

ORDINANCE NO. 07032018-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POTEET, BUILDINGS AND BUILDING REGULATIONS; ADOPTING REGULATIONS FOR BUILDING; FIRE; MECHANICAL; ELECTRICAL PLUMBING; PROPERTY MAINTENANCE; RESIDENTIAL BUILDINGS; AUTHORIZING THE CITY ADMINISTRATOR TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS ORDINANCE; INCORPORATING RECITALS; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; REPEALING ANY OTHER CODE PROVISIONS, ORDINANCES, OR PARTS OF ORDINANCES; PROVIDING FOR PUBLICATION AND ADOPTING AN EFFECTIVE DATE.

WHEREAS, the City of Poteet has determined a need to clarify, define and set forth in the municipal code of ordinances building regulations necessary to maintain the health, safety, governance and good order of the City; and

WHEREAS, the City wishes to adopt the city building code ordinance in order to address a public purpose to regulate building codes for the welfare, safety and health of the citizens of the City of Poteet; and

WHEREAS, after publication in the manner prescribed by law the governing body of the City wishes to adopt the Building Code as part of the Municipal Code of Ordinances of the City in the manner and form set forth below;

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

Effective immediately following the publication of this ordinance in the local newspaper as required by Section 52.011 of the Texas Local Government Code, the following rules will apply within the corporate city limits of the City of Poteet.

BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. - IN GENERAL

Purpose.

The purpose of the building code shall be to regulate the building, construction, enlargement, alteration, repair, remodeling, moving, removal, conversion, demolition, occupancy, equipment, height, area, maintenance, removal and demolition of buildings or other structures within the city, and provide for the issuance of permits and set fees accordingly.

Short title. This chapter is, and shall be known, and may be cited as "the building code of the city."

Adoption of building codes.

The International Building Code, the International Residential Code, the International Property Maintenance Code, the International Existing Building Code, the International Mechanical Code, the International Plumbing Code; the National Electrical Code; the International Fuel Gas Code; and the International Fire Code as adopted under state statute, 2015 editions, all published by the

International Code Council, or the appropriate subsequent editions are hereby adopted by reference as the building codes of the city.

Code Enforcement Official/Building Inspector

Establishment of Code Enforcement Official/Building Inspector.

It is hereby created the position of code enforcement official for the city who shall be appointed by the city administrator. The code enforcement official shall be a person professionally competent by experience and training to enforce municipal code violations and perform building inspections pursuant to state law. The building/code enforcement official, fire chief, or their designated representatives may serve in this position.

The building/code enforcement official/building inspector/code enforcement official/fire inspector shall be the official building inspector for the city. He or she shall perform the duties and functions of the building/code enforcement official for the city and shall perform said duties and functions at the same charges and rates established in this Code.

(a) *Enforcement.* It shall be the duty of the city building inspector to enforce all laws relating to the construction, alteration, removal, and demolition of buildings and structures. The provisions of this chapter shall be enforced by the code enforcement official, or his/her designee, and it shall be unlawful for any person to interfere with or hinder the code enforcement official, or his/her designee, in the exercise of their duties under this chapter.

(b) *Authority to enter buildings.* The building inspector, in the discharge of his official duties and upon proper identification, shall have the authority to enter any building, structure or premises at any reasonable hour.

Duties of Code Enforcement Official/Building Inspector.

The code enforcement official shall perform the following duties:

1. Supervise and administer all municipal code and building regulations identified in this article and other ordinances of the city.
2. Supervise and administer code enforcement programs of the city.
3. Shall keep records of permit applications, issuances and denials, plan reviews, inspections, and certificate of occupancy applications, issuances and denials. The building/code enforcement official shall keep records of violations and any other records necessary to enforce this article.
4. Perform such other duties as may be required by the city administrator.
5. Issue notices of violation to individuals or entities for violation of municipal ordinance, state law, or any other building regulation, administrative rule, or other law, which the code compliance official may lawfully enforce.
6. The code enforcement official is authorized to enter and shall have the right and duty to enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of a nuisance.
7. The code enforcement official is authorized to issue notice of violations of municipal ordinance and state law.

Liability of city officials.

Any official, employee, or member of the city council charged with the enforcement of this Code, acting for the governing body in the discharge of his duties, shall not render himself personally liable for any damage which may accrue to persons or property as a result of an action committed in good faith in the discharge of his duties. Any suit brought against any Official or employee by reason thereof, shall be defended by an attorney for the city until final determination of such proceedings.

City liability; responsibility for compliance.

This article shall not be construed as imposing upon the city or any of its officials or employees any liability or responsibility for damages to any person injured or property damaged by any defect in any structure, mechanical system, plumbing system, electrical system, or other building component mentioned in this article, or by installation thereof, nor shall the city or any official or employee thereof be held as assuming any such liability or responsibility by reason of the inspection authorized under this article or the certificate of occupancy issued by the city.

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 article and permits or certificates relate shall conform to the regulations of the city and the city's building code.

BUILDING PERMIT PROCESS

Application for permit.

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the building inspector/code enforcement departments for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in the International Building Code.
5. State the value of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the building/ code enforcement official.

Action on application.

The building/code enforcement official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building/code enforcement official/code enforcement official shall reject such application in writing, stating the reasons therefor. If the building/code enforcement official/code enforcement official is: satisfied

that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building/code enforcement official shall issue a permit within 10 business days of receipt of the application.

Time limitation of application.

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building/code enforcement official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

Validity of permit.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building/code enforcement official from requiring the correction of errors in the construction documents and other data. The building/ code enforcement official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

Expiration.

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building/code enforcement official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

Suspension or revocation.

The building/code enforcement official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

Placement of permit.

The building permit or copy shall be kept on the site of the work until the completion of the project.

PERMITS REQUIRED

Any owner or authorized agent who 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 electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building/code enforcement official and obtain the required permit.

Permits are required for the following:

1. Siding: removing or replacing.
2. Enlarging windows or doors.
3. Installing or replacing any insulation.
4. Framing or reframing of walls.
5. Demolishing a room, kitchen, or bathroom.
6. Removing some or all interior walls.
7. Removing all sheetrock or insulation.
8. Demolition of attached partial/sections of primary structures.
9. Removing additional rooms or patio covers.
10. Full demolition of homes.
11. Demolishing accessory structures.
12. City ordered demolitions.
13. Roofing: replacing shingles (except patching); Installing shingles over existing shingles; changing the slope of the roof; removing and replacing roof decking; changing the roof material.
14. Foundation repair: repairing or replacing piers; repairing or replacing footings; new/replacing wood sill, joist, or beam.
15. General repairs: sheds, garages, decks, carports, patio covers or additions that are one-story and less than 1,000 square feet.
16. Enlarging existing swimming pools; building underground swimming pool; adding in-ground hot tub or spa; installing an above ground pool exceeding 5000 gallons.
17. Building new square footage by adding to your kitchen or living room, enclosing an open patio, expanding to the rear, side, or front of an existing home, building a new attached bedroom less than 1,000 square feet.
18. All garages require a permit; expanding existing 1-car to a 2-car garage; relocating a garage.
19. Building deck bigger than 300 square feet or more than 30 inches above the ground.
20. Patio Covers and Carports: installing pre-manufactured cover or building a new one; building an attached front porch or rear patio cover; building a cover detached from the primary residence over 300 square feet.
21. Mechanical: installing duct outlets or system; installing a new A/C Unit; installing a new heat furnace; adding or moving a hood vent in kitchen; adding exhaust fan in restroom.
22. Electrical: replacing a meter loop; adding/repairing plugs/outlets; rewiring a house; adding a new dryer plug; adding new lights.

23. Plumbing: Installing a gas or electric water heater; adding or replacing fixtures- sinks, showers, and bathtubs; adding water lines; connecting to sewer lines; extending gas piping systems.

Annual permit.

In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building/code enforcement official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

Annual permit records.

The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building/code enforcement official shall have access to such records at all times or such records shall be filed with the building/ code enforcement official as designated.

PERMIT EXEMPTIONS

Work exempt from permit.

Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following exemptions:

1. Broken glass replacement.
2. Replacement of existing door or hinge.
3. Painting/wallpaper & sheetrock repair.
4. Installation of new siding over existing siding.
5. Installation of carpet, tile, wood, or laminate flooring.
6. Playground equipment.
7. Storage sheds smaller than 300 square feet.
8. Above ground pools (less than 24 inches deep, are not greater than 5,000 gallons and are entirely above ground.
9. Fences not over 7 feet high.
10. Buildings: one-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 300 square feet.
11. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
12. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18 925 L) and the ratio of height to diameter or width is not greater than 2:1.

13. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.
14. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
15. Temporary motion picture, television and theater stage sets and scenery.
16. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
17. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
18. Non-fixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.
19. Electrical: Repairs and Maintenance: Minor repair work, including the replacement of lamps, ceiling fans/ chandeliers/ lights or the connection of approved portable electrical equipment to approved permanently installed receptacles. Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

Temporary testing systems:

A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Gas:

Portable heating appliance. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

Portable heating appliance. Portable ventilation equipment. Portable cooling unit. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code. Replacement of any part that does not alter its approval or make it unsafe. Portable evaporative cooler. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

Plumbing:

The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent 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. Removing or installing a toilet (no modifications necessary). The clearing of stoppages or the repairing of leaks 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.

Emergency repairs.

Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building/ code enforcement official.

Repairs.

Application or notice to the building/ code enforcement official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

Public service agencies.

A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

ARTICLE II. TECHNICAL CODES ADOPTED

International Residential Code adopted.

(a) That certain document, a copy of which is on file in the building/ code enforcement department of the city, being marked and designated as the International Residential Code, including all appendices, standards, supplements, and errata, as published by the International Code Council, is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, additions to, use, or maintenance of one- and two-family dwellings in the city and providing for the issuance of permits and collection of fees; and each and all of the regulations, provisions, conditions, and terms of such International Residential Code, 2015 edition, published by the International Code Council, on file in the office of the city, are hereby referred to, adopted, and made a part hereof as if fully set out in this section.

International Building Code adopted.

(a) That certain document, a copy of which is on file in the building/ code enforcement department of the city, being marked and designated as the International Building Code, including all appendices, standards, supplements, and errata, as published by the International Code Council, is hereby adopted as the international building code of the city for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of said International Building Code, 2015 edition, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions, and changes.

1. **Schedule of Permit Fees.** On buildings, structures, demolitions, or alterations requiring a building permit, a fee for each building permit shall be paid as prescribed in the most recent adopted fee schedule passed and approved by the city council. Approved building

permits and the payment of the aforementioned fee(s) include the following Building Official inspections:

Temporary Meter Loop (TML)

Plumbing Rough-In

Foundation

Frame

Insulation

Temporary on Permanent Set (TOPS)

Sewer

Water

Driveway and Driveway Approach

Final

NOTE: Re-inspection fees, if required, are not included as a component of the building permit or associated fee(s), and, consequently, will be billed separately by the city as prescribed in the most recent adopted fee schedule passed and approved by the city council.

2. **General.** Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped, and maintained to conform to the requirements of this Code commensurate with the fire and life hazard incidental to their occupancy. This shall include, but not be limited to, the following:

Agricultural buildings

Barns

Carports

Fences, more than 7 feet high

Greenhouses

Livestock shelters

Private garages

Retaining walls

Sheds

3. **Applicability.** Structures existing prior to January 1, 2018, in which there is building work involving additions, alterations, or changes of occupancy, shall be made to conform to the requirements of this ordinance.

International Property Maintenance Code adopted.

That certain document, a copy of which is on file in the building/ code enforcement department of the city, being marked and designated as the International Property Maintenance Code

(IPMC), as published by the International Code Council, is hereby adopted as the code of the city for the control of building and structures as herein provided; and each and all of the regulations, provisions, conditions, and terms of such International Property Maintenance Code, 2015 edition (including appendices, standards, supplements and errata) are hereby referred to, adopted, and made a part hereof as if fully set out in this section, with the additions, insertions, deletions, and changes, if any, in subsection (b) of this section.

National Electrical Code adopted.

There is hereby adopted the National Electrical Code, 2014 edition, and all subsequent editions thereto and all electrical work and wiring in new construction or remodeling, additions, or repair of existing buildings must comply therewith.

International Plumbing Code adopted.

There is hereby adopted the International Plumbing Code, 2015 edition, and all subsequent editions thereto and all plumbing in new construction or remodeling, additions, or repair of existing buildings must comply therewith.

International Mechanical Code adopted.

There is hereby adopted the International Mechanical Code, 2015 edition, and all subsequent editions thereto and all mechanical in new construction or remodeling, additions, or repair of existing buildings must comply therewith.

International Fuel and Gas Code adopted.

There is hereby adopted the International Fuel and Gas Code, 2015 edition, and all subsequent editions thereto and all fuel and gas in new construction or remodeling, additions, or repair of existing buildings must comply therewith.

International Fire Code adopted.

There is hereby adopted the International Fire Code, 2015 edition, and all subsequent editions thereto and all fire in new construction or remodeling, additions, or repair of existing buildings must comply therewith.

ARTICLE III. DRIVEWAY CONSTRUCTION

Permit required; issuance; site plan.

Any private individual, company or corporation desiring to construct or reconstruct driveways along any city street or road for the purpose of providing access across the city right-of-way for egress or ingress to their private property shall first obtain a permit from the city administrator or his designated representative. Such permit shall be granted hereafter only under the following conditions and specifications:

- (a.) The permit must be obtained before any work is done across the city right-of-way. Application for said permit shall be accompanied by a development/construction plan (two copies) as hereinafter described.
- (b) No permit shall be issued by the administrator or his designated representative until the city engineer has approved the site development plan.
- (c) The site development plan submitted in duplicate, along with the permit request, shall be drawn to scale, and shall indicate:

1. Dimensions and locations of the driveway being requested;
2. Locations of existing and/or proposed roads or roadway intersections if within 100 feet of the site;
3. Locations of existing or proposed buildings, structures, storm drains, fire hydrants, utility poles, fences and service fixtures;
4. Radius dimensions;
5. Driveway separation; and
6. Name and telephone number of the responsible party.

If the site development plan is a part of a new building construction plan requiring a building permit, the building permit is a prerequisite to the issuance of the driveway access permit.

Supervision of work by city.

Notice shall be given to the city administrator's office before any concrete is laid. In no case shall a driveway be poured without the presence of a representative of the city, unless authorized by the city engineer or his designated representative.

Right of city to demand removal or relocation.

This permit is given subject to the right of the city council, when said council deems it necessary, to demand removal and/or relocation of any installed driveway in, along or across any city right-of-way in the city within 30 days of notice of such demand.

Construction specifications.

(a) Placing of concrete driveways.

1. The asphalt road or street shall be vertically cut with a concrete saw for the full length of the opening, so as to provide a straight vertical face. The new depth of the concrete at this interface shall be at least six inches. A lip shall be provided at the juncture of the driveway ramp with the roadway. This lip shall have the thickness of a two-inch by four-inch piece of lumber secured flush with the sawed edge of the roadway. (Nominal height of 1½ inches.)
2. The width of driveways and radii at curb returns as well as other criteria and standards are detailed for each condition or situation on the summary of driveway regulations in appendix A.
3. Backfill shall be well tamped prior to placement of concrete driveway(s).
4. Where a driveway ties to an existing sidewalk, reinforcing steel dowels (#4 by two-foot bars spaced at 18 inches on center) shall be used with an expansion joint at the interface.
5. Driveways shall be six inches minimum thickness at the interface with the roadway and for the ramp and may be reduced to a minimum of four inches at the property line.
6. Driveways shall be reinforced with #3 bars or approved equal in both directions tied in a 12-inch grid and placed so as to be in the vertical center of the driveway after concrete is laid.
7. Concrete for the driveway placement shall be minimum 2,500 psi in 28 days.

8. Driveway sections shall have a broomed surface finish with troweled rounded edges and at all joints. Dummy joints will be provided at least every 20 feet for the full length and width of the driveway.
- (b) *Maintenance*. Each party placing a concrete access driveway across city right-of-way to that party's property shall be responsible for maintaining the replaced driveway.

ARTICLE IV. HOURS OF CONSTRUCTION

Definitions.

The following words, terms, and phrases when used in this article, shall have the meaning set forth in this section:

Construction means any site preparation (including blasting), assembly, erection, substantial repair, alteration, or similar action but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

Construction activity shall include, but not be limited to, the following:

It shall also include equipment or vehicles being started or idled, playing of radios, tape players or other devices, loud talking, unloading of equipment, tools, or supplies.

Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private rights-of-way surfaces, or similar property.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage that demands immediate action.

Emergency work means work required to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities to provide or restore immediately necessary utility service.

Heavy construction equipment means earth-moving machines, tractors, bulldozers, backhoes, concrete mixing and pumping trucks, compactors/rollers, cranes, dump trucks, excavators, fork lifts, grades, jackhammers, loaders, pavement breakers, pile drivers, portable crushers, trailer-mounted woodchippers, trenchers, or other pieces of equipment that generate similar levels of noise.

Legal holiday means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Weekday means any day Monday through Friday, which is not a legal holiday.

Weekend means Saturday, Sunday and any legal holiday.

Hours of construction activity.

- (a) It is unlawful to create a nuisance resulting from the construction, demolition, alteration or repair of any structure including excavation, or resulting from the operation of any tools or equipment used in construction, excavation, drilling, demolition, alteration or repair work requiring a building permit at any time.
- (b) No person shall operate any construction equipment nor conduct any construction activities, except during the following hours:

Weekdays: 7:00 a.m. to 9:00 p.m.

Saturdays: 8:00 a.m. to 8:00 p.m.

Sundays and legal holidays: 10:00 a.m. to 8:00 p.m.

- (c) It is also prohibited, prior to the authorized start time and after the required stop time, to cause noise associated with construction activities such as, but not limited to, noise attributed to workmen arriving to work (i.e.: loud talking, laughing or singing); vehicular noise; the playing of radios or other music; assembling, moving or stacking of construction materials; deliveries; or other site related construction noise.
- (d) The only exception to the hours of operation is for the pouring of concrete when the forecast temperature is greater than 35 degrees Celsius (95 degrees Fahrenheit). At such times concrete may be poured before 7:00 a.m.; however, all shattering and other site preparations must be completed before the required stop time of the previous day.

Exceptions.

The provisions of this article shall not apply to the following construction activity:

- (a) An emergency situation exists where the construction is necessary to correct an unsafe or dangerous condition resulting in obvious and eminent peril to public health and safety.
- (b) The operation of equipment relating to essential services to the city and equipment operating during emergency conditions shall be exempted.
- (c) Emergency work for non-city related essential services shall be exempted.
- (d) Home improvements or repairs not requiring a city permit.
- (e) Construction activity is permitted for homeowner permits when the work is being performed by the owner of the property between the hours of 6:00 a.m. and 9:00 p.m. Mondays through Saturdays and 9:00 a.m. and 8:00 p.m. on Sundays or legal holidays.
- (f) Routine maintenance or replacement of such items as water heaters, dishwasher units, and garbage disposals.
- (g) Activities confined within a wholly enclosed building or structure.
- (h) Activities necessary to prevent injury to persons or property.
- (i) Activities conducted by or for any government unit or agency.
- (j) Lawn care maintenance and landscaping.

Drainage criteria

All construction sites shall comply with the most current edition of the City's Storm Drainage Design Plan.

ARTICLE V. INSPECTIONS

Required.

- (a) Per the codes adopted herein, an inspector must inspect all work governed by this article.

- (b) The permittee shall call the building/code enforcement official or his designated representative no later than 4:00 p.m. the business day before the permittee desires the inspection.
- (c) Inspection times will be scheduled to fit the schedule of the building inspectors.
- (d) The building inspector will inspect the work as scheduled.
- (e) Work not performed or installed or otherwise not meeting the code requirements or not in conformance with the approved plans and specifications shall be corrected and reinspected.
- (f) Multiple reinspections of the same item will be subject to an additional inspection fee. The building/ code enforcement official shall inform the permittee of the additional fee prior to performing the requested reinspection.

Building Inspector/ Code Enforcement Official and Fire Inspectors.

Building and Fire Inspectors and code enforcement officials shall be competent by training, experience, licensing and certifications to perform the inspections required.

Right of entry.

An inspector retained by the city to perform inspections shall have the right to enter structures and facilities for the purpose of performing inspections as required herein.

ARTICLE VI. CERTIFICATES OF OCCUPANCY

Required.

No commercial structure shall be used for any purpose or occupied by any person until a certificate of occupancy has been issued by the building/code enforcement official.

Application.

Certificates of occupancy shall be applied for on a form to be provided by the building/ code enforcement official. The form shall include information concerning the owner of the property and structure, the proposed use of the structure, the occupant of the structure, name of emergency contacts, and other information useful to the city.

Inspections Required.

- (a) Per the codes adopted herein, an inspector must inspect all businesses governed by this article.
- (b) The permittee shall call the building/code enforcement official or his designated representative no later than 4:00 p.m. the business day before the permittee desires the inspection.
- (c) Inspection times will be scheduled to fit the schedule of the building & fire inspectors, and code enforcement.
- (d) The building/fire inspector will inspect the business as scheduled.
- (e) Building use not meeting the code requirements or not in conformance with the approved plans and specifications shall be corrected and reinspected.

- (d) The building/fire inspector will inspect the business as scheduled.
- (e) Building use not meeting the code requirements or not in conformance with the approved plans and specifications shall be corrected and reinspected.
- (f) Multiple reinspections of the same item will be subject to an additional inspection fee. The building/ code enforcement official shall inform the permittee of the additional fee prior to performing the requested reinspection.

Inspectors.

Building & Fire inspectors, code enforcement officials shall be competent by training, experience, licensing and certifications to perform the inspections required.

Right of entry.

An inspector retained by the city to perform inspections shall have the right to enter commercial use structures and facilities for the purpose of performing inspections as required herein.

New certificate required upon change of use or occupant.

A new certificate of occupancy shall be required if a new use of the structure occurs or the structure is used by a new occupant.

Issuance; period of validity.

After completion of inspections and remediation of any deficiencies and payment of the applicable fee, the building/ code enforcement official shall issue a certificate of occupancy to the applicant. The certificate of occupancy shall be valid for a 12 month period **OR** as long as the applicant uses the structure for the use stated in the application.

Termination.

If the applicant ceases to occupy the structure for which the certificate of occupancy was issued, or when there is a change in use of the structure, the certificate of occupancy shall automatically terminate.

Fees.

A nonrefundable annual fee of one hundred dollars (\$125.00) shall be required for applications for a certificate of occupancy for new businesses. A nonrefundable fee of seventy-five dollars (\$75.00) shall be required for current businesses that need an inspection. Reinspection fee is forty dollars (\$40.00).

ARTICLE VII. APPEALS AND VARIANCES

- (a) Provisions of this article and the codes adopted herein may be waived by action of the City Council following an application for a variance.
- (b) Any interested person dissatisfied with any ruling or action of the building/ code enforcement official or building inspectors regarding any code adopted by this article may apply for an appeal to the City Council.
- (c) Applications for variances and appeals must be submitted to the building/ code enforcement official or his designated representative in writing. The building/ code enforcement official will prepare a recommendation to the City Council cause the application to be on the agenda for the next available meeting of the city council.
- (d) In considering variances, the city council shall make an affirmative finding regarding each of the following before making an affirmative determination of the variance.
 - 1. Granting of any such variance will not cause or tend to cause a public nuisance or create a safety hazard.
 - 2. The application for the variance includes all the required data and information and the application is accurate, true and made in good faith and does not compromise the intent of the ordinance or ordinances subject to the variance.
 - 3. Strict compliance with such ordinance would cause an undue burden on the applicant's use of property.
 - 4. The city council action on variances and appeals shall be final.

ARTICLE VIII. VIOLATION AND PENALTY PROCESS

Notice of violation.

1. Granting of any such variance will not cause or tend to cause a public nuisance or create a safety hazard.
2. The application for the variance includes all the required data and information and the application is accurate, true and made in good faith and does not compromise the intent of the ordinance or ordinances subject to the variance.
3. Strict compliance with such ordinance would cause an undue burden on the applicant's use of property.
4. The city council action on variances and appeals shall be final.

ARTICLE VIII. VIOLATION AND PENALTY PROCESS

Notice of violation.

A written notice of violation is sent to the owner, or responsible party, by the code enforcement official and shall include the following:

- (a) The identified violation;
- (b) The location of the violation;
- (c) The date the violation was observed by the code enforcement official;
- (d) An allotted time frame (minimum ten days) to correct, remove, or repair the violation;
- (e) A property re-inspection date;
- (f) An explanation of possible consequences for not correcting, removing, or repairing the violation; and
- (g) A statement that if the same identified violation reoccurs within 12 months from the date of the first violation, then further notification by the city is not required and the code enforcement official is authorized to immediately proceed with filing a complaint in municipal court.

Service of notice.

Wherever in this article the city is required to mail a notice to the owner, occupant, or other person for a violation and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected and the notice shall be conclusively presumed as delivered to the addressee.

Filing a municipal court complaint.

If the violation is not corrected, removed, or repaired, the code enforcement official may file a complaint in municipal court for violation of the code of ordinances.

Non-compliance.

The city may, without notice, take any action authorized by this article and assess its expenses if:

- (a) A notice of violation/notice to abate was given to the owner, occupant, or other person within the preceding one year period; and
- (b) The prior notice of violation/notice to abate was served upon such owner, occupant, or other person in any manner authorized herein; and

- (c) The prior notice of violation/notice to abate informed the owner, occupant, or other person that if such person committed another violation of the same kind or nature that poses a threat to the public health and safety on or before the first anniversary of the date of notice, that the city without further notice may correct the violation at the owner, occupant, or other person's expense and assess its expenses against the property of such person; and
- (d) The violation is of the same kind and nature as that described in the prior notice; and
- (e) The city has not been informed by the owner, occupant, or other person of a change in property ownership.

Fee Schedule.

Special Fees as set forth in the City's fees shall be set as adopted by City Council, in Exhibit A attached hereto, and shall apply uniformly to all Codes adopted pursuant to this section.

Penalty.

- (a) **Violation penalties.** Persons who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the Building Code Official, or of a permit or certificate used under provisions of this Code, shall be guilty of a Class C misdemeanor, punishable by a fine of not more than \$500.00 dollars. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- (b) **Court.** It shall be unlawful to do or perform any act prohibited in this Ordinance, and it shall be unlawful to fail to do or perform any act required in this Ordinance. Hearings under this Ordinance will be held before a Municipal Court Judge.
- (c) **Failure to comply with Stop Work Order.** Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than \$100 and not more than five hundred dollars (\$500.00).

Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsections, sentences, clauses, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void.

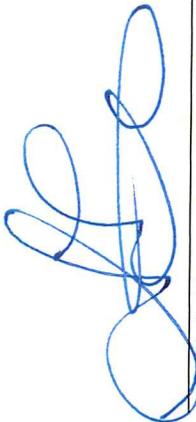
Repealer.

All ordinances in effect when this Ordinance becomes effective which as inconsistent with, or in conflict with this Ordinance are hereby expressly repealed insofar as said ordinances are inconsistent with or are in conflict with this Ordinance.

Effective date.

Effective immediately following the publication of this ordinance in the local newspaper as required by Section 51.052 of the Texas Local Government Code, the following rules will apply within the corporate city limits of Potet.

gd PRESENTED AND APPROVED by the City Council of the City of Poteet, Texas this
_____ day of July, 2018.

Attest: 
By: Abigail Frautschi, City Secretary

By: 
Albert Trevino, Mayor