

ORDINANCE NO. 2009-0-6A

AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS AMENDING ORDINANCE NO. 2008-0-9B AND SECTION 5-19 OF THE CODE OF ORDINANCES OF THE CITY OF ANGLETON ESTABLISHING REGISTRATION REQUIREMENTS FOR CONTRACTORS, SUBCONTRACTORS AND ANYONE DOING CONSTRUCTION, REPAIR WORK, LABOR OR CONSTRUCTION SERVICES WITHIN THE CITY TO REGISTER WITH THE CITY AND TO PROVIDE PROOF OF LIABILITY INSURANCE OR TO BE LICENSED BY THE TEXAS RESIDENTIAL CONSTRUCTION COMMISSION; ESTABLISHING AN EXPIRATION DATE OF ONE YEAR FROM THE DATE OF ISSUANCE OF THE CERTIFICATE OF REGISTRATION; ESTABLISHING A REGISTRATION FEE; PROVIDING EXEMPTIONS; PROVIDING FOR A PENALTY NOT TO EXCEED \$500 FOR EACH VIOLATION AND MAKING EACH DAY OR PORTION OF A DAY THE VIOLATION CONTINUES A SEPARATE VIOLATION; PROVIDING FOR AN OPEN MEETINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER AND A SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE CLAUSE AND FOR OTHER PURPOSES.

WHEREAS, on the 23rd of September, 2008 the City Council enacted Ordinance No. 2008-O-9B requiring contractors and others doing construction repair work in the City of Angleton, Texas to register with the City under certain circumstances; and

WHEREAS, Ordinance 2008-0-9B failed to provide for a process to register, for revocation of a certificate of registration and for an appeal from a denial of same and for other matters related thereto; and

WHEREAS, the City Council finds it in the public interest to amend Ordinance 2008-0-9B:

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

SECTION 1. FINDINGS. The forgoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part of this Ordinance for all purposes as findings of fact.

SECTION 2. That Ordinance No. 2008-0-9B and Section 5 – 19 of Chapter 5 “Buildings and Building Regulations” of the Code of Ordinances of Angleton, Texas are hereby amended to read as follows:

Section. 5 – 19. Registration of contractors, builders, and others providing construction or labor on building, remodeling, or repair to structures and providing exemptions.

(a) “Any person, firm, corporation or other legal entity that is required to secure a permit from or consent of the building department or any other administrative department of the City of Angleton, Texas, prior to commencing any construction, repair, work, labor or other construction or building service within the corporate limits of the City, shall be required to be registered with the City and to furnish the building inspector or other appropriate department head, having the authority to issue the permit or to give the necessary consent, valid certificates of insurance evidencing that the person, firm, corporation, or other legal entity has in full force and effect a valid public liability, construction liability, builders risk or another liability insurance policy adequate to protect the City and its citizens from injuries and damages and claims for injuries and damages due to construction defects in design, workmanship and materials. The liability policy shall be issued by an insurance company licensed to do business in the State of Texas having at least an A- rating with Best Rate Carriers. In the event the person, firm, corporation or other legal entity is not exempted from the requirements of this Section under Subsection (d), the person, firm, corporation, or other legal entity shall provide liability insurance in an amount not less than five hundred thousand dollars (\$500,000) for injuries in any one accident, not less than two hundred and fifty thousand dollars (\$250,000) for injuries to any one person and two hundred and fifty thousand dollars (\$250,000) for property damages.

(b) If required to register with the City, the person, corporation, firm or other legal entity shall apply for registration to the building department on a form provided by the department. The registration fee shall be fifty dollars (\$50) which shall be payable prior to obtaining any permit or other required consent for building or construction work inside the corporate limits of the City. The fee shall be required on and after January 1, 2009. Not later than the 15th day after the building department receives an application from an applicant that meets the requirements of this section, the building official will issue the applicant a certificate of registration. The certificate of registration shall be good for one year from the date of issuance and shall expire at the end of one year from the registration date. The certificate of registration may be revoked at any time during the year of its validity for any of the following reasons:

- (1) fraud or deceit in obtaining registration;
- (2) failure to obtain a building permit or violation of other provisions of the Code of Ordinances of the City or of any applicable state or federal law;
- (3) publishing a false or misleading advertisement or making a false or misleading representation;
- (4) acting as a contractor or builder using a name or names other than the name or name the registration is issued under; or
- (5) abandoning without justification, any home improvement or other construction project undertaken.

Within 15 days of any decision regarding the application for registration or the revocation of any certificate of registration, the applicant will receive a notice in writing of action on the application from the building official. Any applicant aggrieved by a denial by the building official to issue a certificate of registration, the revocation of such a certificate or a stop work order issued by the building official may appeal to the City Council by making a written application for such an appeal to the City Manager or his designee within ten days of the decision denying or revoking the certificate of registration or from the date of notification of the stop work order. The City Council will hear any timely and complete application for appeal within 30 days of the receipt of the applicant's appeal. The City Manager or his designee shall notify the applicant of the City Council's decision on the appeal within five (5) business days of the hearing.

(c) It shall be unlawful for any person, firm, corporation or other legal entity not exempt from the requirements of this Section under subsection (d), to construct, build, alter, repair or remodel any residence, building, structure or concrete paving without first having registered with the building department and to have provided a copy of their liability insurance policy meeting the requirements of this section. The City shall have the right to stop the work of any noncompliant contractors, builders or others providing construction or labor, building, repair, remodeling or alteration of a building, structure or concrete paving until those contractors, builders or others become compliant.

(d) The following are exempt from the requirements of this Section:

- (1) Any homeowner who, alone or with the assistance of the individual's employees or family, performs work on their residence which is either their lawful homestead or is used by the individual as the individual's primary residence for at least one year after the completion or substantial completion of the construction, repair, remodeling or other alteration of the house or any portion thereof.
- (2) Any person, firm, corporation or other legal entity that has a current valid certificate of registration issued by the Texas Residential Construction Commission.

(e) Any person, firm, corporation or other legal entity violating any of the provisions of this Section, including without limitation, providing false information to a city official concerning registration under this Section or compliance with this Section shall, upon conviction, be fined not more than \$500. Each day or portion of a day during which any violation continues shall be a separate offense.

SECTION 3. SEVERABILITY. If any section or part of this Ordinance is held to be unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reason thereof shall be ineffective or inapplicable, such unconstitutionality, illegality,

invalidity, or ineffectiveness of such section or part shall in no way effect, impair or invalidate the remaining portion or portions thereof but to such remaining portion or portions, the same shall remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4. SAVINGS AND REPEALER. All provisions of the Code of Ordinances of the City of Angleton, Texas that are in conflict with the provisions of this Ordinance are repealed to the extent of that conflict only. All the remaining provisions of the Code of Ordinances that are not in conflict with this Ordinance shall remain in full force and effect.

SECTION 5. OPEN MEETINGS. The City Council has found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of this meeting was given as required by the Texas Open Meetings Act, Chapt. 551, Tex. Gov't Code, as amended, and that a quorum was present.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be effective not less than ten days from the date of its passage in accordance with the City Charter and the City Secretary is hereby directed to cause the caption of this Ordinance to be published in the official newspaper of the City at least once within ten days after the passage of the Ordinance.

PASSED AND APPROVED on the _____ day of _____, 2009.

CITY OF ANGLETON, TEXAS:

By: _____
J. Patrick Henry, Mayor

ATTEST:

By: _____
Shelly Deisher, City Secretary

APPROVED AS TO FORM:

By: _____
Herbert L. Prouty, Interim City Attorney