

ORDINANCE NO. _____

DRAFT

AN ORDINANCE REPEALING CHAPTER 5 BUILDING AND BUILDING REGULATIONS IN ITS ENTIRETY, ARTICLE II OF CHAPTER 6 FIRE PREVENTION AND PROTECTION, AND ARTICLE V AND VII OF CHAPTER 16 STREETS AND SIDEWALKS, AND ADOPTING A NEW CHAPTER 5 – BUILDING AND BUILDING REGULATIONS OF THE CODE OF ORDINANCES;

WHEREAS, the City of Alamo Heights desires to adopt a revised Chapter 5 of the City Code of Ordinances to enhance the regulation of property maintenance and building activities based on best management practices; and

WHEREAS, it's imperative for the City of Alamo Heights to maintain current and up-to-date regulations for the protection of its citizens and efficient city operations; and

WHEREAS, the City of Alamo Heights desires to comply with all state regulations; and

WHEREAS, the City of Alamo Heights desires to protect the public health, safety, and welfare.

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

THAT the existing Chapter 5 of the Code of Ordinances is repealed and a new Chapter 5 – Building and Building Regulations of the Code of Ordinances is hereby adopted as follows:

“Chapter 5”

BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. GENERAL

Sec. 5-1. Administration.

Sec. 5-2. Penalty.

Sec. 5-3. Injunctive relief.

Sec. 5-4. Notice of violation.

Sec. 5-5. Stop work orders, revocation, suspension, or denial of permit.

Sec. 5-6. Authorized hours of construction.

Sec. 5-7. Non-transferability of permits.

Sec. 5-8. Appeals.

- Sec. 5-9. Effect on city's liability.
- Sec. 5-10. Preservation of ordinances.
- Sec. 5-11. Validity.
- Sec. 5-12. Fees.
- Sec. 5-13. Definitions.
- Secs. 5-14 - 5-24. Reserved.

ARTICLE II. CODES ADOPTED BY REFERENCE

- Sec. 5-25. Resolution of conflicts.
- Sec. 5-26. International Building Code, International Residential Code for One and Two Family Dwellings, International Existing Building Code, and International Energy Conservation Code adopted.
- Sec. 5-27. Same—Purpose.
- Sec. 5-28. International Property Maintenance Code adopted.
- Sec. 5-29. International Mechanical Code adopted.
- Sec. 5-30. National Electrical Code and the International Code Council Electrical Code, Administrative Provisions adopted.
- Sec. 5-31. International Plumbing Code adopted.
- Sec. 5-32. International Fire Code adopted.
- Sec. 5-33. References and terms.
- Secs. 5-34 - 5-39. Reserved.

ARTICLE III. AMENDMENTS TO ADOPTED CODES

- Sec. 5-40. Amendments to the International Building Code, International Residential Code for One- and Two-Family Dwellings,
- Sec. 5-41. Amendments to the International Existing Building Code, and International Energy Conservation Code,
- Sec. 5-42. Amendments to the International Property Maintenance Code
- Sec. 5-43. Amendments to the International Mechanical Code
- Sec. 5-44. Amendments to the National Electrical Code
- Sec. 5-45. Amendments to the International Plumbing Code
- Sec. 5-46. Amendments to the International Fire Code

Secs. 5-47 - 5-49. Reserved

ARTICLE IV. PERMIT REGULATIONS

Sec. 5-50. Permit required.

Sec. 5-51. Work without permit and expired permit procedures.

Sec. 5-52. Persons authorized to request and receive permits.

Sec. 5-53. Contractor's registration requirements.

Sec. 5-54. Permits issued by director.

Sec. 5-55. Permits subject to review by architectural review board.

Sec. 5-56. Submission of permit for review.

Sec. 5-57. Display of permit and plans required.

Sec. 5-58. Unauthorized construction

Secs. 5-59 - 5-69 Reserved.

Article V. INSPECTIONS

Sec. 5-70. City inspector.

Sec. 5-71. Authority to conduct tests.

Sec. 5-72. Authority to enter.

Sec. 5-73. Duty to enforce chapter provisions.

Sec. 5-74. Required inspections.

Sec. 5-75. Required final inspections.

Sec. 5-76. Failure to obtain or pass necessary inspections.

Sec. 5-77. Partial inspections.

Sec. 5-78. Foundation inspections.

Sec. 5-79. Framing inspections.

Sec. 5-80. Fence inspections.

Sec. 5-81. Persons authorized to conduct foundation and other structural-related inspections.

Sec. 5-82. Refusal to correct; disconnection.

Sec. 5-83. Same - Unlawful to reconnect until certificate has been issued.

Sec. 5-84. Inspection fees.

Secs. 5-85 - 5-89. Reserved.

Article VI. CERTIFICATES OF OCCUPANCY

Sec. 5-90. Certificates of occupancy required.

Sec. 5-91. Application for certificates of occupancy.

Sec. 5-92. Fees for certificates of occupancy.

Sec. 5-93. Issuance of certificates of occupancy.

Sec. 5-94. Expiration, termination, and renewal of certificates of occupancy.

Sec. 5-95. Penalty for operating without a valid certificate of occupancy.

Sec. 5-96. Temporary certificates of occupancy.

Sec. 5-97. Fees for temporary certificates of occupancy

Secs. 5-98 - 5-109. Reserved.

Article VII. MISCELLANEOUS REQUIREMENTS

Sec. 5-110. Construction security fences.

Sec. 5-111. Portable water closets at construction sites.

Sec. 5-112. Control of trash, dust and noxious matter at construction sites

Sec. 5-113. Temporary storage facilities

Sec. 5-114. Best management practices (BMP)

Sec. 5-115. Construction materials

Secs. 5-116 - 5-119. Reserved.

Article VIII. DRAINAGE REQUIREMENTS

Sec. 5-120. Drainage and control of runoff water.

Sec. 5-121. Drainage requirements.

Secs. 5-122 - 5-129. Reserved.

Article IX. DEMOLITION

Sec. 5-130. Purpose and intent.

Sec. 5-131. Scope of regulations.

Sec. 5-132. Demolition permit required.

Sec. 5-133. Permit process for demolition.

Sec. 5-134. Demolition review procedures.

Sec. 5-135. Demolition delay.

Sec. 5-136. Demolition review approval

Sec. 5-137. Moving structures

Sec. 5-138. Responsibility of the owner.

Sec. 5-139. Emergency demolitions.

Secs. 5-140 - 5-149. Reserved.

Article X. TREE PRESERVATION

Sec. 5-150. Purpose and intent.

Sec. 5-151. General provisions.

Sec. 5-152. Heritage trees.

Sec. 5-153. Registration of tree service vendors.

Sec. 5-154. Permit required.

Sec. 5-155. Fees for tree removal permits and tree service vendor registrations

Sec. 5-156. Heritage tree removal mitigation

Sec. 5-157. Prevention and control of the spread of oak wilt.

Sec. 5-158. Tree protection during construction.

Sec. 5-159. Right-of-way clearance

Secs. 5-160 - 5-169. Reserved

ARTICLE I. GENERAL

Sec. 5-1. Administration.

The provisions of this chapter shall be administered by the director, the directors' authorized designee, or the fire chief where applicable.

Sec. 5-2. Penalty.

(a). Any person or entity who 1) violates any of the provisions of this chapter, or fails to comply therewith, 2) commits any act in violation of any code adopted by reference, 3) constructs, alters, repairs, excavates, demolishes, or demolishes by neglect in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, or 4) commits, takes part, directs, or assists in any such violation or who maintains or uses any structure or premises or part thereof in which any violation exists, from which no appeal is taken, shall severally for each and every such violation and noncompliance be guilty of a misdemeanor, punishable by a fine as provided in section 1-5 of this Code. Each day any violation or noncompliance continues shall constitute a separate offense.

(b). Any owner or owners of any buildings, premises, or any part thereof, who participates in or knowingly or willingly permits any violation of this chapter, and any architect, engineer, builder, contractor, tenant or agent of any person or corporation employed in connection therewith who assists in the commission of any such violations, shall be guilty of a separate offense punishable by a fine as provided in section 1-5 of this code.

Sec. 5-3. Injunctive relief.

Any person or entity who shall fail to comply with any provision of this chapter, or who shall commit any of the acts described by this chapter, or be guilty of any of the omissions thereof, shall be liable to injunctive action prohibiting the violation of this chapter and shall be subject to being mandatorily enjoined, and shall be liable and responsible for any and all expenses that may be incurred by the city in connection with any such action, omission or other violation, including reasonable attorneys' fees.

Sec. 5-4. Notice of violation.

The director may give notice to any person or entity who violates this chapter, and such person or entity who receives such notice shall correct all violations alleged in the notice. Failure to correct any such alleged violations shall be subject to penalties under section 5-2 and injunctive relief under section 5-3.

Sec. 5-5. Stop work orders, revocation, suspension, or denial of permit.

Notwithstanding other sanctions set forth in this chapter, if any of the provisions of this chapter are not complied with, a Stop Work order in accordance with the adopted codes may be placed on the property and the permit may be revoked or suspended by the director. If a person has not followed the terms, conditions or specifications of this chapter in work done pursuant to a prior permit and such work has not been corrected, new permits may be denied or additional requirements may be imposed.

Sec. 5-6. Authorized hours of construction.

(a). Work activity including, but not limited to, erection, excavation, demolition, construction, alterations or repairs on any building or other structure, is restricted to the hours of 7:00 a.m. to 8:00 a.m. for work preparation activities, 8:00 a.m. to 5:00 p.m. for actual work activities and 5:00 p.m. to 6:00 p.m. for work cleanup activities and vacation of the site, Monday through Friday.

Exceptions: This subsection shall not apply to the following: (1) Any work performed by the homeowner or business owner without contracted labor or contracted assistance; (2) interior painting and exterior painting performed by a contractor that does not generate noise audible to neighbors; (3) work of any kind performed in an enclosed building by a contractor that does not generate noise audible to neighbors; (4) the servicing of restaurant grease traps and (5) landscaping related activities (excluding earthmoving and structural improvements) performed by a contractor are not subject to this provision, except as section 10-8(e) of the Code of Ordinances may apply to such activities.

(b). Limitation on weekend and holiday work activity:

(1). There shall be no work activity on weekends or city holidays (see section 2-1 [Official holidays—Listed] or as modified by the city council), save and except for those types of work activity specifically exempted in subsection (a) above.

(2). Work activity exempted in subsection (a) above shall not take place on the city holidays of the Fourth of July, Thanksgiving, Christmas and New Year's Day.

(3). Hours of work activity set out in subsection (a) above shall apply to said exempted work activity when such work is performed on weekends and permitted holidays.

(4). Work that is permissible on weekends and holidays may otherwise be limited by the inability to secure inspections from the city on such days.

(c). Unless work activities are specifically exempted in subsections (a) and (b) above, there shall be no work prior to or after the hours listed in subsections (a) or on prohibited days without written permission issued by the director. Permission may be given for work that cannot be performed during the allowed hours and days of construction due to extenuating circumstances that might be detrimental to the property, or for work that would, if delayed, be or create a hazard to public health and safety. Requests for exemption to the authorized hours of construction beyond what is already permitted must be submitted in writing at least 3 days prior to proposed work request. Requests shall include 1) reason for requested exemption, 2) specific hours/days being requested, 3) number of workers proposed, 4) number of vehicles proposed, and 5) complete scope of the proposed exempted work and tools to be utilized. If granted, a copy of the approved notice must be posted on the property next to the approved building permit and be clearly visible from the public right-of-way.

(d). This section of the Code of Ordinances in no way limits or overrides the prohibitions against other violations noted elsewhere in said Code, such as the prohibition against the creation of noise nuisances [section 10-8].

Sec. 5-7. Non-transferability of permits

Permits issued under this chapter shall not be transferable from the person or entity receiving the permit to another person or entity without the written approval of the director.

Sec. 5-8. Appeals.

The city manager or city manager's designee shall act as the board of appeals referred to in the adopted codes and shall perform the functions required of the board of appeals in such codes or equivalent in any code adopted by this chapter. Any interested person dissatisfied with any ruling or action of the city's building official or fire chief regarding any code adopted by reference in this chapter may request an appeal. Appeals must be submitted in writing to the director's office for review. Any ruling by the city manager or designee shall be final.

Sec. 5-9. Effect on city's liability.

No permit or certificate of inspection that the work therein referred to has been installed in conformity with the requirements of the city's codes may be the basis of any claim against the city because the owner of the premises, the contractor and all other persons concerned shall be

obligated to see that all matters, things and acts to which this chapter and such permit or certificate relates shall conform to the regulations of the city.

Sec. 5-10. Preservation of ordinances.

The provisions of this chapter shall take precedence over those of any other code provision, except Chapter 3 Zoning, which may contain provisions that are less restrictive than those specified in this chapter. However, nothing contained in this chapter shall mitigate, interfere with, alter or repeal any provisions of any other ordinance of the City of Alamo Heights not in conflict with the provisions of this chapter.

Sec. 5-11. Validity.

If any section, paragraph, subdivision, clause, phrase or provision of this chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this chapter as a whole or any other provision thereof other than the part so decided to be invalid or unconstitutional.

Sec. 5-12. Fees

(a). Fees for the processing and issuance of plan reviews, permits, inspections, registrations, licenses or certificates shall be adopted annually by city council and listed in the schedule of development fees. A copy of the schedule of development fees shall be kept on file in the director's office.

(b). All plan review fees and administrative fees shall be due upon receipt of applications.

(c). All remaining balances, if applicable, shall be due upon issuance of any permits, inspections, registrations, licenses, or certificates.

(d). The total valuation used to compute the permit fee shall be: (a) the cost of the project to the owner if the work is contracted for, with a copy of a builder's quote or contract being presented to document such cost, or (b) the cost of the project to the owner as though the work was contracted for, with an accurate estimate being presented to document such cost. In the case that neither a builder's quote, contract or accurate estimate is presented to document the cost of the work, the director shall seek alternative estimates or may use the R.S. Means Construction Estimating guide, adjusted for the San Antonio area, as a guide in determining the building fee.

(e). In the event that the work for which a permit has been issued as authorized in this chapter has not been started, the director may, upon written request from the applicant to cancel the permit, refund the permit fee, less an administrative charge equivalent to fifteen percent (15%) of the permit fee but not less than \$75.

(f). The director shall have the authority to waive or reduce any fees provided for in the adopted schedule of development fees for public agencies, licensees, franchisees, certificated telecommunications providers and contractors which provide the city with construction or other permitted services.

Sec. 5-13. Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Accessory building or structure(s) shall mean a structure which is built, constructed, or placed and which is detached from a principal structure on the same tract of land, and customarily incidental and subordinate to the principal structure or use and which does not contain a postal address. Accessory structures include but are not limited to arbors, detached garages, garden utility sheds, decks, detached gazebos, temporary storage facilities, and swimming pools.

Authority having jurisdiction as referenced within the adopted National or International Codes shall refer to the City of Alamo Heights.

Building: see *structure*

Building Official shall refer to the officer or other designated authority charged with the administration, interpretation and enforcement of this chapter.

Building Shell means the architecture of the exterior enclosure of a building, including the framework, the perimeter/exterior walls, the building core and columns, and other structural, load-bearing elements of the building but does not include installation of typical finish out materials such as interior wiring, interior plumbing, mechanical equipment, sheetrock, paint, drop-ceilings, other finish materials not listed.

Certified Arborist – An individual certified by the Certified Arborist Program of the International Society of Arboriculture (ISA).

City shall refer to the City of Alamo Heights.

City inspector shall refer to the city’s building official, fire inspector, or their designee.

Compatibility shall mean harmony with the established neighborhood, site configurations, development patterns, and the character of the development envelope found within the adjacent and immediate block area, as demonstrated in the demolition review application, including roof pitch, scale, massing, garage and driveway location and setbacks. Adjacent and immediate block area shall include but not be limited to all properties along:

1. the specific block where the project is proposed,
2. the block to the each side of the project’s block, and
3. the blocks directly across the street the three blocks identified above.

Contractor, whether General or Tradesman, means any person who sells, constructs, or supervises or manages the construction of, or contracts for the construction of or the supervision or management of the construction of any work as regulated by this chapter.

Critical Root Zone – The area measured as one foot of radial distance outward from the trunk for every inch of tree diameter at DBH.

Demolition shall mean any intentional or unintentional act of dismantling, pulling down, destroying, removing, razing or moving a structure or any structural portion thereof, or commencing the work of moving or of total or substantial destruction of a structure or portion thereof. For the purposes of demolition review as described in Article IX, demolition is defined quantitatively as:

- (1) Removal or encapsulation of more than twenty-five percent (25%) of the framed structure of exterior walls facing public streets, or a street-facing elevation if the tract of land is landlocked; or,
- (2) Removal or encapsulation of more than fifty percent (50%) of the framed structure of all exterior walls and/or roofs.

Exception: Ordinary Repair and Maintenance.

Those activities which constitute ordinary repair and maintenance include but are not restricted to:

- a) Repair using the same material and design as the original;

- b) Repainting, using the same color; and
- c) Reroofing, using the same type and color of material.

Department of Community Development shall refer to the department which administers 1) permits, 2) plan reviews, 3) building, trade, and health inspections, 4) applications and processes for boards and commissions review, and 5) special events. This department shall act as the Department of Building Safety as described in the adopted building codes.

Diameter at Breast Height (DBH) – Diameter (diameter = circumference divided by pi or approximately 3.142) at breast height of a tree trunk measured at a height of four feet and six inches (4' 6") above natural grade.

Director shall refer to any director, chief, or their designee as assigned by the city manager.

Drainage type shall mean the following:

Type A means all drainage flow for a property is designed to flow towards the front property line and to a point of discharge at the street or right-of-way.

Type B means all drainage flow for a property is designed to split and flow both to the front property line and the rear property line and to points of discharge at the street, alley, or right-of-way.

Type C means all drainage flow for a property is design to flow towards the rear property line and to a point of discharge at the street, alley, or right-of-way.

Earth Fill shall mean raising grade by means of filling in excess of three (3) feet above natural ground level at any point. Maximum slope for earth fills shall not exceed a ratio of three (3) to one (1), a rise of one (1) foot height to three (3) foot horizontally.

Encapsulation shall mean to enclose, cover up, or build over the top of an existing structure whether the existing structure to be covered is removed or not.

General contractor shall refer to any person who shall oversee, supervise, manages, or aids in construction as regulated by this chapter and who is responsible for multiple tradesman.

Heritage Tree shall mean any tree or shrub which meets the minimum trunk size requirements as defined in section 5-152 of this Ordinance.

Improvement shall mean any of those things which require a permit, such as buildings (either permanent or temporary), land development, concrete or asphalt paving, swimming pools, fences, retaining walls, earth fill, or excavation and landscaping.

Main building or structure(s) shall mean a principal structure(s) which contains the primary occupancy or use and includes a postal mailing address.

Material Improvement shall mean a modification to an existing building that either increases or decreases the building's total square footage or modifies a buildings foundation, exterior walls, or structural roof components.

Oak wilt – A fungus that attacks oak trees by plugging water-conducting vessels, reducing flow of water up the stem of the tree, often causing leaves to wilt and fall prematurely and can travel up to 75 feet in every direction to affect other oak trees.

Owner: Any person, agent, operator, firm, trust, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Permanent foundation shall refer to any underlying or substructure for a framed structure above which support the exterior walls.

Person shall include any contractor, business, corporation, partnership, owner, or other entity as well as an individual.

Premises shall mean a lot, plot or parcel of land including any structure thereon.

Registered Tree Service Vendors – Private businesses that provide tree services to property owners and are registered with the City of Alamo Heights.

Significant structure shall mean any structure or portion thereof that in whole or in part meets one or more criteria in section 5-134(f), and has been so determined by the city council.

Storm water & Drainage Plan (SDP): The drainage and storm water management plan which provides all necessary plan sheets, profiles, hydraulic calculations, culvert pipe size & locations, detention basin, and all other necessary information which has been prepared, sealed and signed by a registered Professional Engineer for a particular residential, commercial, or industrial development.

Structure, main or accessory, shall mean anything built or constructed, whether above or below grade, which is occupied or intended for supporting or sheltering any use or occupancy.

Tradesman shall refer to any person who shall oversee, supervise, manages, or aids in construction as regulated by this chapter but who shall act under a single function such as mechanical, electrical, plumbing, landscaping, roofing, and general maintenance work.

Secs. 5-14—5-24. Reserved.

ARTICLE II. CODES ADOPTED BY REFERENCE

Sec. 5-25 Resolution of conflicts.

Whenever any conflict shall occur between the international codes and the national code, the most restrictive shall apply. When a conflict exists between any adopted code and this Code, this Code shall prevail.

Sec. 5-26. International Building Code, International Residential Code for One and Two Family Dwellings, International Existing Building Code, and International Energy Conservation Code adopted.

There are hereby adopted by reference the International Building Code (I.B.C.), 2009 edition, inclusive of ANSI A117.1 current edition as indicated in Chapter 11 Accessibility, the International Residential Code for One- and Two- Family Dwellings (I.R.C.), 2009 edition, inclusive of Appendix G Swimming Pools, Appendix H Patio Covers, and Appendix K Sound Transmission, the International Existing Building Code (I.E.B.C.), 2009 edition, and the International Energy Conservation Code (I.E.C.C.), 2009 edition, all as published by the

International Code Council, Inc., save and except such portions of such codes as are hereinafter deleted, modified or amended, or inconsistent with or in conflict with any other provisions of this Code of Ordinances or any statute of the State of Texas, and the same are hereby adopted and incorporated herein as fully as if set out verbatim herein.

State law references: International Building Code applicable statewide as municipal commercial building code, V.T.C.A., Local Government Code § 214.216, International Residential Code as statewide municipal residential building code, V.T.C.A., Local Government Code § 214.212; residential and building codes not applicable to electrical wiring and components, V.T.C.A. Local Government Code § 214.213

Sec. 5-27. Same—Purpose.

The purpose of the codes as adopted by reference in section 5-26, 5-28, 5-29, 5-30, 5-31, and 5-32 shall be to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, height, area and maintenance of buildings, or other structures, including, but not limited to, signs, within the city, and provide for the issuance of permits and collection of fees therefore, and establish fire districts.

Sec. 5-28. International Property Maintenance Code adopted.

There is hereby adopted by reference the International Property Maintenance Code (I.P.M.C.), 2009 edition inclusive of Appendix A Boarding Standard, as published by the International Code Council, Inc., save and except such portions of such code as are hereinafter deleted, modified or amended, or inconsistent with or in conflict with any other provisions of this Code of Ordinances or any statute of the State of Texas, and the same is hereby adopted and incorporated herein as fully as if set out verbatim herein.

State law reference: Property rehabilitation code applicable statewide as municipal commercial building code, V.T.C.A., Local Government Code § 214.215.

Sec. 5-29. International Mechanical Code adopted.

There are hereby adopted by reference the International Mechanical Code (I.M.C.), 2009 edition, and the International Fuel Gas Code (I.F.G.C.), 2009 edition, as published by the International Code Council, Inc., save and except such portions of such code as are hereinafter deleted, modified or amended, or inconsistent with or in conflict with any other provisions of this Code of Ordinances or any statute of the State of Texas, and the same are hereby adopted and incorporated herein as fully as if set out verbatim herein.

Sec. 5-30. National Electrical Code and the International Code Council Electrical Code, Administrative Provisions adopted.

There are hereby adopted by reference the National Electrical Code (N.E.C.), 2008 edition, as recommended by the National Board of Fire Underwriters, and the International Code Council Electrical Code - Administrative Provisions, 2009 edition, as published by the International Code Council, Inc., save and except such portions of such codes as are hereinafter deleted, modified or amended, or inconsistent with or in conflict with any other provisions of this Code of Ordinances or any statute of the State of Texas, and the same are hereby adopted and incorporated herein as fully as if set out verbatim herein.

State law reference: National electrical code applicable statewide for construction in municipalities, V.T.C.A., Local Government Code § 214.214.

Sec. 5-31. International Plumbing Code adopted.

There are hereby adopted by reference the International Plumbing Code (I.P.C.), 2009 edition, and the International Private Sewage Disposal Code, 2009 edition, as published by the International Code Council, Inc., save and except such portions of such codes as are hereinafter deleted, modified or amended, or inconsistent with or in conflict with any other provisions of this Code of Ordinances or any statute of the State of Texas, and the same are hereby adopted and incorporated herein as fully as if set out verbatim herein.

State law reference: Municipal authority concerning plumbing and house draining, V.T.C.A., Local Government Code § 214.012.

Sec. 5-32. International Fire Code adopted.

There are hereby adopted by reference the International Fire Code, 2009 edition, inclusive of Appendix B Fire Flow for Buildings, Appendix C Fire Hydrant Location and Distribution, Appendix D Fire Apparatus Access Roads, and Appendix E Hazard Categories, as published by the International Code Council, Inc., save and except such portions of such codes as are hereinafter deleted, modified or amended, or inconsistent with or in conflict with any other provisions of this Code of Ordinances or any statute of the State of Texas, and the same are hereby adopted and incorporated herein as fully as if set out verbatim herein.

Sec. 5-33. References and terms.

(a). Wherever the term "administrative authority" is used in the adopted codes, it shall be construed to mean the city's building official, fire chief, or their designee.

(b). Whenever the term "assistants" is used in the adopted codes, it shall be construed to mean the city inspectors such as but not limited to the city's building official, fire inspector, or any private third party inspector.

Secs. 5-34—5-39. Reserved.

ARTICLE III. AMENDMENTS TO ADOPTED CODES

Sec. 5-40. Amendments to the International Building Code, International Residential Code for One- and Two-Family Dwellings

(a). International Building Code

(1). Section 103.1 Creation of enforcement agency shall be amended to read as follows:

The Department of Community Development is hereby created and the official in charge of code administration, interpretation and enforcement shall be known as the building official.

(2). Section 105.2 Work exempt from permit is hereby deleted but deletion does not include sections 105.2.1 Emergency Repairs, 105.2.2 Repairs, or 105.2.3 Public service agencies.

(3). Section 1507.8 Wood Shingles shall be deleted in its entirety and replaced with section 1507.8 Wood Shingles Prohibited to read as follows:

Wood shingles shall be prohibited for all new construction.

(4). Section 1507.9 Wood Shakes shall be deleted in its entirety and replaced with section 1507.9 Wood Shakes Prohibited to read as follows:

Wood shakes shall be prohibited for all new construction.

(b). International Residential Code for One & Two-Family Dwellings

(1). Section R103.1 Creation of enforcement agency shall be amended to read as follows:

The Department of Community Development is hereby created and the official in charge of code administration, interpretation and enforcement shall be known as the building official.

- (2). Section R105.2 Work exempt from permit is hereby deleted but does not include sections R105.2.1 Emergency Repairs, R105.2.2 Repairs, or R105.2.3 Public service agencies.
- (3). Table R301.2(1) of the International Residential Code is deleted and replaced with the following:

Ground Snow Annual	Wind Speed (mph)	Seismic Design Cat.	Subject to Damage From				Winter Design Temp.	Ice Barrier Underlayment Req'd	Flood Hazards	Air Freezing Index	Mean Ann. Temp.
			Weathering	Frost line depth	Termite	Decay					
5	90	A	Negligible	6"	Moderate to Heavy	Slight to Moderate	30'	No	Local Ord. Chapter 7	16	68.7'

- (4). Section R905.7 Wood Shingles shall be deleted in its entirety and replaced with section 905.7 Wood Shingles Prohibited to read as follows:
Wood shingles shall be prohibited for all new construction.
- (5). Section R905.8 Wood Shakes shall be deleted in its entirety and replaced with section 905.7 Wood Shakes Prohibited to read as follows:
Wood shakes shall be prohibited for all new construction.
- (6). Chapters 35 – 43 'electrical provisions' are hereby deleted in their entirety.

Sec. 5-41. Amendments to the International Existing Building Code, and International Energy Conservation Code

- (a). No amendments adopted

Sec. 5-42. Amendments to the International Property Maintenance Code

- (a) Section 108.2 Closing of vacant structures shall be amended to include section 108.2.2 Standards for securing buildings to read as follows:

The boarding of the doors, windows or other openings of any building or structure or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, shall comply with the following minimum standards:

- 1) Securing by boarding. Windows and similar openings shall be boarded with exterior grade plywood of a minimum thickness of five-eighths (5/8) inch nominal or its equivalent. Vent holes may be required, as deemed necessary by the city. The plywood shall be secured in place by 2 x 4 or 4 x 4 cross members, secured to the plywood by three-eighths (3/8) inch plated carriage bolts with large washers at each end and with the cross member turned so that the carriage bolt goes through the larger dimension. Bolts used to secure the cross member shall be threaded to the correct length. A minimum of two (2) cross members shall be used on each window and, depending on the size of the opening, additional cross members may be required. Each cross member shall be a continuous piece of lumber, and each must extend at least one (1) foot past the window opening in each direction. Bolts and nuts used to secure the cross members to the plywood must be tightened enough to slightly deflect the wood. Bolt heads must fit tightly against the wood and not give a surface for pliers or pry bars.
- 2) Exterior doors. Exterior doors shall be boarded with exterior grade plywood of a minimum thickness of five-eighths (5/8) inch nominal or its equivalent, fitted to the entry doorjamb with maximum one-eighth (1/8) inch clearance for each edge. The existing door should be removed and stored inside the building. The plywood shall be attached to three (3) horizontal 2 x 4 wooden crossbars each with two (2) three-eighths (3/8) inch

carriage bolts and matching hardware. The plywood shall be attached to the door entry with three case hardened strap hinges of the types specified by the building official and the plywood shall be secured by a case hardened steel hasp and minimum two-inch case hardened padlock also of the type specified by the city.

- 3) Painting of boarded openings. All boarded openings shall be painted with a minimum of one (1) coat of exterior paint, which is of a color compatible with the exterior color of the building or structure.
- 4) Alternative methods of securing a building. Upon written request submitted to the city, the building official may approve alternative methods of securing a vacant and unoccupied building or structure. In making the determination to approve any alternative method, the city shall consider the aesthetic and other impacts of such method on the immediate neighborhood and the extent to which such method provides adequate and long-term security against the unauthorized entry to the property.

Sec. 5-43. Amendments to the International Mechanical Code

- (b). No amendments adopted

Sec. 5-44. Amendments to the National Electrical Code

(a) Section 210.24 Branch-Circuit Requirements – Summary inclusive of Table 210.24 is hereby amended to require the minimum size of conductors for branch circuits and feeder wiring to be minimum No. 12 AWG copper for 15 amp circuits.

Sec. 5-45. Amendments to the International Plumbing Code

- (c). No amendments adopted

Sec. 5-46. Amendments to the International Fire Code

- (a). Section 3301.1.1 shall be amended to delete all listed exceptions.
- (b). Section 3404.2.7.3.5.1 Above Ground Storage Tanks shall be amended to read as follows:
 - (1). There shall be no flammable or combustible liquids stored in above ground tanks within the City of Alamo Heights with the following exception(s):
 - a. For road construction projects, containers must be approved, in a secure location, and approved by the fire marshal. Each project shall be reviewed on a case by case basis but in no case shall the liquids stored exceed 500 gallons of capacity.
 - b. In the event of a large scale natural or man-made disaster with approval by the fire chief or his / her designee.
- (c). Section 3806.1 shall be amended to read as follows:
 - (1). There shall be no dispensing / filling of LPG containers within the City of Alamo Heights with the following exception(s):
 - a. From an approved location (Service Station) by the city and only by a qualified attendant.
 - b. Local deliveries can be made via truck to fill approved tanks.
- (d). Chapters 11 Aviation Facilities, 16 Fruit and Crop Ripening, 18 Semiconductor Fabrication Facilities, 20 Manufacture of Organic Coatings, and 45 Marinas shall be deleted in their entirety and all such uses are hereby prohibited.

5-47 - 5-49. Reserved

ARTICLE IV. PERMIT REGULATIONS

Sec. 5-50. Permit required.

(a). Any person, owner or authorized agent who, within city limits, intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any smoke, fire, electrical, gas, mechanical or plumbing system, which are regulated by this chapter, or to cause any such work to be done, shall first make application to the City and obtain the required registration.

(b). It shall be unlawful for any person, owner or authorized agent to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any fence, wall, building, sign, pavement or structure in the City of Alamo Heights, or cause the same to be done, without first obtaining a permit for such work from the director. Without a valid permit, no new construction of any type shall be undertaken, nor shall any improvement, alteration or change be made to any property or structure within the city limits for any of the following:

- (1). framing, foundation or envelope [including exterior and interior finishes] of any building, fence or any structure, [including demolition],
- (2). fire protection or prevention systems,
- (3). landscaping on any property, other than single family or duplex residential units,
- (4). electrical wiring of any building, nor shall any building within the limits of the city be wired for the placing therein of electric lights, motors, heating devices or other electrical apparatus, except telephones,
- (5). mechanical, plumbing, sewer and gas systems of any property or structure,
- (6). the city's right-of-way {ref. Chapter 16},
- (7). grade alteration which creates an earth fill in excess of three (3) feet above natural ground level at any point;

(c). No permit shall be required for minor repairs or routine maintenance. Minor repairs or routine maintenance shall include work such as:

- (1). refinishing wood floors, painting, papering, tiling, carpeting, or installing cabinets, counter tops and similar finish work;
- (2). the replacement of shingles, siding, fascia trim, decking, exterior doors and windows;
- (3). Installing swings and other playground equipment accessory to a one or two-family dwelling;
- (4). minor landscaping, including the replacement of or the planting of small bushes, trees, shrubs in quantities less than twelve (12) pieces, and which do not require excavation to a depth greater than twenty-four (24) inches;
- (5). replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles;
- (6). replacement of fuses and bulbs, light globes, fluorescent or neon tubes, damaged motors, defective receptacles, switches, cords or minor parts of existing equipment already installed under a previous permit;
- (7). replacing filters, portable household appliances, or plumbing fixtures such as toilets, faucets and hose bibs;
- (8). repair of leaks in drains or pipes; provided, however, that if any concealed trap or pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code; and
- (9). repair of leaks or removal of stoppages in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

(d). In an emergency or in the case of emergency repairs, the extent of which cannot be determined beforehand, it will be permissible for the permit to be taken out by the next city business day after completion of the work.

Sec. 5-51. Work without permit and expired permit procedures.

(a). If work requiring a permit was started without a valid permit, and all plans and application have been reviewed for compliance with all applicable codes and ordinances, an applicant may obtain a permit by paying double the regular permit fee.

(b). Work shall begin within such period of time following issuance of the permit as may be limited in such permit and shall be completed within such further time as may be therein provided. Unless formal activity, such as specific inspections required within this chapter, are requested, completed and approved by the director's office within the prescribed time, the permit shall become inoperative and void as authority for any further work. Formal activity as described above shall act as an automatic renewal regarding the permits expiration date. Automatic renewal shall reset the expiration date to 6 (six) months from date of said formal activity.

(c). In the event that an active permit is due to or already has expired, and work remains to be accomplished under the original scope of the permit, the director may issue an extension of the permit upon written application for such action and payment of all required fee(s). Such application may be in the form of a letter to the director explaining the request and providing the same information, updated, as the original permit application.

(d). In the event that a permit is allowed to expire without an extension requested and granted, and a request for extension is submitted beyond thirty (30) days from the expiration date, the director may issue a new permit and require the applicant to pay any administrative fee and penalty fee(s).

(e). The director may, at any time and for any reason, deny any renewal request, or suspend or revoke any permit.

Sec. 5-52. Persons authorized to request and receive permits.

(a). In the absence of different guidance from a state statute or from the city council, the director shall issue permits only to those individuals noted herein.

(b). Permits shall be issued only to the property owner, or on behalf of the property owner to a registered general contractor, a registered tradesman, or a licensed/registered design professional, pursuant to this chapter. The property owner's signature is required on all submitted permits. Should the property owner desire, the owner may limit or specify others to whom he wishes to delegate authority to request and receive permits.

(c). The possession of an electrician or plumber master certification/license, with photographic identification, is required in order to obtain a permit for said tradesman.

Sec. 5-53. Contractor's registration requirements.

(a). It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building, sign or structure in the City of Alamo Heights, or cause the same to be done, unless such person, firm or corporation is the holder of a valid registration with said City to perform such work. Such person, firm or corporation shall be herein termed Registrant. In extending the rights and privileges of such registration, said City makes no statement of the technical competency of those so registered, and no manner of license is proffered.

(b). No person shall render any general construction, repair, alteration, or improvements to any structures or property as described in section 5-50(a or b) or commence or continue construction in the public right-of-way within the limits of the City of Alamo Heights unless said person or entity complies with the requirement of this chapter and Chapter 16 Streets and Sidewalks. All contractors requesting to do work that requires the issuance of a permit in section 5-50(a or b) shall be registered by the City of Alamo Heights and said registration shall be valid for a period of one (1) year. Contractors shall be registered as either a General Contractor or a Tradesman.

(c). An applicant for General Contractor registration under this article shall provide to the director the following information:

- (1). The complete name, complete mailing address and telephone number of the firm or corporation,
- (2). The name and private mailing address of a principal of the firm or corporation who is a person authorized to bind the firm or corporation in legal agreements,
- (3). If the registration is to be as an individual only, the name, mailing address and telephone number of the individual.

(d). Tradesmen working under the scope of a general contractor are required to register with the city.

(e). An application for registration as a Tradesman shall include the following:

- (1). The name, address, and telephone number(s) of the contractor(s) who will perform actual construction, including the name, address, and telephone number of an individual representative of the contractor who will be available at all times during construction.
- (2). Mechanical, Electrical and plumbing-related permits shall be issued only to State of Texas licensed and registered tradesman or their specifically designated representative even when working under the scope of a general contractor registration. Said tradesmen shall be master level or higher.

(f). Fees for contractor's registration shall be listed in the adopted schedule of development fees as maintained in the director's office.

(g). Every Registrant shall contact the office of the director to ensure the accurate revision of registration information, including any change of address or telephone number, within ten (10) days from the date that the previous information supplied in the application becomes invalid for any reason. Failure to revise inaccurate information, or providing false, misleading or inaccurate information when applying for registration, shall constitute an offense.

(f). The director may, at any time and for any valid reason, suspend or revoke a contractor's registration. The contractor shall be notified in writing, by return receipt U.S. Mail, sent to the last known address of the contractor as shown on the registration, of the contractor's right to appeal the director's decision to the city manager, and to present testimony to the city manager as to why the contractor's registration should not be suspended or revoked.

(g). The decision of the city manager shall be final. The city manager's decision for suspension or revocation of the contractor's registration shall include a time frame for the beginning date and duration of the suspension, and the beginning date of the revocation.

(h). If the registration is suspended or revoked, the contractor shall not perform any work in the City of Alamo Heights during the suspension or after the revocation which requires registration.

Sec. 5-54. Permits issued by director.

(a). Permits may be issued by the director for:

- (1). interior alterations of any structure;
- (2). exterior alterations or additions to any existing single family or duplex residence for which:
 - a. the scope of work does not meet the regulations as defined in Sec. 5-13 Definition for demolition, and when the scope of work involves any structure or project specifically exempted in subsection 5-134 (c);
- (3). exterior additions or alterations to all other structures which:
 - a. are not single family or duplex residences, and
 - b. the scope of work does not meet the regulations as defined in Sec. 5-13 Definition for demolition, and
 - c. the scope of work involves any structure or project specifically exempted in subsection 5-134 (c), and

- d. the total cost of construction does not exceed one hundred fifty thousand dollars (\$150,000.00), or
 - e. alteration or replacement of existing exterior finish materials that similarly match the existing finish materials in color, material, and visual impact regardless of the total cost of construction limitation.
 - (4). proposed demolitions in which the scope of work does not meet the regulations as defined in Sec. 5-13 Definition for demolition, or when the scope of work involves any structure or project specifically exempted in subsection 5-134 (c).
 - (5). new one & two-family dwelling construction which is not proposed for the replacement of a structure which was subject to demolition review as regulated by Article X Demolition Review.
 - (6). street lane and sidewalk closure permits {ref. Chapter 16},
 - (7). projects that do not present a potential negative impact to neighboring properties or the community, and
 - (8). miscellaneous permits not governed by demolition review or additional boards or commission's reviews.
- (b). If the application packet is complete, and conforms to the Code of Ordinances, the director shall issue the permit if satisfied that the application is accurate, true and made in good faith.

Sec. 5-55. Permits subject to review by architectural review board.

Building permits for all other demolition, new construction, additions or alterations to structures that are not exempted in items (1), (2), (3), (4), (5), (6), and (7) of section 5-54 shall be referred to the architectural review board for review. Building permits or projects subject to review by the architectural review board shall be placed on the next available city council agenda and forwarded along with the architectural review board's recommendation for final review. If disapproved by the city council, the submitted permit request shall be denied pending submittal of the requested revisions. Any disapproval by the city council shall require all revisions to be re-submitted for city council review unless specifically noted by the city council. The applicant shall supply such information concerning the proposed project as may be required by the director, architectural review board and the city council.

Sec. 5-56. Submission of permit for review.

- (a). Plans shall be submitted along with the permit application to the department of community development office for plan review and shall contain all of the information required in the city's application forms. All plans submitted for review must be submitted in accordance with the Texas Architectural Barriers and Texas Engineering Practice Acts.
- (b). New foundations for any conditioned structures must be designed by a licensed professional engineer.
- (c). Foundation repairs where a substantial amount of piers are either replaced or added to an existing foundation must be designed by a licensed professional engineer.
- (d). All applications for permit with a proposed cost of construction greater than or equal to fifty ten-thousand (\$10,000) dollars shall pay the applicable plan review fee. Fees for plan review shall be listed in the adopted schedule of development fees as maintained in the director's office. All plan review fees are non-refundable and due upon receipt of application.
Exceptions: Fire, Trade, and Sign permits shall not be required to submit plan review fees.
- (e). Once all reviews of plans are made by the city, the city shall notify the applicant that all comments, plan modifications, letters, etc., shall be incorporated onto the plans and specifications, and thereafter at least two corrected sets of plans shall be submitted to the city for final review and verification. One (1) final set of plans shall be marked "City Approved Plans--City Copy" and one (1) set of plans shall be marked "City Approved Plans--Contractor Copy".

The city copy shall remain in the department of community development for the duration of time required by State law and all adopted codes.

(f). An applicant may schedule, upon written request by application, a preliminary project review and meeting. Fees for preliminary project review and meetings shall be listed in the adopted schedule of development fees as maintained in the director's office. All fees are non-refundable and due upon receipt of application. Staff reserves the right to require a preliminary project review and meeting depending on the proposed scope of work.

(g). Even though the city's review of plans and specifications is designed to discover potential code violations, failure to discover all such violations does not relieve the property owner, designer, or contractor from the responsibility of producing an end product that is in total compliance with all requirements of the codes and ordinances as adopted by the City of Alamo Heights.

Sec. 5-57. Display of permit and plans required.

(a). Each permit is required to be displayed at the job site in a location that is easily visible to the city inspector and the general public at all times.

(b). The contractor shall maintain an original copy of the stamped approved plans at the job site and failure to have the plans at the job site shall be cause for a failure of any inspection.

Sec. 5-58. Unauthorized construction

During construction projects, certain aspects of the process may not be visible, or exposed for evaluation during the permit process. If, for any reason, the described scope of work within a permit regarding any specific code requirement is changed, altered, or revised the applicant and/or property owner shall be responsible for submitting revised plans to the director's office for review prior to proceeding with construction. Failure to submit revised plans as required herein shall be subject to penalties under section 5-2 and injunctive relief under section 5-3.

Secs. 5-59 – 5-69 Reserved.

ARTICLE V. INSPECTIONS

Sec. 5-70. City inspector.

The city inspector shall function under the general supervision of, and shall comply with all reasonable instructions consistent with this chapter given by, the director or chief.

Sec. 5-71. Authority to conduct tests.

The city inspector is hereby authorized and empowered to require tests as provided for in the adopted codes.

Sec. 5-72. Authority to enter.

Where it is necessary to make an inspection to enforce the provisions of this chapter or any other chapter of the City of Alamo Heights Code of Ordinances, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official or designee is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

Sec. 5-73. Duty to enforce chapter provisions.

The applicant shall be required to notify the city inspector that such work is ready for inspection. All inspection requests must be received one (1) business day prior to the requested inspection date. It shall be the duty of the applicant requesting any inspections required by this code to provide access to and means for inspection of such work. It shall be the duty of the city inspector to inspect during the progress of the inside, outside, overhead and underground work, and to enforce the provisions of this chapter or any ordinance now in force or which hereafter may be adopted, and to notify the person interested or concerned, of any and all violations of this chapter, and to examine and pass upon all applications for permits, and to inspect all inside and outside installations included under this chapter, and to issue certificates of inspection. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the written approval of the city inspector. The city inspector upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify in writing the permit holder or an agent of the permit holder wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the city inspector.

Sec. 5-74. Required inspections.

Inspections required are to ensure that the actual construction on-site reflects the proposed project as approved by permit. Required inspections include, but are not limited to, the following, but the absence of a particular inspection in no way relieves the contractor from securing for or providing such inspections or appropriate supervision.

(a). Building permit:

- (1). Drive approaches within city right-of-way
- (2). Footing or foundation;
- (3). Concrete slab or under-floor;
- (4). Framing;
- (5). Fire-resistance;
- (6). Roofing;
- (7). Fencing;
- (8). Shell Completion Certificate (if applicable)
- (9). Final:
 - a. Site cleaned-up;
 - b. Provided and approved plans were followed including landscaping;
 - c. Appliances and fixtures correctly placed and connected;
 - d. Construction complies with board of adjustment issued variances;
 - e. Verify overall compliance with the appropriate codes as adopted by the city and as in force at the time of the building permit;
 - f. For one and two-family structures only, the building final inspection shall act as the certificate of occupancy for the structure.

(b). Demolition:

- (1). Partial demolitions;
- (2). Final (prior to issuance of building permit for renovation, addition or replacement structure).

(c). Electrical:

- (1). TML (temporary meter loop);
- (2). Underground;
- (3). Rough-in;
- (4). Final;

- (5). T.O.P.S.—Temporary to permanent service.
- (d). Gas:
 - (1). Underground;
 - (2). Rough-in;
 - (3). T.O.P. Out—Temporary to permanent service;
 - (4). Final;
 - (5). Test:
 - a. New installations
 - b. Parts of existing installation which have been altered, extended, renovated or repaired shall be tested
- (e). Mechanical:
 - (1). Underground;
 - (2). Rough-in;
 - (3). Final.
- (f). Plumbing:
 - (1). Underground;
 - (2). Rough-in;
 - (3). T.O.P. Out—Temporary to permanent service;
 - (4). Final;
 - (5). Backflow prevention assembly;
 - (6). Test:
 - a. New installations
 - b. Parts of existing installation which have been altered, extended, renovated or repaired shall be tested
- (g). Fire Sprinkler Inspections
 - (1). Fire Flow
 - (2). Rough-In
 - (3). Hydro Test
 - (4). Final
- (h). Fire Alarm Inspection
 - (1). Rough In
 - (2). Final
- (i). Ansul Systems
 - (1). Rough In
 - (2). Final
- (j). Energy Conservation Code:
 - (1). Insulation installation and correct R-values;
 - (2). Proper SGHC and U-values for glazing;
 - (3). Designed SEER for HVAC;
 - (4). Compliance with IECC and submitted DOE RES Check or COM Check report.
- (k). Fire-Walls
 - (1). Fire-wall inspections must be requested and approved prior to scheduling for framing inspection.
 - (2). Wood framed walls with fire-rated gypsum board application
 - a. Upon installation of the first side of the proposed fire-rated gypsum board with the inside labels exposed.
 - b. Upon installation of the second side of the proposed fire-rated gypsum board with all joints/seams/penetrations sealed with fire caulking.
- (l). Business registration and certificate of occupancy
 - (1). Final

Sec. 5-75. Required final inspections.

Upon completion of a construction project, an inspection must be requested and approved to verify full compliance with the permit and all adopted codes and ordinances. Such review shall furthermore require satisfaction of all landscape requirements of the zoning code. Occupancy for structures shall not be permitted until the final inspection is approved.

Sec. 5-76. Failure to obtain or pass necessary inspections.

(a). In the event a permit holder fails to obtain all necessary inspections, and to pass all said inspections, they shall be in violation of this section. Violation of this section may be addressed by any combination of the following-:

- (1). Denial of utilities and occupancy, and/or
- (2). Refusal of the director to issue future permits to the violator until the inspections are successfully obtained; and/or
- (3). Such actions as are permitted under the provisions of section 5-2, penalty, and section 5-3, injunctive relief, of this Code; and/or
- (4). Other such appropriate procedures and measures as might be in place in this Code at the time of the violation(s).

(b). Failure to request an inspection shall be considered a failed inspection and shall incur a re-inspection fee.

(c). If work was covered up, or is inaccessible and required inspections have not been approved, the building official shall require the applicant of the permit to expose all work not approved under inspections so that an inspection may be completed to verify compliance with all adopted codes. The building official may accept a letter from a licensed third-party inspector, professional engineer, or licensed architect as appropriate; who was present during construction, visually inspected all work prior to cover up, and states that all covered work is in compliance with the adopted codes at the time of permit approval. Inspection letters provided in this fashion do not waive any failed inspection, administrative, or penalty fees which may be due.

- (1). The letter shall bear the signature and the license of the third-party inspector or the professional seal of the architect or engineer, and shall state the basis of the inspection, date of inspection, and the results of the inspection.
- (2). The director has the discretion to disallow such a letter inspection report and may require an inspection be conducted by the city's inspector or other qualified person(s).

(d). At any point in the construction process when, in the opinion of the city inspector, work is not being done in conformance with, or within the scope of, the approved plans, the city inspector shall, with the consent of the director, place a STOP WORK ORDER on the property if the issues cannot be resolved on-site. The STOP WORK ORDER shall remain in place until all issues have been corrected or resolved and may not be removed except by the director.

Sec. 5-77. Partial inspections.

Partial (phased) inspections may be granted for each type (i.e. framing, electrical rough-in, etc) of required inspection. The fee for the first inspection within each type of inspection as required herein is covered within the original permit fee. Phasing of inspection types for any reason will require partial inspection fees be paid before the second phase (partial) is requested.

Sec. 5-78. Foundation inspections.

- (a). Foundation repairs where a professional engineer's design was required per this chapter shall be inspected by the design engineer. Engineer inspection reports shall be required to be submitted to the director's office to be filed with the approved permit for repairs.
- (b). For new foundations, after the foundation forms or perimeter piers are set for any new structures, including forms for any accessory buildings, or for the expansion of existing

foundations, and prior to the plumbing rough-in inspection (where required) and pouring of any concrete or setting of any beams, a certified foundation survey shall be required to be submitted to the director's office or left at the job site for inspection. The purpose of the survey is to ensure that the placement of any structures shown on the approved plans is in keeping with the approved plans and that all setbacks and lot coverage percentages are correct, and that the form dimensions or pier layouts are consistent with the dimensions shown on the approved plans. Incidental uses such as driveways, swimming pools, gazebos, etc., that can readily be determined to be in conformance with the approved plans, by referencing them to the main and accessory buildings, will not require a certified foundation survey.

Sec. 5-79. Framing inspections.

The framing inspection shall include a check of the plate height upon completion of all framing. The city's inspector shall inspect the framing for the roof to see that it is in general conformance with the approved plans to ensure that the maximum building height is not exceeded. If there is any question as to the finished maximum height of the structure exceeding the maximum height allowed on the approved plans, the city may require the contractor to provide a certified height survey to ensure conformance with the approved plans.

Sec. 5-80. Fence inspections.

A fence inspection by the city inspector shall consist of a cursory check of location, configuration and height, and shall ensure that no materials disallowed by city codes are being used in the construction of the fence.

Sec. 5-81. Persons authorized to conduct foundation and other structural-related inspections.

(a) A Texas licensed professional engineer with an appropriate specialty may, at the option of the owner, inspect foundation and other structural-related construction. In addition, foundation and framing components must be requested of and approved through inspection by the city inspector prior to placing of concrete or proceeding with construction.

(b) The inspection shall be reported to the director in the form of a letter bearing the signature and professional seal of the engineer, stating the basis of the inspection and the results of the inspection.

(c) The director has the discretion to disallow such a letter inspection report and may require an inspection be conducted by the city's inspector or other qualified person(s).

Sec. 5-82. Refusal to correct; disconnection.

Where any structure or property, which has failed an inspection or been condemned by the city inspector, shall fail to have the same put in such condition as to comply with all the requirements hereof within a reasonable time after receiving notice from the city inspector that the same has failed or been condemned, the city inspector may cause utilities to be disconnected or terminated.

Sec. 5-83. Same - Unlawful to reconnect until certificate has been issued.

Where any structure or property which has failed an inspection or been condemned by the city inspector and any utility service has been removed, it shall be unlawful for any person in any manner to reconnect the same or cause the same to be reconnected until they have been put into such a condition as will comply with the requirements of this chapter, and a certificate of inspection has been issued by the city inspector. The city inspector shall cause or request utility service to be reconnected within 72 hrs of approval.

Sec. 5-84. Inspection fees.

- (a). Fees for inspections shall be listed in the adopted schedule of development fees as maintained in the director's office. All inspection fees are non-refundable and due upon request for inspection.
- (b). Permit fees include the cost for the initial inspection of completed work within each type of inspection required herein.
- (c). When the work has been reported to the director's office as completed and requested for inspection, and when upon such inspection the work is found to be incomplete or defective, the inspection shall be noted as failed or disapproved and a non-refundable fee shall be paid prior to scheduling for re-inspection.
- (d). Unless waived by the director, inspections shall not be conducted until any and all outstanding fees owed to the city are paid in full.

Secs. 5-85—5-89. Reserved.

ARTICLE VI. CERTIFICATES OF OCCUPANCY

Sec. 5-90. Certificates of occupancy required.

- (a). Except for one and two-family residential uses and accessory structures thereof, all structures used for any purpose or occupied by any person or entity require the issuance of a certificate of occupancy for the structure and each individual tenant space. Certificates of occupancy shall be required for the following categories:
 - (1). Structure ownership:
 - a. Commercial structures
 - 1. Single-tenant structures,
 - 2. Multi-tenant structures,
 - 3. Building shell construction.
 - b. Multi-Family structures with an on-site management office or semi-public pools.
 - (2). Tenants
 - a. Commercial structures only
 - 1. Includes but not limited to new businesses, re-located existing businesses, change of business ownership, change of business name,
 - 2. Existing tenants where a certificate has not been previously issued,
 - 3. Temporary occupation or use of any property, or tenant space.
 - b). Property owners, business managers and/or business owners shall be required to submit the application for certificate of occupancy, and receive approval from the director's office prior to occupancy.
 - c). Certificates of occupancy issued for building shell construction shall be permitted only when the originally approved scope of work for construction meets the definition of building shell as provided in Article II of this chapter.

Sec. 5-91. Application for certificates of occupancy.

Certificates of occupancy shall be applied for on a form to be provided by the director. The forms shall include all information deemed necessary by the director to protect the health and life safety of each occupant, and to verify compliance with all adopted codes and ordinances.

Sec. 5-92. Fees for certificates of occupancy.

Fees for certificates of occupancy shall be listed in the adopted schedule of development fees as maintained in the director's office. All application fees are non-refundable and due upon receipt of application.

Sec. 5-93. Issuance of certificates of occupancy.

After completion of inspections and remediation of any deficiencies and payment of the applicable fees, the director shall issue a certificate of occupancy. Issuance of a certificate of occupancy does not provide waiver of any requirements which may be listed in the city's adopted codes or ordinances.

Sec. 5-94. Expiration, termination, and renewal of certificates of occupancy.

If any person, owner, or occupant ceases to own or occupy the structure or space, or when there is a change in name or use of the structure, the certificate of occupancy shall automatically terminate and a new application for certificate of occupancy shall be submitted for review and inspection according to this chapter.

Sec. 5-95. Penalty for operating without a valid certificate of occupancy.

(a) In addition to the penalties provided for in section 5-2 and the injunctive relief provided in section 5-3 of this chapter, operation of a business or office without a valid certificate of occupancy issued in accordance with section 5-90 or 5-96 may result in temporary closure of the event, structure or space until the required certificate is obtained.

(b) Should the director's office determine an event, structure or space is open to occupancy and that said event, structure or space does not have a valid certificate of occupancy, a notice, in writing and signed by the director or designated representative, shall be hand delivered to the responsible party, property owner or senior occupant of the operating premises by a city employee notifying them of the violation.

(c) The occupant or owner shall respond to the notification within three (3) working days by either presenting a valid certificate of occupancy or presenting just cause why the facility should not be closed until such a certificate is obtained.

(d) In the event of closure, a placard shall be placed at the facility noting the facility is closed to the public pending a valid certificate of occupancy. The placard shall not be removed until a valid certificate of occupancy is obtained and shall only be removed by the director. Removal of the placard shall be deemed a violation of the Code of Ordinances, subject to the penalties noted in section 5-2.

Sec. 5-96. Temporary certificates of occupancy.

(a). The director may issue a temporary certificate of occupancy for the following situations:

(1). approved commercial 'shell' construction projects,

(2). construction projects under an active permit where extenuating circumstances prevent a project from being completed and final inspection approved prior to requesting final occupancy, or

(3). vacant lots proposed for a temporary use which is permitted within Chapter 3 Zoning Ordinance, or

(4). Events listed below such as qualified neighborhood events, special events, or miscellaneous events.

(b). A temporary certificate of occupancy shall not be issued for a period exceeding ninety (90) days per issuance. Request for a temporary certificate of occupancy shall be submitted to the director's office for review.

(c). The director may issue a temporary certificate of occupancy for other instances such as qualified neighborhood events, special events, and miscellaneous events,

(d). No event, occupancy, or use shall occupy any property or structure which has not been reviewed for the specific event, occupancy, or use. Events, occupancies, or uses outside the normal functions of the property shall be required to apply for a temporary certificate of occupancy in the following categories:

(1). Qualified neighborhood events

- a. Qualified neighborhood event shall refer to any event which meets all of the following conditions:
1. occurs within any residential neighborhood.
 2. is not for profit.
 3. does not include sale of food, drink or alcohol, and
 4. does not include use of amplified sounds. .

(2). Special events

- a. Special event shall refer to any event which meets any of the following conditions:
1. Includes the sale of food, drink or alcohol, or
 2. Includes use of amplified sounds, or
 3. Includes use of the city's right-of-way(s).
Exception: Residential block parties and National Night Out shall be considered qualified neighborhood events.
- b. Temporary food establishment permits and alcohol licenses shall be required for each vendor as required.
- c. Additional permits may be required depending on the proposed event.

(3). Miscellaneous events

Miscellaneous events shall refer to any event which is not considered a qualified neighborhood event or a special event.

(e). Any person or entity who sponsors or organizes an event for which a permit is required, but for which no permit has been obtained, shall be guilty of a class C misdemeanor and shall be fined not more than five hundred dollars (\$500.00) for each offense. The failure of a person or entity to obtain a permit as required herein, or the failure of the holder of a permit to comply with the terms of a permit, shall be considered by the city in the issuance of future permits. In addition to the foregoing penalties, the city shall be entitled to injunctive relief against any person or entity which sponsors or organizes a public event for which a permit is required but for which no permit has been issued.

(f). It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in his or her name or owned or operated by him or her or in his or her possession or under his or her control to be or remain in any space or area on a public right-of-way during an event at which parking is temporarily prohibited. All vehicles that are parked on any space or area on a public right-of-way in the city during an event in violation of temporary parking restrictions shall be removed by the police department and stored until claimed by the rightful owner or person who has the right to such property as provided in division 2 of article V of chapter 18 of the Code.

(g). The application for temporary certificate of occupancy shall be submitted as required in the event permit procedures bulletin. Application and procedures bulletin shall be located in the director's office.

(h). After review of the submitted application, the City of Alamo Heights shall require portable water closets be provided as required below unless permanent facilities in the appropriate amount are provided:

<u>People Attending</u>	<u>1 hr</u>	<u>2 hrs</u>	<u>3 hrs</u>	<u>4 hrs</u>	<u>5 hrs</u>	<u>6 hrs</u>	<u>7 hrs</u>	<u>8 hrs</u>	<u>9 hrs</u>	<u>10 hrs</u>
<u>1-50</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>50-100</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>
<u>100-250</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>6</u>	<u>6</u>	<u>6</u>

<u>250-500</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>6</u>	<u>6</u>	<u>8</u>	<u>8</u>	<u>8</u>	<u>8</u>
<u>500-1000</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>7</u>	<u>8</u>	<u>8</u>	<u>8</u>	<u>9</u>	<u>9</u>
<u>2000</u>	<u>6</u>	<u>10</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>14</u>	<u>14</u>	<u>15</u>	<u>15</u>	<u>15</u>
<u>3000</u>	<u>9</u>	<u>14</u>	<u>17</u>	<u>19</u>	<u>20</u>	<u>21</u>	<u>21</u>	<u>21</u>	<u>21</u>	<u>22</u>
<u>4000</u>	<u>12</u>	<u>19</u>	<u>23</u>	<u>25</u>	<u>28</u>	<u>28</u>	<u>28</u>	<u>30</u>	<u>30</u>	<u>30</u>
<u>5000</u>	<u>15</u>	<u>23</u>	<u>32</u>	<u>32</u>	<u>34</u>	<u>36</u>	<u>36</u>	<u>36</u>	<u>36</u>	<u>36</u>

Sec. 5-97. Fees for temporary certificates of occupancy

(a). Fees for temporary certificates of occupancy and associated permits and licenses shall be listed in the adopted schedule of development fees as maintained in the director's office. All application fees are non-refundable and due upon receipt of application.

(b). For event type certificates of occupancy, a refundable deposit shall be provided along with the submitted application for the event. The director shall determine the minimum amount of deposit required to ensure that all trash and/or debris from the proposed event is removed and the area cleaned. The applicant shall have eighteen (18) hours from the close of the event to remove all trash and/or debris from the area or the applicant shall forfeit the clean-up deposit.

Secs. 5-98 – 5-109. Reserved.

ARTICLE VII. MISCELLANEOUS REQUIREMENTS

Sec. 110. Construction security fences.

(a). If construction security fencing is proposed, it shall be categorized as a temporary structure, but such installation shall require a building permit separate and independent from any other required permit. Fees for construction security fencing shall be the same as for other related building permits (see section 5-12). The fencing may be no higher than eight (8) feet in height from lowest adjacent grade, and shall be either chain-link or other similarly transparent material. Construction security fencing may be located within the city's non-paved right-of-way (outside of any vision clearance areas for intersections visibility) and shall be reviewed by the director's office on a case by case basis. Construction security fencing shall not be equipped with any form of barbed-wire, to include concertina or razor wire.

Sec. 111. Portable water closets at construction sites.

(a). Construction sites that do not provide permanent restroom facilities shall provide a portable water closet at all times during periods of active construction and while any permits are active. Portable water closets shall be located in the rear of the property if accessible. When the rear of the property is not accessible by alley or street, portable water closets are permitted to be located within the front yard but shall be placed a minimum 20-ft from the front property line. At no time shall any portable water closet be located within the required side setbacks or within any city right-of-way. All portable water closets located at construction sites, whether active or not, must be cleaned on a weekly basis or more to prevent unsanitary conditions.

Sec. 5-112. Control of trash, dust and noxious matter at construction sites.

(a). All contractors and subcontractors shall prevent the dispersal of trash and debris from a project site by providing appropriate waste containers on site and by daily clean-ups of such debris on the project site and off the project site when such debris has migrated from the site. Other construction debris created by the project shall be cleaned up daily and deposited in

appropriate waste containers or otherwise removed from the site. Construction debris from other project sites controlled by a contractor or a property owner shall not be brought to another project site or owned property under the control of the contractor or property owner for the purposes of disposal in any type of waste container that may be located on the latter site. Any waste container set out on a project site shall be removed from the site within five (5) working days of the completion of the project for which the waste container was placed on such site. Each project that may occur on a construction site is considered to be a separate project for the purposes of this subsection. Construction dumpsters and/or trash receptacles shall be placed at a construction site only during active periods of permitted construction and shall be placed in a location on the property that is outside the city's paved right-of-way, obscured from the public view where practical, and shall not obstruct visibility from any street, alley, or driveway intersections.

(b). All contractors and subcontractors shall control the potential dispersal of particulate material and noxious or nuisance fumes occurring on a project site, and to minimize their effects on persons outside of the limits of the project site.

(c). All contractors and subcontractors, before creating a potential dispersal of particulate material or noxious or nuisance fumes, shall endeavor to familiarize themselves with potential concerns of the surrounding neighborhood and advise those with respiratory and other medical problems that might be adversely affected by particulate material and noxious or nuisance fumes of the approximate time that such potential dispersal will be occurring so that they might remove themselves from the affected area, stay indoors or take other appropriate steps to reduce the impact of such dispersal on themselves.

Sec. 5-113. Temporary storage facilities

(a). Portable storage units shall not be constructed or placed on any property without first obtaining a permit prior to delivery.

(b). If approved, permits for portable storage units shall be limited to 30 calendar days from the date of issuance of the permit.

(c). Temporary storage facilities associated with an approved building construction project shall be permitted to remain on-site until the approval of the projects building final inspection or the expiration of the master building permits' expiration date if less.

(d). All portable storage units must be located:

- (1). on a paved all-weather surface,
- (2). Within all setbacks, and
- (3). as far from the front property line as possible.

Sec. 5-114. Best management practices (BMP)

(a). All responsible parties for projects or permits issued under this Chapter shall be required to follow or utilize all BMP's and other good house-keeping protocols synonymous with federal standards directly associated with EPA's general permit for other construction sites regulated under federal law.

Sec. 5-115. Construction materials

(a). Construction materials shall be stored or located within the property lines of the lot where construction has been approved by permit. No materials shall be stored outside the property lines or within the city's right-of-way without specific written permission from the director.

Secs. 5-116 - 5-119. Reserved.

ARTICLE VIII. DRAINAGE REQUIREMENTS

Sec. 5-120. Drainage and control of runoff water.

It shall be unlawful and an offense for any person or entity to do work or cause work to be accomplished that diverts, impounds, or otherwise alters the natural flow of surface water drainage in such a manner that prevents natural drainage across an existing property, increases runoff to adjacent properties, causes damage to property, creates an attractive nuisance, or causes an unreasonable risk to the public health, safety, or general welfare.

Sec. 5-121. Drainage requirements.

(a). No person, firm, or corporation shall do, cause or permit to be done, the alteration of property to prevent existing drainage run-off, or patterns from entering the property in the natural course of drainage.

(b). No person, firm, or corporation shall do, cause or permit to be done, the installation, modification, or relocation of any construction improvement where the improvement, when completed, will impact other property. The other property may be either upstream or downstream from the property on which the improvement is to be made. The impact is primarily related to flooding of a building structure. No permit shall be issued where engineering data from a qualified professional engineer or the opinion of the City reveals that such improvement would worsen any known drainage or flooding problem.

(c). Any person or entity applying for a permit which alters natural grade through coverage, fill, or excavation shall be required to meet the requirements within this section. In order to provide adequate drainage away from foundations as well as minimize run-off rate to adjacent properties, the following standards shall apply to all properties which propose alteration of grade whether by an increase to structural footprint or roof cover, an increase in impervious surface coverage, or any work which alters existing grade conditions. No increase of rate flow shall be permitted onto adjacent properties.

(1). The slope of any altered final grading of soils around the foundation of any structure or improvement shall not be less than five percent (5%) when measured from grade to any point 10-feet from grade elevation at the foundation wall of the structure.

a. *Exception:* Existing natural grades less than five percent (5%) may be maintained.

(2). Diversion of surface water shall be contained within the limits of the owner's contiguous property, shall be conveyed by a free, positive, and uninterrupted means, and shall be designated as the following:

a. Type A drainage, or

b. Type B drainage, or

c. Type C drainage.

(3). All site plans submitted for projects where natural grade is altered, or covered must indicate the following:

a. Drainage type as listed above,

b. Drainage flow arrows indicating direction of proposed runoff, and

c. All proposed berms, swales, or drains.

(4). A Storm water Management & Drainage Plan (SDP) shall be required for the following projects:

a. New single-family residential, commercial, multi-family residential, industrial, institutional, utility developments, or any new developments when the proposed property being developed exceeds 10% slope from property line to property line,

b. Additions or alterations which create an increase in lot coverage greater than 25% and is proposed on a property which exceeds 10% slope from property line to property line, and

c. Additions or alterations which increase the total impervious surface on a property by 25% of the existing impervious surface coverage.

- (5). The director shall require a Storm water Management & Drainage Plan (SDP), designed and sealed by a registered professional engineer, which demonstrates that a proposed construction plan or recently permitted construction meets all of the provisions of this article and does not increase the rate or direction of flow of run-off from an existing property and does not prevent natural drainage from entering an existing property.
- (6). The director's office shall review each SDP to verify whether an increase in the rate or direction of flow of run-off from an existing property is created by the proposed project or whether the proposed project prevents natural drainage. In cases where prevention or an increase is determined, the city reserves the right to submit the SDP to the city's engineer for additional review. Any outside review is subject to fees according to the adopted schedule of development fees.
- (7). If irregular site topography, use of landscaping, or architectural features such as raised planting beds, retaining walls, fences, or sidewalks prevent compliance with provisions of this section, the designer shall provide alternate methods and means as may be approved by the director to assure that the requirements of this code are met. The drainage plan must be submitted, reviewed, and approved prior to issuance of a permit and the work must be approved prior to final inspection and occupancy of the structure.

Secs. 5-122 — 5-129. Reserved.

ARTICLE IX. DEMOLITION

Sec. 5-130. Purpose and intent.

This article is intended to:

- (a). Provide notice of proposed demolition of structures to the Alamo Heights community;
- (b). Encourage property owners and Alamo Heights residents to seek out persons or agencies who might be willing to purchase, preserve, rehabilitate or restore such structures rather than demolish them;
- (c). Promote conservation of significant structures and limit the detrimental effect of demolition on the traditional architectural resources of residential and commercial neighborhoods; and
- (d). Encourage compatible design solutions that reinforce and enhance the existing character of the Alamo Heights residential and commercial neighborhoods.

This article is not intended to permanently prevent demolition, but rather to provide an opportunity to develop compatible design concepts for properties where demolition is deemed necessary, for which design concepts are available for community review and comment.

Sec. 5-131. Scope of regulations.

- (a). This article shall apply to all proposed building, demolition, construction, additions or alterations located within the jurisdiction of the City of Alamo Heights.
- (b). This article shall regulate all activities that result or may result in the demolition of an existing structure, except where such demolition is necessary to protect the public health, safety and welfare, as determined by the director.

Sec. 5-132. Demolition permit required.

- (a). No demolition of any structure or any portion of a structure shall be permitted except as set forth in this article.
- (b). All demolitions shall require a permit application be submitted to the director's office and permit issued prior to actual demolition.

Sec. 5-133. Permit process for demolition.

(a) Proposed demolitions in which the scope of work does not meet the regulations as defined in Sec. 5-13 Definition for demolition, or when the scope of work involves any structure or project specifically exempted in subsection 5-134 (c) shall meet the permit regulations as listed in this section, section 5-132 and as well as Article IV of this chapter.

(b) The person or entity submitting an application for a demolition permit for any structure must be the owner of record or the authorized agent of the owner(s) as evidenced by a power of attorney.

(c) Once the plan review is completed for a proposed demolition permit regulated by this article, the director shall notify the applicant, in writing, of the additional requirements for demolition review as described in Sec. 5-134.

(d) A demolition permit shall be valid for a time period of six (6) months from the date of issue by the director, and shall not be transferable. Where no demolition activity has occurred within a six-month time period, the demolition permit shall be null and void, unless extended at the discretion of the director upon written request by the property owner or authorized agent.

Sec. 5-134. Demolition review procedures.

(a). The goal of the demolition review process is to allow public review and comment regarding the impact that the proposed demolition, and any replacement structures, may have on the surrounding neighborhood and the city.

(b). The demolition review process is intended to complete both the determination of significance of existing structures proposed for demolition and the compatibility review of any replacement structures within the same process. However, the significance and compatibility process may be completed in separate processes if requested in writing by the property owner.

(c). Proposed demolitions in which the scope of work meets the regulations as defined in Sec. 5-13 Definition for demolition, or when the scope of work involves any structure or project not specifically exempted below shall meet the permit regulations for demolition review as listed in this article as well as requirements listed in article IV of this chapter.

Exceptions from demolition review regarding significance of an existing structure:

- (1). existing structures not supported by a permanent foundation,
- (2). existing structures which have an exterior grade footprint of two hundred (200) square feet or less,
- (3). existing one-story detached accessory structures,
- (4). replacement or alteration of existing exterior finish materials on roofs or walls with new exterior finish materials which match the existing in color and design,
- (5). replacement or alteration of roof decking and finish materials only,
- (6). exterior alterations that do not substantially alter, modify, cover, or encapsulate existing framing components, and
- (7). ordinary repair and maintenance as referenced in Sec. 5-13 Definition for demolition.

Exceptions from demolition review regarding compatibility of any proposed structures:

- (1). new structures for projects not governed previously under demolition review for significance of an existing structure,
- (2). replacement or alteration of existing exterior finish materials on roofs or walls with new exterior finish materials which match the existing in color and design,
- (3). replacement or alteration of roof decking and finish materials only,
- (4). exterior alterations that do not substantially alter, modify, cover, or encapsulate existing framing components, and
- (5). ordinary repair and maintenance as referenced in Sec. 5-13 Definition for demolition.

(b). The following proposed structure(s) or project(s) shall be governed by demolition review regarding compatibility regardless of whether any significance determination was reviewed:

- (1). two-story detached accessory structures intended to replace previously permitted demolitions of exempt one-story detached accessory structures.

- (c). Plans for demolition review submitted under this article shall be submitted along with the demolition review application to the director's office for review and must contain all of the information required in the city's application forms to be considered complete.
- (d). If no plans are submitted for a replacement structure at the time of the request for demolition review the director shall forward any future development plans for replacement structures to the architectural review board for review of the replacement structure's compatibility, as defined in this chapter before issuing a building permit.
- (e). When all demolition review application packets have been submitted, along with a non-refundable application fee, the city shall place the proposed project request on the agenda for the next available architectural review board meeting.
- (1). The city shall post on the property, and on the city's website, a public notice announcing the application submittal and all postings shall be for a minimum of fifteen (15) days from the date of the scheduled architectural review board meeting.
- (2). The director shall send, by United States mail, a notice of the request for a demolition permit to all persons who are the owners of real property lying within two hundred (200) feet of the proposed demolition not less than fifteen (15) days before the date set for the public hearing(s) of the architectural review.
- (f). The architectural review board shall consider the following criteria when determining the significance, as defined in this chapter, of existing structures:
- (1). Was the structure designed by a noted architect?
- (2). Has the structure been listed as having historic significance by any local, regional, state or historic agency or society?
- (3). Does the structure exhibit characteristics of a distinct architectural style?
- (4). Does the structure belong to a distinctive set of buildings, such as a single structure belonging to a row of similar structures?
- (5). Is the structure a significant part of the fabric of the community due to its age, unique architecture, historical significance or physical placement?
- (g). The architectural review board shall also consider the following issues:
- (1). The existing condition of the structure, as presented by the applicant and as reviewed by the director; and
- (2). The potential for reuse or rehabilitation of the structure.
- (h). The architectural review board shall consider the following criteria when determining the compatibility, as defined in this chapter, of replacement structures:
- (1). architectural design,
- (2). scale relative to height, form, and massing,
- (3). lot coverage,
- (4). setbacks,
- (5). materials,
- (6). roof pitch, and
- (7). landscaping,
- (i). The architectural review board shall take one of the following actions after the close of the public hearing:
- (1). Determine that the structure is not a significant structure and that the replacement structure is compatible with other structures in the adjacent and immediate block area, and recommend approval of demolition, or
- (2). Determine that the structure is a significant structure, and make a recommendation to the city council for demolition delay to allow collaboration with the property owner to explore alternatives to demolition; or,
- (3). Determine that the proposed replacement structure is incompatible with other structures in the adjacent and immediate block area, and:

- a. continue the public hearing to a subsequent architectural review board meeting if sufficient information has not been presented to allow the architectural review board to make a determination or to allow the applicant to resubmit a revised design to address the compatibility issues identified by the architectural review board, or
 - b. make a recommendation to the city council for demolition delay to allow the applicant to resubmit a revised design to address the compatibility issues identified by the architectural review board.
- (j). Where the architectural review board recommends approval for either the demolition of an existing structure and/or for the construction of a replacement structure, the director shall place the proposed project on the agenda for the next available city council meeting.
- (k). If approved by city council the director shall issue a demolition permit upon application by the property owner or authorized agent per section 5-132 and upon payment of the required demolition permit fee. The application and fee must be submitted within six (6) months of the date of the final city council action. If the request is not submitted within this time, approval of the demolition review shall become null and void.
- (l). Any projects that present a potential negative impact to neighboring properties or the community may be forwarded to the architectural review board for compatibility review.
- (m). No demolition of any structure or any portion of a structure shall be permitted where such structure has determined to be a significant structure by the architectural review board and final action given by the city council, except as set forth in this article.

Sec. 5-135. Demolition delay.

- (a). Where a demolition delay is determined necessary, the city council may delay the issuance of the demolition permit for a maximum of ninety (90) days from the date of the action designating the existing structure as significant. This delay may be extended by the city council for an additional ninety (90) days at any time prior to expiration of the original delay, but such extension shall occur only once, for a maximum delay not to exceed one hundred eighty (180) days from the date of action designating the structure as significant. If the city and property owner have not reached a mutual agreement on the future of the structure, within said one hundred eighty (180) days, the demolition review shall be approved.
- (b). Where a demolition delay has been determined necessary, the community has the opportunity to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such structure rather than demolish the structure, and to limit the detrimental effect of demolition on the historical architectural resources of the city. Likewise, the owner has the opportunity to resubmit a revised application to the city for review and comment.
- (c). Where a demolition delay has been determined necessary, the city shall post on the property, and on the city's website, a public notice announcing the demolition delay. Such notice shall be posted within three (3) business days of the city council action, and shall remain in place for the entire period of the demolition delay.
- (d). Notwithstanding the designation of a structure as a significant structure, the director may issue a demolition permit at any time after receipt of written advice from the city council to the effect that the city is satisfied that there is no reasonable likelihood that either the owner or some other person is willing to purchase, preserve, rehabilitate or restore such structure, or when additional information warrants a termination of the demolition delay.
- (e). In a case where the property owner or authorized agent desires only to have the architectural review board make a determination of a structure's significance, the property owner or authorized agent shall submit a request for such action along with a non-refundable fee. The city and the property owner or authorized agent shall then follow in similar manner the requirements set out in section 5-134. The city shall establish a date after the end of the public comment period for the architectural review board to hear the request for a determination from the property owner or authorized agent.

Sec. 5-136. Demolition review approval

- (a). Demolition review approval shall be granted for the following conditions:
 - (1). When a demolition delay has been established and the maximum delay period of one hundred and eighty (180) days has expired, or
 - (2). The existing structure proposed for demolition is not determined significant, as defined in this chapter, and
 - (3). The replacement structure for any structure previously approved under demolition review is determined to be compatible, as defined in this chapter.
- (b). Once demolition review approval is granted by city council, the director shall have the authority to issue a demolition permit per article IV of this chapter upon request by the property owner or authorized agent.

Sec. 5-137. Moving structures

- (a). Proposals to re-locate or move existing structure(s) from any location within the city limits is considered a demolition per this chapter for purposes of permit review and approval.
- (b). Moving of an existing structure to any vacant lot(s) where demolition review was not required for any previously demolished structure(s) shall be required to be submitted for compatibility review per section 5-134.
- (c). If demolition (move) review has been previously approved as provided for in this article, no person shall move any building or structure over, across, or along any street, public way, or public place within the city without first obtaining a permit for the proposed move.
- (d). All scheduled routes, and move times shall be determined during the move permit review.
- (e). No building or structure under any condition shall be allowed to remain in or on the streets, public ways or public places for more than four (4) hours. Any building or structure which occupies or moves along or across any portion of public property after sundown shall have sufficient lights and flares continually burning for the protection of the public.
- (f). No person shall move a building or structure across or along any street, public way or public place within the city unless accompanied or escorted by at least one (1) city of Alamo heights police officer that has been retained by the person for such service.
- (g). Before a house mover's license is issued, the applicant shall file with the city clerk a surety bond in the amount of ten thousand dollars (\$10,000.00), saving and protecting the city harmless from any and all damages and to pay for any and all damages to public property, that may arise from the use of any of the streets, alleys, boulevards or other public places in the moving of any building or structure. Such bond shall contain a provision for a ten-day written notice to the city of cancellation by the surety.
- (h). Before a moving permit is issued, the applicant shall file with the director a public liability property damage insurance policy certificate naming the applicant as the insured and providing for the payment of any liability imposed by the law upon such applicant to the extent of two hundred fifty thousand dollars (\$250,000.00) for each person for bodily injury, five hundred thousand dollars \$500,000.00) for bodily injury liability for each accident, and one hundred thousand dollars (\$100,000.00) for property damage liability for each accident.
- (i). Upon issuance of the permit, the applicant shall request inspection by the city inspector, or cause to be inspected, the equipment and facilities to be used by the moving contractor and shall determine that the size, design and safety factors of any vehicle and other equipment used in the moving of any building or structure, are such that their operation on public property shall not cause damage to the pavement or other public improvements.
- (j). Nothing contained in this article shall require a license or bond for the movement of oversized equipment, or buildings or structures of a temporary nature, when such equipment, building, or structures are within the legal road limit as required by the state statutes; nor shall

bond and license be required of one passing through the city enroute between two (2) other incorporated cities, except those cities in the county.

(k). No person shall move any building or structure over, across, or along any street, public way or public place within the city until a permit for such work has been issued as provided herein.

(l). A mover shall in each case before moving or preparing to move any building or structure, apply to the director by written application for a permit to do so, in which application the building or structure to be moved shall be described with the extreme dimensions of its width, length and height, present location, the place to which it is proposed to be moved, and the location, on the lot at the destination.

(m). Before application for permit is made, the mover shall notify the public utilities, railroads, and other persons or municipalities whose facilities are involved in such movement.

(n). Application for moving permit shall include:

- (1). Moving permit application sign by both a registered general contractor and the property owner.
- (2). Written indication from CPS that both electrical and/or gas service connections has been removed from the structure.
- (3). Written indication from Public Works – Water Utilities that the water and sewer connections have been removed from the structure.
- (4). Specify the day of the week and hour of the day the moving is proposed to take place.
- (5). The proposed route to be taken.
- (6). Copy of the demolition approval letter which is issued after City Council approval for demolitions/moves per this chapter.
- (7). All additional information as required by the director.

Sec. 5-138. Responsibility of the owner.

(a). Once a demolition delay has been established, the owner shall be responsible for properly securing the structure, if vacant, to the satisfaction of the director. Should the owner fail to so secure the structure, a subsequent destruction of the structure at any time during the demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this article. Penalties and remedies are identified in section 5-2 and section 5-3.

(b). If demolition of a structure is authorized by the city council and a permit is issued by the director, the permittee shall, during and after demolition of the structure, ensure all of the following conditions are met and maintained:

- (1). The demolition contractor shall have a total of thirty (30) calendar days from the date that work begins to complete the job and request a final inspection, unless an extension has been granted by the director.
- (2). all utilities shall be disconnected and the sewer line shall be effectively plugged with concrete or as may be required by the director, at or near the property line.
- (3). public sidewalks shall not be removed; however, all public sidewalks damaged during demolition or in need of replacement and/or abandonment shall be repaired and/or replaced in conformance with all applicable ordinances.
- (4). all debris, including all concrete structural members below grade, shall be removed from the lot.
- (5). the lot shall be completely cleaned, filled, and graded to prevent any retention of water and to promote proper drainage.
- (6). When the lot is cleared, all utilities disconnected and/or capped, all repairs made and approaches removed, the deposit shall be refunded. Costs incurred by the City of Alamo Heights as a result of demolishing the building or performing any work deemed necessary by the director shall be deducted from the clean-up deposit and costs exceeding the amount of the deposit will be billed to the owner.

- (7). Where no replacement structure is approved or where a building permit for the previously approved replacement structure has not been submitted to the director's office for review and issuance, the following additional conditions shall apply:
- a. The owner shall re-sod the property to prevent erosion and/or runoff of surface materials. Re-sodding of the property shall be completed by the expiration of the demolition permit or within 6 months from the issuance of the demolition permit whichever is less unless an extension is approved by the director.
 - (c). Silt fences shall be provided for all projects approved under demolition review and shall be provided prior to beginning the proposed demolition of the structure. Silt fences shall be maintained in good condition until permanent soil stabilization is established.
 - (d). Permanent soil stabilization methods sufficient to restrain erosion shall to be provided within 21 calendar days after completion of the demolition, grading of the lot, or determined inactivity on the lot.
 - (1). If seeding or another vegetative erosion control method is used, it shall become established within two weeks, be of a type which can survive without an irrigation systems use. The site may be required to be reseeded or a non-vegetative option employed if soil stabilization has not been established within 30 days from the date of installation.
 - (2). Vegetative ground cover. The person conducting the land-disturbing activity shall plant or otherwise provide a permanent vegetative ground cover sufficient to restrain erosion.
 - (3). Innovative measures. Erosion and sedimentation measures applied alone or in combination to satisfy the intent of this section are acceptable if they are sufficient to prevent adverse secondary consequences. Innovative techniques and ideas will be considered and may be used following approval by the director if it can be demonstrated that such techniques and ideas are likely to produce successful results.
 - (e). The director shall have the authority to waive any of these requirements under special circumstances.

Sec. 5-139. Emergency demolitions.

Notwithstanding the previous provisions, the director may issue a demolition permit in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions, but only after consultation with the city manager, building official, and fire chief.

Secs. 5-140 — 5-149. Reserved.

ARTICLE X. TREE PRESERVATION

Sec. 5-150. Purpose and intent.

The purpose and intent of this article is to promote and preserve healthy and desirable tree species as an important public resource, serving to enhance air quality, mitigate flooding and storm water runoff, reduce energy costs, store and sequester carbon dioxide, and enhance quality of life. Tree preservation further assists in protecting the City's unique character and aesthetically-pleasing environment. The purpose shall be accomplished through the protection of trees of certain species and size, regulation of the proper pruning, protection of trees during construction activity, and establishment of procedures for requesting removal of such trees.

Sec. 5-151. General provisions.

(a). Permits issued under this article shall only apply to the specific tree(s) and property identified in the permit.

- (b). For work requiring a building permit, the buildings, renovations, additions and site improvements shall be oriented in a manner that allows for preservation of the maximum number of trees to the greatest extent reasonably feasible.
- (c). Trees shall not be planted adjacent to above ground utility lines or within the portion of property between the front property line and the paved city right-of-way without prior approval from the director's office.
- (d). No more than fifty percent (50%) of the Critical Root Zone of any Heritage Tree shall be covered with impervious cover and no closer than three (3) feet from the trunk of the tree.
- (e). No more than thirty percent (30%) of the Critical Root Zone of any Heritage Tree shall be trenched, excavated, damaged or removed and no closer than three (3) feet from the trunk of the tree.
- (f). All tree pruning shall follow ANSI A300 standards.
- (g). The property owner is responsible for maintaining all trees or tree canopy on the property by providing irrigation, fertilization, pruning, and other maintenance as required to preserve the health of all trees.
- (h). The property owner is responsible for trimming, pruning, or maintaining all trees and branches within any portion of their property and the contiguous portion of the property between the front property line and the paved city right-of-way to provide the visibility and vehicular clearances as required within Chapter 16 Streets and Sidewalks of the City's Code of Ordinances.

Sec. 5-152. Heritage trees.

(a). The designation of Heritage Tree species is shown in Table 1. Heritage Tree designations establish a threshold trunk size, measured in diameter at breast height (DBH) for purposes of applying the requirements of this article.

<i>TABLE 1: Designation of Heritage Trees</i>		
Tree Species	Botanical Name	Heritage Tree (DBH)
Anaqua	Ehretia annacua	24"
Black Cherry, Escarpment	Prunus serotina var. eximia	24"
Black Walnut	Juglans nigra	24"
<u>Cedar, Deodora</u>	<u>Cedrus deodara</u>	<u>12"</u>
Crepe Myrtle	Lagerstroemia indica	24"
Cypress, Arizona	Cupressus arizonica	24"
Cypress, Montezuma	Taxodium mucronatum	24"
Elm, Cedar	Ulmus crassifolia	24"
Maple, Uvalde Bigtooth	Acer grandidentatum	24"
Mesquite	Prosopis glandulosa	24"
Oak, Blackjack	Quercus marilandica	24"
Oak, Bur	Quercus macrocarpa	24"
Oak, Chinkapin	Quercus muhlenbergii	24"
Oak, Lacy	Quercus laceyi	24"

Oak, Live	Quercus spp.	24"
Oak, Mexican White	Quercus polymorpha	24"
Oak, Texas Red	Quercus buckleyi	24"
Oak, Shumard Red	Quercus shumardii	24"
<u>Olive, Mexican</u>	<u>Cordia boissieri</u>	<u>8"</u>
Palm, Sabinal	Sabal texana	12"
Pecan	Carya illinoensis	24"
Persimmon, Texas	Diospyros texana	8"
Redbud, Texas	Cercis canadensis	8"
Magnolia, Southern	Magnolia grandiflora	24"
Sycamore, Mexican	Platanus mexicana	24"
Texas Mountain Laurel	Sophora secundiflora	8"

(b). For the purposes of determining heritage tree designation and for applying the requirements of this article, multi-trunk trees shall be the sum total DBH as measured for each trunk. Multi-trunk trees shall be considered a heritage tree if the sum total DBH of all trunks equal or exceeds the threshold trunk size as listed for the tree species in Table 1 Designation of Heritage Trees.

(c). For the purposes of determining heritage tree designation and for applying the requirements of this article, cluster trees shall be the sum total DBH of all trunks of a cluster of 3 or more heritage tree type species where one tree is measured less than or equal to five (5) feet from another. Cluster trees shall be considered a heritage tree if the sum total DBH of all trunks equal or exceeds the threshold trunk size as listed for the tree species in Table 1 Designation of Heritage Trees.

Sec. 5-153. Registration of tree service vendors.

(a). Any business or contractor providing tree services related to installation, pruning or removal of trees within the city must register with the city to become a Registered Tree Service Vendor.

Exception: Lawn maintenance professionals hired to provide general landscaping activities on a scheduled basis such as mowing, lawn trimming, planting, tree trimming, pruning, or removal shall not be required to register with the city.

(b). The following items shall be required for application for tree service vendor registration:

- (1). Application for a Registered Tree Service Vendor, and
- (2). Valid Tree Pruning License from any municipality or recognized agency or organization within Bexar County, or
- (3). Verification of ISA Certified Arborist on staff.

(c). Limbs, branches and other cuttings from tree services performed by Registered Tree Service Vendors shall be removed from the city by the Registered Tree Service Vendor by the end of each business day the work was performed.

Sec. 5-154. Permit required.

(a). A tree specific removal permit is required for the removal of any tree(s) larger than 8" DBH within the boundaries of the City of Alamo Heights.

(b). The director shall consider requests for a tree removal permit, except as specified by this article, based on the following criteria:

- (1). Is the proposed tree to be removed determined to be a heritage tree(s) according to section 5-152.
 - (2). The topography of the site;
 - (3). Whether the removal of the tree would provide more light and airspace for adjacent trees;
 - (4). Whether the existing tree is in a location on the lot that is neither visible by the public or does not contribute to the tree canopy along the street; and
 - (5). Whether exceptional architectural design performed by a registered architect may be achieved by a reduction in trees.
- (c). Requests for a tree removal permit shall include the specific reason(s) for removing the tree(s), as well as:
- (1). a site plan that identifies the exact locations, the tree species, the Critical Root Zone(s) and the DBH of all trees within the subject property and specifically identifies each tree proposed to be removed; and
 - (2). photographs that sufficiently illustrate the character and location of each tree proposed to be removed.
- (d). If the tree removal permit is being requested in conjunction with a building permit, the request may also be required to include existing and proposed topographical information, easements, rights-of-way, setbacks, and property lines, the location of all existing and proposed structures, utilities, paved areas, and sidewalks, to the extent such information is available.

Sec. 5-155. Fees for tree removal permit and tree service vendor registration

- (a). Fees for tree removal permits and tree service vendor registration shall be listed in the adopted schedule of development fees as maintained in the director's office. All application fees are non-refundable and due upon receipt of application.
- (b). The director shall issue a tree removal permit if a heritage tree is:
- (1). Determined by a Certified Arborist to be diseased or dying and is considered a hazard due to such condition, or is considered a hazard due to natural events, including, but not limited to, tornados, floods, storms, or other acts of God or by other events.

Sec. 5-156. Heritage tree removal mitigation

- (a). A property owner or authorized agent requesting removal of a designated heritage tree is permitted these mitigation requirements:
- (1). Planting additional types of trees as listed in Table 1 of this article (excluding palms, mountain laurels and crape myrtles unless the heritage tree being removed is one of these types) with a replacement ratio (measured in inches DBH) which meets the following criteria:
 - a. minimum 3:1 ratio (replacement trunk DBH to removed trunk DBH) for individual heritage or multi-trunk heritage trees,
 - b. minimum 1:1 ratio (replacement trunk DBH to removed trunk DBH) for cluster type heritage trees.
 - (2). Proposed planting shall be permitted on the following properties:
 - a. the same lot as such heritage tree(s) was removed,
 - b. public property as designated for park use, or
 - c. public right-of-way where approved.
 - (3). Planting of trees within the public right-of-way must be completed by a licensed company which would provide a minimum 1 –yr warranty for replacement and re-planting if necessary.
- (b). The director shall have discretion to modify mitigating requirements due to special circumstances.

Sec. 5-157. Prevention and control of the spread of oak wilt.

(a) All pruned limbs or wounds to the trunk, limbs and root system of oak trees in the city that expose sapwood shall be painted within thirty (30) minutes of the wound with asphaltic or exterior oil or latex based paint.

(b) Firewood from Oak wilt infected trees shall not be brought into the city at anytime.

(c) When Oak wilt infection is suspected or found, the director shall be contacted within forty-eight (48) hours to obtain aid from the Texas Forest Service to confirm the diagnosis of Oak wilt. When Oak wilt is confirmed the measures for control recommended by the service shall be undertaken to control spread of the infection. The cost of such measures will be the responsibility of the owner of the tree(s), provided that the owner of the tree(s) shall have the option of undertaking the least expensive measures approved by the Texas Forest Service.

(d) It is recommended that any firewood cut from any trees in the city and purchased firewood not be stacked under or close to oak trees and should be burned within one (1) year.

Sec. 5-158. Tree protection during construction.

To avoid damage or destruction of heritage trees and to enhance the chance of survival of other desirable trees after construction or demolition activities, the owner and contractor shall take and maintain the following measures throughout the course of demolition and construction:

1) Erect and maintain a temporary protective barrier that equals the diameter of the tree canopy for each tree to be preserved. The barrier shall be in place before any site work is initiated and maintained throughout the construction process to avoid impact injuries to the tree and the tree's root system during demolition and construction. During demolition and construction, no excess soil, additional fill, construction equipment, liquids or construction debris shall be placed inside the protective barrier nor shall any soil be removed from within the barrier.

2) To allow for vehicular access at times required during construction, the protective barrier on one side of the tree may be erected a minimum distance of 60 inches from the trunk of a tree or group of trees only temporarily as such access is required. Other adjustments to the location of this barrier shall be approved by the director where site constraints are such that reasonable access for construction would otherwise not be available and where protection of the tree is still assured.

3) Protective barriers may be comprised of chain link fencing, plywood and where appropriate "snow" temporary fencing such as vinyl construction fencing, geo-textile material or other material approved by the director.

4) Trenching within a heritage tree's Critical Root Zone shall have minimal intrusion and require the approval of the director during the building permit review process.

Sec. 5-159. Right-of-way clearance

(a). In the interest of the health, safety and general welfare of all residents by providing transit space for fire trucks, ambulances and other emergency vehicles, it is a violation of this article for any person to fail to prune trees and other vegetation to the face of the curb edge of the pavement adjacent to any traversable public right-of-way to a minimum height of thirteen and one-half (13.5) feet from the surface of the pavement after receiving written thirty (30) days notice from the director or his designee.

Exception: The clearance above the traversable public right-of-way along La Jara Blvd. shall not be lower than eleven and one-half (11.5) feet from the surface of the pavement.

(b). No provision of this article shall be construed to in any way limit or restrict any and all rights that the city may have to remove any part of a tree or vegetation that is permitted to grow over the public right-of-way and measures at a height above pavement less than permitted in subsection (a) above, or to maintain any civil suit for injunctive relief to require the removal or the prohibition of the same.

Secs. 5-160 – 5-169. Reserved

(Code 1965, § 6-1, § 6-2, § 6-4, § 8-1, § 8-12, § 8-14, § 8-16, § 8-17, § 8-18, § 8-19, § 8-34, § 8-36, § 8-37, § 8-41, § 8-43, § 8-44, § 8-45, § 8-68, § 8-69, § 17-4, § 17-5, § 17-6; Ord. No. 1260, 9-9-91; Ord. No. 1261, 9-9-91; Ord. No. 1299, 4-26-93; Ord. No. 1339, 9-12-94; Ord. No. 1398, 9-22-97; Ord. No. 1460, 6-26-00; Ord. No. 1497, 4-8-02; Ord. No. 1499, 5-20-02; Ord. No. 1502, 6-24-02; Ord. No. 1530, 7-14-03; Ord. No. 1571, 10-25-04; Ord. No. 1572, §2, 11-8-04; Ord. No. 1573, 11-22-04; Ord. No. 1576, 11-22-04; Ord. No. 1579, 2-9-05; Ord. No. 1586, 4-25-05; Ord. No. 1590, 8-8-05; Ord. No. 1614, 12-12-05; Ord. No. 1618, 1-9-06; Ord. No. 1654, 6-26-06; Ord. No. 1663, 7-31-06; Ord. No. 1669, 7-31-06; Ord. No. 1672, 10-23-06; Ord. No. 1674, Exh. 1, 8-28-06; Ord. No. 1715, 6-4-07; Ord. No. 1742, § 3, 11-14-07; Ord. No. 1750-A, § 5, 1-28-08)

THAT, this Ordinance shall become effective five days after publication of the caption hereof.

PASSED AND APPROVED this ____ day of _____, 2008.

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY