow egress and ingress of fire department, police department and utility company personnel, at least one gate, no less than three (3) feet wide, shall be placed on each fence or wall that is adjacent or parallel to a public right-of-way or utility easement.
- f. Within any residential, multifamily, commercial or industrial zoned area, the following materials are prohibited as fencing materials, panels or fabrics:
 - 1. Poultry wire.
 - 2. Hog wire.
 - 3. Barbed wire. Exceptions:
 - a. Where placed on top of a fence or wall at least six (6) feet in height.

b. In areas zoned agriculture and whose main purpose is grazing or growing of crops in excess of five (5) acres.

4. Cattle panels.

5. Metal or fiberglass corrugated sheets or panels:

a. Metal panels may be used if they meet the following specifications:

1. Minimum 26 gauge galvanized;
2. Minimum twelve-inch-centered high raised rib;
3. Prefinished with 8,000 PSI Signature 200 paint;
4. Installed vertically on either pressure-treated wood or steel perlings running horizontally on five-foot centers;
5. Secured with #12 sheet metal screw with washer;

6. Plywood, loading pallets or doors; or

7. Any other similar materials not usually associated with the construction of fences or walls.

g. All fences or walls not in compliance at the time this ordinance is enacted shall at the time the fence or wall is fifty (50) percent or more in need of repair or replacement be brought into compliance with the terms of this article.

h. The owner shall repair, replace, paint, remove or otherwise attend to any portion of a fence if it becomes unsightly or a menace to public health, safety or welfare.

Sec. 5-187. - Penalty for violation.

The violation of this article constitutes a Class "C" misdemeanor, and after due notification of violation of this article and failure to comply, conviction therefor of each person, firm or organization shall be punished by a fine not less than twenty-five dollars (\$25.00) or more than two hundred dollars (\$200.00).

Sec. 5-188. - Definitions.

The following definitions shall apply to this article:

Fence: A permanent barrier enclosing a plot or a portion thereof composed of man-made, processed or natural material which may be erected on posts for the purpose of preventing or controlling entrance to, or to provide privacy, or to confine within or to make a boundary.

Ornamental fence: A fence designed in such a manner and of such material that it is erected for principal purposes other than controlling entrance to property. Any such fence shall be composed of natural material such as wood (i.e. split-rail, picket, etc.) or a decorative material (i.e., wrought iron).

Front yard: That area of the yard between the front building line setback and the front property line between the side lot lines.

Side corner yard: That portion of a yard on a lot situated at the junction of two (2) or more public streets that is between the side building setback line and the property line adjacent to the side street.

Sec. 5-189

A variance to this article may be requested using the following guidelines:

1. A fee in accordance with the fee schedule.
2. Completion of a variance request form.
3. Plat showing fence location, description of fence and reason for variance request.
4. Seventy-five (75) percent approval by property owners within two hundred (200) of property variance is requested for (names provided by building official).
5. Approval by Athens City Council based upon response of surrounding property owners, merit and what is in the best interest of all the Citizens of Athens.

First reading this the 22nd day of April 2019.

PASSED, APPROVED and ADOPTED this the 13th day of **May, 2019** at a regular meeting of the City Council of the City of Athens, Texas, with the following record vote:

Monte Montgomery, Mayor	Aye
Ed McCain, Councilmember/Mayor Pro Tem	Aye
Aaron Smith, Councilmember	Aye
Toni Clay, Councilmember	Aye
Robert Gross, Councilmember	Aye

5 voted in favor of the motion and
0 voted against the motion.

Motion carried 5-0

Monte Montgomery, Mayor

ATTEST:

Bonnie Hambrick, City Secretary