

ORDINANCE NO. O-2008-109

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 6, "BUILDINGS AND STRUCTURES", ARTICLE II., "ELECTRICITY", DIVISION A., "IN GENERAL", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY CLARIFYING THE PROVISIONS RELATED TO DEFINITIONS, ELECTRICAL LICENSES, EXAMINATIONS, INSPECTIONS, HOMEOWNERS' RIGHTS AND ELECTRICAL PERMITS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, in City Code Chapter 6, Article II., the City Council has adopted regulations governing electricians, licenses, permits and examinations; and

WHEREAS, State law at Texas Occupations Code Chapter 1305 governs electricians; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or

police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City may license and regulate persons, corporations, and associations engaged in any business, occupation, profession or trade; and

WHEREAS, Section 1 of the Tyler City Charter states that the City may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Texas, and that all such powers, whether express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, and when not prescribed by the Charter, in such manner as shall be provided by ordinances and resolutions of the City Council; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, it is important to amend Tyler City Code Chapter 6, Article II. to conform to State law; and

WHEREAS, on 8/26/08, the Construction Board of Adjustment and Appeals voted to recommend that this ordinance be adopted by the City Council;

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

PART 1: That Tyler City Code Chapter 6, "Buildings and Structures", Article II., "Electricity", Division A., "In General", is hereby amended by amending Sections 6-20, 6-23 and 6-24 to read as follows:

DIVISION A. IN GENERAL

Sec. 6-20. Definitions.

As used in this Article, the terms *electrical apprentice*, *electrical contractor*, *journeyman electrician*, *maintenance electrician*, and *master electrician* shall have the meanings as set forth in Texas Occupations Code Chapter 1305, or successor statute. (Ord. No. O-96-36, 4-24-96, effective 6-1-96) (Ord. No. 0-2008-109; 9/10/08)

Secs. 6-21 – 6-22. Reserved.

Sec. 6-23. Inspection.

a. **Duties.** It is the duty of the Building Official to enforce this Article, either individually or acting by and through the Electrical Inspector or other agents. The Building Official, Electrical Inspector and agents are hereby authorized and directed to regulate and supervise generally all electrical apparatus and the stringing, placing and attaching of electric lights and power, telephone, telegraph, radio aerials and other electrical wires of any nature whatsoever, now or hereafter placed, on and in any manner directly attached to any building or any tent or similar structure in the City. The Building Official, Electrical Inspector and agents shall inspect and reinspect all such electrical apparatus, machinery and wires which they consider 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, any and all such electrical apparatus, machinery and wires now existing or hereafter placed shall be subject to such inspection and supervision. Complete records of all permits issued, inspections made, and other official work performed in accordance with this Article shall be kept.

b. **Restrictions on business interests.** It is unlawful for the Electrical Inspector to engage either directly or indirectly in the business of the sale, design, installation or maintenance of electrical equipment or have a financial interest of any nature in any concern engaged in such business in the City.

c. **Authority as to inspections.** The Building Official acting through the Electrical Inspector and assistants has authority to enter any building or premises at any time in the discharge of their duties and to decide any question related to this chapter. When any electrical equipment is found to be dangerous to persons or property, the person responsible for the electrical equipment shall be notified in writing and shall make any changes or repairs which are required to place such equipment in safe condition within such period of time as may be specified in said notice. (Ord. 0-2004-9, 1/29/04) (Ord. No. 0-2008-109; 9/10/08)

Sec. 6-24. Homeowner's rights.

Nothing herein shall prohibit any homeowner from personally installing electrical conductors or equipment within his/her own home provided that the owner shall file with the Electrical Inspector approved plans and specifications if requested to do so by the Electrical Inspector; satisfy the Electrical Inspector as to an ability to install electrical wiring; obtain a permit, pay inspection fees; do work in accordance with this Article; apply for an inspection, and receive a Certificate of Approval.

Personal installation by a homeowner under these homeowner rights shall be by the homeowner on his/her own home, without compensation, and no person shall be employed to assist in any way in such work. (Ord. No. O-96-36, 4-24-96, effective 6-1-96) (Ord. No. 0-2008-109; 9/10/08)

PART 2: That Tyler City Code Chapter 6, "Buildings and Structures", Article II., "Electricity", Division B., "Board, Licenses", is hereby amended by amending Sections 6-26 and 6-28, and deleting Sections 6-29 through 6-31, as follows:

DIVISION B. BOARD, LICENSES

Sec. 6-25. No changes...

Sec. 6-26. License requirements generally; required, qualifications, classifications, fees, application.

a. License required. No person shall engage in any type of electrical installation or maintenance of wires or fixtures, or other work without obtaining a license from the State of Texas as a:

1. Electrical apprentice;
2. Electrical contractor;
3. Master electrician;
4. Journeyman electrician; or
5. Maintenance electrician.

The wiring, other than electrical construction wiring, on X-ray, elevator and other specialized equipment, may be done by competent and qualified persons who do not hold a license under State law. Provided, however, prior to the commencement of any such work, there shall be furnished to the Inspections Division of the Development Services Department a certificate or other written evidence establishing the competence and qualification of each person who proposes to engage in such work. (0-97-63; 12/10/97) (Ord. No. 0-2008-109; 9/10/08)

Sec. 6-27. Reserved.

Sec. 6-28. Regulation of classes of electrician's license.

- a. General regulations.
 1. Electrical contractor.

(a) It is unlawful for any person to engage in the business of electrical contractor, as herein defined, without indicating the name by which the business shall be known.

(b) No electrical contractor shall establish, maintain or advertise a place of business at any location within the City under any name other than that registered with the State of Texas.

(c) An electrical contractor's license shall entitle the holder thereof to engage in the business of and to secure permits for the installation, addition, alteration, servicing, replacing, removing or repair of any electrical conductors, apparatus, appliances, devices and equipment.

(d) Any person engaged in the electrical contracting business shall be a qualified master electrician, or shall have a qualified master electrician in employ continuously during normal daytime working hours. This qualified master electrician shall have active supervision over and be responsible for carrying out this Article in its entirety. The master electrician shall be available to explain the job and answer questions during inspections at the request of the Electrical Inspector.

(e) The Electrical Inspector is hereby authorized to withhold inspections and the issuance of permits to any registered contractor who:

(1) Fails to correct any defect, error or deficiency in any work installed under the authority of an electrical permit within such period of time as contained in the notification from the Electrical Inspector.

(2) Fails to pay any just indebtedness to the City for inspection fees charged for specific permits.

(f) Every electrical contractor shall have an established place of business or shop, that complies with the City zoning ordinance.

(g) Each electrical contractor is required to have a minimum of one journeyman electrician on each job at all times. (0-97-63; 12/10/97)

2. Master electrician.

(a) The master electrician shall perform the work or supervise and direct the installation, alteration, repair and maintenance of electrical conductors and equipment authorized by permits issued under this Article.

(b) Any person who has been appointed or employed as a master electrician by a registered electrical contractor shall register with the Electrical Inspector in writing on a form furnished by the Electrical Inspector. Whenever a master electrician shall leave or be discharged from the employ of any person who is required by this Article to appoint or employ a master electrician, a notice in writing thereof shall be given immediately by both the

employer and the master electrician to the Electrical Inspector, and the permit privileges of such a person shall, without further order or action, stand suspended until the employment or appointment and qualifying of another master electrician as provided for in this Article.

(c) No master electrician may use his/her license in order to qualify more than one electrical contractor's license at any time.

(d) It is unlawful for any master electrician to permit his/her name to be used, or to knowingly permit oneself to be held out as the officer or employee in a supervisory capacity of any person holding an electrical contractor's license unless he/she is, in fact, an officer or employee and does, in fact, supervise the installation of electrical work performed by such person.

3. Journeyman electrician. A journeyman electrician's license holder may perform any type of electrical work under the supervision of a master electrician, but in no case shall a journeyman electrician contract for or engage in the business of electrical work of any nature, except under the supervision of a master electrician.

4. Maintenance electrician.

(a) It is unlawful for any person, firm, or corporation acting or employed as a maintenance electrician to install new wiring for which a permit is required by this chapter.

(b) A maintenance electrician's license holder may perform electrical maintenance work only in or upon the premises and in the building(s) where the holder is regularly employed on a full-time basis. The holder shall notify the Electrical Inspector immediately of a change in employment giving the name of new employer and the location of the premises in or upon which the holder is to be employed to perform electrical maintenance work.

c. False representation as registered electrician. It is unlawful for any person to falsely represent oneself as a registered electrician of any class set out in this Article or to use the title of any class set out herein on signs, cards, stationery or by any other manner whatsoever, unless such person is properly registered under this Article. (Ord. No. O-96-36, 4-24-96, effective 6-1-96) (Ord. No. 0-2008-109; 9/10/08)

Secs. 6-29 – 6-31. Reserved

PART 3: That Tyler City Code Chapter 6, "Buildings and Structures", Article II., "Electricity", Division C., "Permits, Inspection", is hereby amended by amending Sections 6-32, 6-34, and 6-35 to read as follows:

DIVISION C. PERMITS, INSPECTION

Sec. 6-32. Permit required; civil penalty for failure to obtain permits; cease and desist orders authorized; exceptions.

a. No person shall do any electrical work in the City without having first obtained a City permit covering each installation. When required by the Building Official, plans and specifications for the proposed work must be filed prior to issuance of the permit.

b. The owner, lessee, agent, general contractor, or other person in control of a building or structure all have the duty to insure that all applicable permits are obtained for electrical work performed in and upon such premises prior to the beginning of work and all such individuals are subject to the penalties provided in this chapter for failure to obtain such permits.

c. If work for which a permit is required by this chapter is begun prior to obtaining a permit, the fee for the permit received shall be doubled as a civil penalty therefor. Payment of a doubled fee hereunder does not relieve a contractor from complying with the Code in the execution of work nor from the penalties in this Chapter.

d. The Electrical Inspector is hereby empowered to stop work begun without a permit and to order all persons engaged in such work to cease and desist therefrom until appropriate permits are obtained.

e. No permit shall be required for installation of wires to operate electrical bells, gas lighting apparatus, house annunciators, burglar alarms, telephone, telegraph, watch clock, intercom, fire alarm or similar instruments if current operating the same is less than twenty-five (25) volts potential.

f. When any wiring or apparatus is installed in such manner that the same could be used for electric light and power purposes under this Article, it shall be deemed that said wiring or apparatus is to be used for such purpose and inspection made as provided for such usage. (Ord. No. O-96-36, 4-24-96, effective 6-1-96) (Ord. No. 0-2008-109; 9/10/08)

Sec. 6-33. No changes....

Sec. 6-34. Refusal of permit.

The Electrical Inspector may refuse to issue a permit for the installation of electric wiring, or for any additions or extensions to any building where it is deemed that the wiring done or proposed to be done is unsafe or not in accordance with this Article. If, after a permit is issued, the work installed under such permit for any reason does not comply with this Article, the Electrical Inspector shall refuse to issue a Certificate of Inspection. (Ord. No. O-96-36, 4-24-96, effective 6-1-96) (Ord. No. 0-2008-109; 9/10/08)

Sec. 6-35. Inspection; approval or disapproval.

a. Time. The Electrical Inspector must, in all cases, inspect any electrical wiring within the City within twenty-four (24) hours of receipt of notice from the electrical contractor (holidays and weekends shall not be included in this time).

b. Notice of conformance and nonconformance. On inspecting the wiring for any building, the Electrical Inspector shall leave a tag or notice attached to service that states clearly whether the wiring is approved or is to be kept open for correction. If wiring is to be kept open

for further inspection, no person shall lathe, seal or in any manner conceal any wiring until informed that such wiring has been approved by the Electrical Inspector. The Electrical Inspector shall immediately notify the electrical contractor of any defects which must be corrected within twenty-four (24) hours from said notice. (Ord. No. O-96-36, 4-24-96, effective 6-1-96) (Ord. No. 0-2008-109; 9/10/08)

Sec. 6-36. No changes...

Sec. 6-37. No changes...

Sec. 6-38. No changes...

Sec. 6-39. No changes...

Sec. 6-40. No changes...

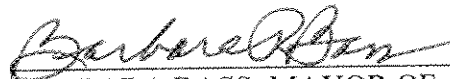
Sec. 6-41. No changes...

Sec. 6-42. No changes...

PART 4: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 5. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, or later. The publication date of the ordinance is September 12, 2008. The effective date of this ordinance is January 1, 2009.

PASSED AND APPROVED this 10th day of September, A. D., 2008.


BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK

APPROVED:


AMY C. LANDERS
CITY ATTORNEY

