

City of Marfa

CONSTRUCTION PERMIT ORDINANCE

ORDINANCE NO. 07-20-C

AN ORDINANCE OF THE CITY OF MARFA, TEXAS, ESTABLISHING REGULATIONS FOR PERMITS REQUIRED FOR BUILDING, PLUMBING, ELECTRICAL, MECHANICAL, DEMOLITION AND FENCING WORK; PERMIT EXEMPTIONS; CONTRACTOR LICENSING; PERMITS ISSUED; PERMIT AND LICENSE FEES; EXPIRATION OF PERMITS; PERMIT APPLICATIONS; PERMIT DISPLAY; VARIANCES; AND PROVIDING FOR THE FOLLOWING: POPULAR NAME; PURPOSE; SCOPE OF JURISDICTION; APPLICABILITY; EXCEPTIONS; EFFECTIVE DATE; DEFINITIONS; ENFORCEMENT, INCLUDING A PERMIT INSPECTION OFFICER; PENALTIES WITH CRIMINAL FINES NOT TO EXCEED \$500; SEVERABILITY AND A REPEALER.

WHEREAS, the City Council of the City of Marfa, Texas seeks to provide for the orderly and safe development of land within its City Limits (i.e. incorporated municipal boundary); and

WHEREAS, the City Council seeks to preserve the health, safety and general welfare of the community by providing regulations for construction within its City Limits; and

WHEREAS, the City Council hereby finds that a new Ordinance regulating construction is in the best interests of the residents and the City of Marfa.

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

1. ENACTMENT CLAUSES

A. Popular Name

This Ordinance may commonly be referred to as the "Construction Permit Ordinance."

B. Purpose

To allow the City Council to regulate construction permits and contractor licenses; and to provide for appropriate fee collection to administer and enforce this Ordinance.

C. Scope of Jurisdiction

All of the provisions of this Ordinance shall apply within the City Limits (i.e. incorporated municipal boundary). The provisions regarding subdivisions shall also

apply in the extraterritorial jurisdiction (ETJ) of the City. The provisions regarding plumbing work shall also apply in the ETJ of the City.

D. Applicability

This Ordinance shall apply only to properties currently used for, or proposed to be used for, residential, commercial or industrial uses and includes both site-built and manufactured structures. This Ordinance does not invalidate any other Ordinance which may affect the subject matter of this Ordinance. This Ordinance and any such other Ordinance shall be construed together, to the extent possible, in a manner which will minimize conflict between Ordinances.

E. Exceptions

This Ordinance shall not apply to building work or plumbing work for which a building permit or plumbing permit has been issued by the City prior to enactment of this Ordinance; however, this Ordinance applies for electrical, mechanical and demolition work that has not commenced prior to the Effective Date of this Ordinance.

F. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication.

G. Definitions

The following definitions are used for the purpose of this Ordinance.

1. "Homeowner" is defined as a person who owns a home that is declared as his or her homestead and uses it as his or her primary residence.
2. "Homestead" shall have the definition prescribed in section 41.002 of the Texas Property Code.
2. "Property Owner" is defined as a person who owns property, other than his or her homestead, that is used exclusively for personal use.
3. "Contractor" is defined as any person such as Construction Manager, Job Foreman, Sub Contractor or Contractor, firm or corporation engaged in the business of construction or supporting trades.
4. "Repair" is defined as mending an existing fixture.
5. "Replace" is defined as removing and installing an existing electrical, plumbing or mechanical system in a building.
6. "Install" is defined as the addition of a new electrical, plumbing or mechanical system to a building.
7. "Enlargement" is defined as increasing the area of the original building.

8. "Structural Alteration" is defined as a change to a building that affects any supporting element of the building including foundation, walls or roof.
9. "Mechanical" systems are defined as central air conditioning, refrigeration or heating systems.
10. "City right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City of Marfa has an interest. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications.
11. "Compliance Inspection" means the assessment by the City's Code Enforcement Officer to ensure the permitted project is completed in accordance with the applicable requirements set forth in the adopted Planning & Zoning Ordinance.

2. CONSTRUCTION PERMITS, LICENSES AND FEES

A. PERMITS REQUIRED

It shall be unlawful to commence any construction, enlargement, structural alteration or demolition of any building; to install or replace electrical, plumbing or mechanical systems of a building; or to remove or build a fence or wall within the City Limits of the City of Marfa, Texas, without first applying for and securing the required permits from the City:

1. A Building Permit is required for construction, enlargement, or structural alteration of a building;
2. A Demolition Permit is required for demolition of freestanding buildings, or portions of buildings, larger than 150 square feet in area;
3. A Plumbing Permit is required for any installation or replacement of plumbing in new construction or remodeling in the City or ETJ area including water plumbing, gas plumbing, and wastewater plumbing;
4. An Electrical Permit is required for installation or replacement of electrical wiring for any building;
5. A Mechanical Permit is required for installation of any central air conditioning, refrigeration or heating system; and
6. A Fence Permit is needed for any removal or construction of a fence or wall.

B. PERMIT EXEMPTIONS

Permits are not required for the following situations:

1. A Building Permit is not required for freestanding buildings without plumbing that are smaller than 150 square feet in area;
2. Permits are not required for electrical or plumbing maintenance work if:

- A. the work is performed by a person regularly employed as a maintenance person at the building or premises;
 - B. the work is performed in conjunction with the business in which the person is employed; and
 - C. the person does not engage in electrical or plumbing work for the public;
3. A Plumbing Permit is not required for emergency plumbing work that can be accomplished in less than 12 hours;
 4. A Plumbing Permit is not required for plumbing work done by Homeowners or Property Owners with the following exceptions:
 - A. replacement of main water service between the water meter and the building requires a permit;
 - B. replacement of a main sewer line between the building and the city sewer line requires a permit;
 - C. replacement of any gas line requires a permit; and
 - D. any penetration into an existing sewer line in the building or on the requires a permit;
 5. An Electrical Permit is not required for electrical work done by Homeowners or Property Owners with the following exceptions:
 - A. replacement or installation of branch circuit wiring requires a permit; and
 - B. replacement or installation of main service wiring requires a permit;
 6. Electrical Permits are not required for landscape irrigation installers, as necessary to perform the installation of irrigation control systems, and landscapers, as necessary to install and maintain low-voltage outdoor lighting systems and holiday lighting excluding any required power source;
 7. Electrical Permits are not required for electrical connections supplying heating, ventilation, and cooling and refrigeration equipment if the work is done under a valid Mechanical permit; and
 8. Permits are not required for appliance installation and service work that involves connecting appliances to existing openings with a code-approved appliance connector.

C. CITY CONTRACTOR LICENSES REQUIRED

It shall be unlawful for Contractors to engage in construction, enlargement, structural alteration, or demolition within City Limits without registering with the City annually, paying an annual license fee, and obtaining an annual Contractor License. Contractor Licenses may be revoked by the City for cause at any time. There are five types of Contractor License issued by the City.

1. A Building Contractor License is required for Contractors for all work requiring a Building Permit or Demolition Permit. Contractors required to register with the

Texas Residential Construction Commission must present proof of current registration.

2. A Plumbing Contractor License is required for Plumbing Contractors for all work requiring a Plumbing Permit. Plumbing Contractors must present proof of current licensing from the Texas State Board of Plumbing Examiners (TSBPE) and proof of any insurance required by TSBPE for plumbing contractors.
3. An Electrical Contractor License is required for Electrical Contractors for all work requiring an Electrical Permit. Electrical Contractors must present proof of current licensing from the Texas Department of Licensing and Regulation (TDLR) and proof of any insurance required by TDLR for electrical contractors.
4. A Mechanical Contractor License is required for Mechanical Contractors for all work requiring a Mechanical Permit. Contractors must present proof of current licensing from the Texas Department of Licensing and Regulation (TDLR) and proof of any insurance required by TDLR for air conditioning and refrigeration contractors.
5. A Roofing Contractor License is required for Contractors for installation of new roofing on existing buildings.

D. PERMITS ISSUED

Any person, firm or corporation may apply for and receive a Fence permit. All other Permits will be issued only to City-licensed Contractors, Homeowners or Property Owners.

1. Contractors:
 - a. Only Contractors with a City Building Contractor License may apply for and receive Building Permits and Demolition Permits.
 - b. Only Contractors with a City Plumbing Contractor License may apply for and receive Plumbing Permits.
 - c. Only Contractors with a City Electrical Contractor License may apply for and receive Electrical Permits.
 - d. Only Contractors with a City Mechanical Contractor License may apply for and receive Mechanical Permits.
2. Homeowners may apply for and receive Permits for work performed by the Homeowner or a family member on the building declared as their homestead and used as their primary residence. Proof of homestead declaration must be included with the Permit application.
3. Property Owners may apply for and receive Permits for work performed by the Property Owner or a family member on the property as long as the property will be used exclusively for personal use or family use for a period of at least one year after completion of construction. Proof of property ownership must be included with the Permit application.

4. All permits issued will require a disposal fee, which shall be refunded upon satisfactory proof of project completion and proper disposal of all construction debris.

E. PERMIT AND LICENSE FEES

The following Fee Schedule applies to all permits and licenses:

1. All permits require a non-refundable \$50 **application** fee for residential and \$100.00 **application** fee for Commercial with the application;
2. The annual **renewal** fee for a permit issued after the *Effective Date* of this Amendment is \$50;
3. The fee for a **Fence Permit** is \$50;
4. The fee for a **Demolition - Residential Permit** is \$50;
The fee for a **Demolition - Commercial Permit** is \$100.00
5. The fee for a **Building Permit**, a **Plumbing Permit**, a **Electrical Permit** and/or a **Mechanical Permit** is \$0.20 per square foot of the affected area for each permit with a \$10 minimum fee; and
6. The fee for a **City Contractor License** is \$150 per year.
7. **Compliance Inspection fee:**
Residential - \$50.00 per inspection
Commercial - \$100.00 per inspection
8. **Security Deposit - Disposal fee:** \$150.00 without proof of contractor's roll off on site
9. **Roll Off fee:** \$150.00 when placed in City right of way plus \$5.00 per day.
10. Use of City **ROW** (right of way) fee: \$150.00 on commencement plus \$5.00 per day.

F. EXPIRATION OF PERMITS

All Permits issued after the *Effective Date* of this Ordinance expire two years after the date the Permit was issued with the following exceptions:

1. A Permit expires if substantial work does not commence within one year after the issuance of the permit;
2. A Permit expires after work commences if no substantial work is performed during a period of one year; and
3. Permits issued after the *Effective Date* of this Amendment that have not expired for reasons 1. or 2. shall be renewed on an annual basis subject to payment of a **Renewal Fee**.

G. PERMIT APPLICATION

Permit Applications must include legal descriptions of the lot, dimensioned drawings of the lot, dimensioned floor plans of the improvements, the area (square feet) of the improvements, and the estimated value of the improvement work. If any building, remodeling, fencing, or demolishing is to be done within 7.5 feet of the presumed property line, the application must include:

1. A copy of a survey by a licensed surveyor, or
2. Establishment of metes and bounds with survey marker pins by a licensed surveyor; or
3. A letter from the owner of the adjoining property agreeing to the improvements.

Applications must be made on Permit Application forms provided by the City. The City Manager or his or her designee is responsible for reviewing each Permit Application for compliance with this Ordinance and the City Zoning Ordinance before approving the Permit.

H. PERMIT DISPLAY

All Permits must be maintained in legible condition and posted in an area visible from the street for all construction work.

I. VARIANCES

Exceptions for variance from this Ordinance may be made in writing to the City Council. Variances may be granted by the City Council when the Council determines in writing that the applicant shall otherwise suffer undue hardship.

3. ENFORCEMENT

A. Civil and Criminal Penalties

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

B. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

C. Enforcement Responsibility

The provisions of this Ordinance shall be administered and enforced by the City Manager or his or her designee.

D. Permit Inspection Officer

The City Manager shall appoint a Permit Inspection Officer to inspect the permits for all construction sites covered by this Ordinance with the following responsibilities:

1. The Permit Inspection Officer has authority to issue Warnings and Citations for non-compliance with this ordinance; and
2. The Permit Inspection Officer has authority to halt construction work with cause using a Stop Work Order. The City Council has authority to hear appeals of Permit Inspection Officer actions and remove a Stop Work Order.

4. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

5. REPEALER

All Ordinances or parts of Ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict and for the duration of the applicability of this Ordinance.

PASSED and APPROVED this the 9th day of October 2018, by the City Council of the City of Marfa, Texas.

THE CITY OF MARFA


Ann Marie Nafziger, Mayor

ATTEST:


Rachel Whatley, City Secretary