



## City Council Memorandum

To: Honorable Mayor Megyesi and Members of the Fate City Council

Cc: Michael Kovacs, City Manager

Vickey Raduechel, City Secretary

Brenda McDonald, City Attorney

From: Steve Gilbert, Director of Community Services and Building Safety;

Date: March 18, 2019

**Agenda Item and Caption:** Discuss and consider an ordinance of the City of Fate, Texas amending chapter 6 Buildings and building Regulations to add article 1, Contractor registration to provide additional requirements for contractors registering with the City; providing for revocation of registration; establishing a registration fee; providing for a penalty not to exceed five hundred (\$500.00) per day with each constituting a separate violation; providing for savings, severability and an effective date.

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**Staff Recommendation:** Approval

**Background Information:** In effort to assist resident with the selection of a contractor through a credible registration scheme we propose the adoption of the attached ordinance. The current procedures of contractor registration has not been memorialized by code adoption only by policy and the current requirements for providing insurance only applies to state license holders as required by their perspective licensing authority. There are many different contractors that do not require any type of licensing much less liability insurance, therefore the proposed ordinance will require registration of all contractors meeting the definition and will ensure they provide proof of insurance.

**Options:** Approve; Deny; Deny and offer condition(s) for approval; or Table for further review.

**Financial Considerations:** annual registration fee of \$75.00 per contractor

**Supporting Documents** (enclosed):

- **Exhibit A1.** Proposed Ordinance

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF FATE, TEXAS, AMENDING CHAPTER 6 BUILDINGS AND BUILDING REGULATIONS TO ADD ARTICLE I, CONTRACTOR REGISTRATION TO PROVIDE ADDITIONAL REQUIREMENTS FOR CONTRACTORS REGISTERING WITH THE CITY; PROVIDING FOR REVOCATION OF REGISTRATION; ESTABLISHING A REGISTRATION FEE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED (\$500.00) PER DAY WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; PROVIDING FOR SAVINGS, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City desires to ensure that the contractors completing work within the City are adequately insured; and

**WHEREAS**, the City does not currently have insurance requirements for individuals registering with the City as contractors; and

**WHEREAS**, the City finds that there is a need for additional requirements for registration of contractors which will ensure that the contractors completing work within the city are adequately identified; and

**WHEREAS**, the City Council finds that it is in the best interest of the City and the residents of Fate to amend the code of ordinance as set forth below to promote the public health, safety, and welfare.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FATE, TEXAS;**

**SECTION 1.** That Chapter 6, Buildings and Building Regulations, Article 1, “In General” shall be and is hereby amended to read in its entirety as follows:

**CHAPTER 6 BUILDINGS AND BUILDING REGULATIONS**

**ARTICLE 6-1 CONTRACTOR REGISTRATION**

**Sec.6.-1 Contractor registration required.**

- (a) It shall be unlawful for any person, firm, corporation, or business entity to perform or contract to perform for compensation a construction operation (operations of any of the following descriptions: the construction, alteration, repair, extension, demolition or dismantling of buildings or structures) within the city limits without first having registered

with the City of Fate in compliance with this Article.

(b) *Exceptions:*

1. Work done by a property owner in a residential building owned and occupied by the property as the property owner's homestead is exempt from this Article.
2. Change of use or occupancy permit applicants need not be registered as a contractor to obtain certificate of occupancy.

(c) *Applicability:* This Article shall apply to persons providing construction services to include building enlargement, alteration, repair, improvement or conversion of any building or structure, or the pertinent equipment and systems for a building or structure, for which a permit is required within the city limits until such person has registered as a contractor with the city, presented either a bond or an insurance certificate to the city, and paid the associated fees in accordance with this Article. This is to include General Contractors, Plumbing Contractors, Electrical Contractors, Mechanical Contractors, Irrigation Contractors, Sign Contractors, Pool Contractors, and Home/General Repair Contractors.

**Sec. 6-2 Application for registration.**

Annually, a completed application for registration under this article shall be provided by the applicant to the Building Inspection Department containing the following information:

- 1) Proof of valid driver's license for principal and/or individual who will be completing work within the City.
- 2) Certificate of commercial general liability insurance with a minimum coverage of five-hundred thousand dollars (\$500,000.00) showing insurance coverage through the duration of the work to be performed. Plumbing contractors shall be licensed by the Texas State Board of Plumbing Examiners as required in section 1301.351 of the Texas Occupations Code.
- 3) When required to be licensed or registered by the state to perform as a contractor, proof of the appropriate state license or registration is also required at the time of registration and upon renewal of that registration.
- 4) Other information deemed necessary by the Building Official.

**Sec. 6-3 Registration and renewal.**

The fee for registration shall be seventy-five dollars (\$75.00) per year, unless specifically exempted by state law, and shall be submitted with each application for registration. Registration shall expire annually on the date of the initial registration and shall be routinely reactivated by the payment of a renewal fee if the application information remains accurate.

- a) Registration fee exemptions apply to electrical contractors per section 1305.201(f) of the Texas Occupations Code. Plumbing contractors exempt per section 1301.551(g) of the Texas Occupations Code.

**Sec. 6-4 Revocation of registration.**

A registrant's privileges under this article may be revoked, temporarily or permanently, for providing false or misleading information; failing to provide updated information within thirty (30) days of change; failing to maintain trade licensure from the appropriate agency having licensing authority; suspension of licensure; transferring or allowing another person firm, or corporation to use registration; failing to maintain general liability insurance; being convicted of at least two violations of this article or any other ordinance of the City within a twelve (12) month period, including but not limited to, convictions arising from failing to obtain required permits, failing to request required inspections, and failing to correct code violations.

**Sec. 6-5 – 6-22. – Reserved.**

**SECTION 2. Penalty Clause.** Any person, firm, corporation or business entity violating this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of five-hundred dollars (\$500.00), unless the violation relates to fire safety or public health and sanitation, including dumping and refuse, in which the fine shall not exceed the sum of two-thousand dollars (\$2,000.00). Each continuing day's violation under this article shall constitute a separate offense. The penal provisions imposed under this Chapter shall not preclude the City from filing suit to enjoin the violation.

**SECTION 3. Savings Clause.** All rights and remedies of the City of Fate, Texas, are expressly saved as to any and all violations of the provisions of the Ordinance or any other ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 4. Severability Clause.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5. Repealer Clause.** Any provisions of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provision of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Fate, Texas, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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Lorne Megyesi, Mayor

ATTEST:

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Victoria Raduechel, City Secretary

APPROVED AS TO FORM:

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Brenda N. McDonald, City Attorney