

ORDINANCE NO. 2003-34

AN ORDINANCE AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, ENTITLED "LICENSES AND BUSINESS REGULATIONS," BY DELETING THE CONTENTS OF ARTICLE I, ENTITLED "IN GENERAL," AND INSERTING A NEW ARTICLE I, ENTITLED "IN GENERAL," CONTAINING A DIVISION 1, ENTITLED "GENERALLY," AND A DIVISION 2, ENTITLED "BUILDING AND STANDARDS BOARD."

WHEREAS, the City Council of the City of Rosenberg is continually reviewing, revising and updating the provisions of the City of Rosenberg Code of Ordinances relating to the evaluation, updating, modification, and interpretation of its Building Codes (Codes) to provide for the health, safety and welfare of its residents; and

WHEREAS, the City Council of the City of Rosenberg finds and determines that it is appropriate and necessary to update provisions of the Code of Ordinances to establish the Building and Standards Board as a body to study, evaluate, review, advise, recommend updates and modifications, and interpret such Codes; and hear appeals from the building official's or fire marshal's interpretation or decision on any adopted Code; and

WHEREAS, the City Council for the City of Rosenberg finds and determines that it is in the best interest of the City to consolidate the Electrical Board, currently provided for in Chapter 13, "Licenses and Business Regulations," Division 2, "Electrical Board" and include the examination, regulation, and licensing requirements for electricians and related building trade professionals into the Building and Standards Board as provided for herein;

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

Section 1. That the City Council of the City of Rosenberg adopts the preceding preamble paragraphs as if repeated verbatim herein and find them as matters of fact.

Section 2. That Chapter 13 of the Code of Ordinances of the City of Rosenberg, entitled "Licenses and Business Regulations," be amended by deleting the contents of Article I thereof, entitled "In General," and inserting a new Article I as follows:

ARTICLE I. IN GENERAL

DIVISION 1. GENERALLY

Sec. 13-1. Exercise of police power.

This chapter shall be deemed an exercise of the police power of the state and of the city for the public safety, comfort, convenience and protection of the city and its citizens and all of the provisions hereof shall be construed for the accomplishment of that purpose.

Secs. 13-2--13-12. Reserved.

DIVISION 2. BUILDING AND STANDARDS BOARD

Sec. 13-13. Established.

There is established a board to be called the Building and Standards Board, which shall consist of five members. Such Board shall be composed of one active building contractor, one licensed master electrician, one licensed master plumber, one licensed mechanical contractor, and one representative from the city at large. The Board shall be appointed and approved by the City Council, and shall act as a Building and Standards Board, under oath of office, for all codes as listed in Chapter 6, Buildings and Building Regulations. The Board or building official shall also examine qualifications and conduct written or oral examinations for electrician's licenses and for other related building trade provisions as required in compliance with the Code or as otherwise provided by law.

Sec. 13-14. Term of office of members.

All regular terms of members of the Building and Standards Board shall be for two years and shall end in the month of May, of respective odd and even years of appointment. Vacancies shall be filled for an unexpired term in the manner in which the original appointments are required to be made. Three unexcused absences of any member from regular meetings of the Board shall, at the discretion of the City Council, render any such member liable for immediate removal from office.

Sec. 13-15. Responsibilities.

The Building and Standards Board shall be responsible for making recommendations to the City Council on any changes to the Building Codes and shall be responsible for the study of any building related changes brought before them dealing with the most recent adopted edition of the codes and/or any ordinance regulating such codes. If there is need for an in-depth study of one particular code or standard, the Board may appoint subcommittees to study and make their recommendations for any changes. Construction code changes shall be put before the

Building and Standards Board for their recommendation for action to be taken by the City Council.

Sec. 13-16. Officers; meetings.

(a) The Building and Standards Board shall establish a chairman, other officers it may deem necessary, and rules and regulations for its own procedures, not inconsistent with the rules and procedures approved by the Council.

(b) The city building official shall act as secretary of this Board and shall keep detailed records of all proceedings, set forth reasons for determinations, the vote of each member, the absence of any member, and any failure of a member to vote.

(c) The Board shall meet as necessary, but not less than once a year to review new additions of adopted codes, new codes, and to recommend code changes to the City Council or in any event, the Board shall meet within ten days after notice of appeal has been received.

(d) Any three members of the Board shall constitute a quorum. In varying an application of any provisions of the most recent adopted edition of the codes adopted by this chapter, and/or any ordinance regulating such codes, or in modifying an order of the building official or fire marshal, affirmative votes of the majority present, but not less than four affirmative votes shall be required. A Board member shall not act in a case in which he has a personal interest.

(e) All meetings shall be held in accordance with law.

Sec. 13-17. Appeals authorized.

(a) Any person aggrieved by any interpretation or decision by the building official or fire marshal under any of the adopted codes, or when it is claimed that the provisions of the Codes in question do not apply or that any equally good or more desirable form, method or material can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations in a code have been misconstrued or wrongly interpreted shall appeal to the Building and Standards Board. The Board shall also hear appeals to the building official's decisions regarding the issuing of licenses or permits. Notice of appeal shall be in writing and filed within ten days after the decision is rendered by the building official or fire marshal. The notice of appeal shall include a statement as to whether applicant has previously had any contact or discussed the matter made the basis of appeal with any Board member; all information needed by the Board for its review, including a copy of all correspondence between applicant and the City; all written requests made to the City; and any additional information requested by the Board. Failure of applicant to timely produce information requested by the Board shall cause the appeal to be dismissed.

(b) In case of an unsafe or dangerous situation created by the contractor on any of the codes, the building official may in his order limit the time for such appeal to a shorter period.

Sec. 13-18. Determinations.

(a) A determination of the Building and Standards Board to vary the application of any provision of any code within its authority or to modify an order of the building official or fire marshal shall specify in what manner such variation or modification is made and the conditions upon which it is made and the reasons for the determination. All variations, modifications or conditions made by the Board shall meet the minimum code requirements.

(b) The Building and Standards Board, when so appealed to and after a public hearing, may appeal to City Council for consideration to vary the applications of any provisions of the codes adopted by this chapter and/or any ordinance regulating such codes, in any particular case, when, in its opinion, the enforcement of such codes would be manifest injustice, and would be contrary to the spirit and purpose of a code or the public, or when, in its opinion, the interpretation of the building official or fire marshal should be modified or reserved.

(c) Every determination of the Building and Standards Board shall be subject, however, to such remedy as any aggrieved party might have on appeal to the City Council. The determination of the Board shall be in writing and shall indicate the vote of its members. Every determination shall be promptly filed in the office of the building official and shall be open to public inspection; a certified copy shall be sent by mail or otherwise to the appellant, and a copy shall be kept publicly posted in the office of the building official for two weeks after filing.

(d) The Building and Standards Board shall, in every case, reach a determination without unreasonable or unnecessary delay.

(e) If a determination of the Building and Standards Board reverses or modifies a refusal, order or disallowance of the building official or fire marshal, or varies the application of any provisions of the codes affected by this article, the building official or fire marshal shall immediately take action in accordance with such determination, subject however, to such appeal to the City Council.

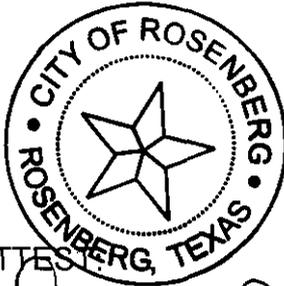
Secs. 13-19 – 13-25 Reserved.

Section 3. That the provisions of this Ordinance shall be included and incorporated in the Code of the City as an addition or amendment thereto.

Section 4. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

Section 5. Severability. If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reasons held or declared to be unconstitutional, inoperative, or void, such holdings of invalidity shall not affect the remaining portions of this Ordinance and it shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part herein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if part or parts had not been included herein.

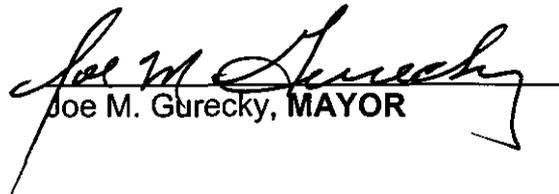
PASSED AND APPROVED by a vote of 6 "ayes" in favor and 0 "no's" against on this first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on this, the 15th day of July, 2003.



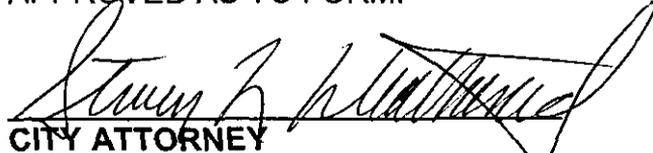
ATTEST:


Lyn Adolphus, CITY SECRETARY

APPROVED:


Joe M. Gurecky, MAYOR

APPROVED AS TO FORM:


CITY ATTORNEY

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