



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: APRIL 26, 2022

TITLE: SECOND READING AND ADOPTION OF ORDINANCE NO. 22-06 AMENDING SECTION 5-9-205 OF CHAPTER 2 OF DIVISION 9 OF TITLE 5 OF THE IRVINE MUNICIPAL CODE RELATING TO CERTAIN CONTRACTORS DISCLOSURES

City Clerk

City Manager

RECOMMENDED ACTION

Read by title only, second reading and adoption of ORDINANCE NO. 22-06 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, AMENDING SECTION 5-9-205 OF CHAPTER 2 OF DIVISION 9 OF TITLE 5 OF THE IRVINE MUNICIPAL CODE RELATING TO CERTAIN CONTRACTORS DISCLOSURES

EXECUTIVE SUMMARY

Ordinance No. 22-06 was introduced for first reading on April 12, 2022, by the City Council.

The vote at the first reading was as follows:

AYES: 4 COUNCILMEMBERS: Agran, Kim, Kuo, and Khan

NOES: 1 COUNCILMEMBERS: Carroll

ABSENT: 0 COUNCILMEMBERS: None

ABSTAIN: 0 COUNCILMEMBERS: None

Unless otherwise directed by a Member of the City Council, the vote at second reading will reflect the same vote as at first reading. However, if a Councilmember was absent at first reading, his or her vote cast at second reading will be reflected. If a Councilmember is not present at the second reading/adoption, the vote will be reflected as absent.

ATTACHMENT

City Council Ordinance No. 22-06

CITY COUNCIL ORDINANCE NO. 22-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, AMENDING SECTION 5-9-205 OF CHAPTER 2 OF DIVISION 9 OF TITLE 5 OF THE IRVINE MUNICIPAL CODE RELATING TO CERTAIN CONTRACTOR DISCLOSURES

WHEREAS, the City Council of the City of Irvine has previously adopted modifications and enhancements to the baseline requirement of the California Building Code, as reflected in Section 5-9-205 of the Irvine Municipal Code; and

WHEREAS, Section 5-9-205(H) of the Irvine Municipal Code contains a series of existing requirements, disclosures, and penalties for non-compliance relating to the identification of subcontractors that will be utilized in connection with work authorized by City-issued permits.

WHEREAS, the disclosures mandated by Section 5-9-205(H) can be strengthened and enhanced by (i) clarifying that subcontractor disclosures must be updated prior to the commencement of work on a project, and prior to adding or replacing a subcontractor after work commences, (ii) expanding the scope of disclosures to include whether each contractor or subcontractor, or associated companies of principals, have any pending or previous enforcement actions for federal or state labor code violations, or have paid any penalties related to violations of the California Labor Code, and (iii) confirming that the City has the unqualified right to revoke a permit if a contractor fails to comply with its disclosure obligations.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY ORDAIN as follows:

SECTION 1. The above recitals are true and correct and incorporated here.

SECTION 2. Section 5-9-205 of Chapter 2 of Division 9 of Title 5 of the Irvine Municipal Code is hereby amended, with additions shown in double underlining and deletions shown in strikeout, to read in its entirety as follows:

Sec. 5-9-205. Permits.

- A. Section 105.1 Required, of Chapter 1, Division II of the California Building Code is hereby amended to add Section 105.1.3 to read:

Section 105.1.3 Permit exemption. Permits are required for installations described in all codes adopted by reference unless specifically exempted by these codes or by the Chief Building Official, in writing, for proper cause on an individual case basis after consideration of all circumstances and facts presented. Exemptions from permit requirements of this code shall not be

ATTACHMENT

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.

- B. Section 105.2 Work exempt from permit, of Chapter 1, Division II of the California Building Code, is hereby modified as follows:

Building Permits:

1. Amend Section 105.2 Building item 1 to read:
 1. One story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the structure conforms to the Zoning Code and the floor area does not exceed 120 square feet (11 square meters), except patio covers and structures located in any Very High Fire Severity Zone, or within a 100-Foot Buffer Zone.
2. Delete Section 105.2 Building item 5 Water tanks.
3. Amend Section 105.2 Building item 11 to read:
 11. Swings and other playground equipment. Exemptions from permit requirements of this code for playground equipment 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 state laws or ordinances of this jurisdiction, and equipment is subject to City review and approval when otherwise required by state or local laws, regulations or standards.
4. Amend Section 105.2 Building to add item 14 to read:
 14. Replacement windows and doors having the same dimension as those being replaced and not requiring any change to the structural frame or opening size. Such replacements must still conform to all technical codes and applicable city, county and state ordinances relating to weather proofing, security and energy efficiency.

Plumbing Permits:

1. Amend Section 105.2 Plumbing item 2 to read:
 2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation or replacement of water closets, sinks, garbage disposals or dishwashers, provided such work does not involve or require

the replacement or rearrangement of valves, pipes or fixtures and is in conformance with this code and applicable state laws.

- C. *Time limitation of application.* Section 105.3.2 of Chapter 1, Division II of the California Building Code is hereby deleted and amended to read:

Section 105.3.2 Time limitation of application. Applications for a permit for any proposed work for which no permit is issued shall be deemed to have expired 360 days after the date of filing. The Chief Building Official is authorized to grant one extension of time for action by the applicant for a period not exceeding 180 days. The extension shall be requested in writing and justifiable cause demonstrated. When required by state law or City ordinance, extended permit applications shall be amended to comply with pertinent state laws and City ordinances adopted subsequent to the date of application. Plans and other data submitted for review and relating to an expired application may be returned to the applicant or destroyed by the Chief Building Official.

Applications for a permit for any proposed work submitted as the result of a code enforcement written notice of violation for which no permit is issued shall be deemed to have expired 30 days from the date of filing. The Chief Building Official is authorized to grant extension of time for justifiable good cause.

- D. *Expiration.* Section 105.5 of Chapter 1, Division II of the California Building Code is deleted and amended to read:

Section 105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days (except one year for residential permits) 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 Chief Building Official is authorized to grant, in writing, no more than two extensions of time, for periods not more than 180 days each. Such extensions may require the payment of permit fees based on the remainder of work to be completed. The extension shall be requested in writing and justifiable cause demonstrated.

- E. *Placement of permit.* Section 105.7 of Chapter 1, Division II of the California Building Code is hereby amended to read:

Section 105.7 Placement of permit and inspection record card. The building permit or copy and the inspection record card shall be kept on site and maintained available by the permit holder until final approval has been granted by the Chief Building Official.

- F. *Residential Remodeling.* Chapter 1, Division II of the California Building Code is hereby amended to add Section 105.8 to read:

Section 105.8 Residential remodeling. The following regulations and definitions shall apply to all remodeling construction on residential buildings and properties:

1. *Completion of construction.* All building permits for residential remodeling shall expire in accordance with the provisions of the building code if work is not commenced within one year from the date of such permit, or if the work authorized by permit is suspended or abandoned, for 180 days at any time after the work is commenced. Notwithstanding the above, and subject to the provisions for extensions provided in subsection 2 below, all residential remodeling shall be completed by the owner, owner's agent or the permittee and approved by the City within the following time frame from the date of permit issuance:
 - a. Room additions (exterior of buildings and property area): 18 months
 - b. Pools/Spas: 12 months
 - c. Patio covers: 6 months
 - d. Water heaters, water softeners and air conditioners: 6 months
 - e. Fireplaces: 6 months
 - f. Skylights: 6 months
 - g. All other remodeling or building air conditioners: 6 months
2. *Extensions.* Upon written request of the owner or permittee, the Chief Building Official and/or his/her designated representative may extend the period for completion of construction, in writing, for a period not to exceed 180 days. The written request must demonstrate to the Chief Building Official, who shall have the authority to make such a determination, that (1) due to circumstances beyond the owner's or permittee's control, construction could not be completed within the time frame allowed by this section; (2) that reasonable progress has been made; (3) that the condition of the property presents no health or safety hazard; and (4) that the continued delay will not create any unreasonable visual or physical detriment to the neighborhood. The decision of the Chief Building Official may be appealed to the City Council by any person who owns property or resides within 300 feet of the boundaries of the subject property.

Any extension beyond 180 days must be approved by the Planning Commission. The Planning Commission's decision regarding approval or denial of the application for additional extension shall be

based upon the applicant's ability to demonstrate the same factors required for the initial extension of the building construction period.

Not completing the remodel within the above mentioned timeframe or approved extension shall be considered a violation of the City Municipal Code and subject to penalties outlined in Section 4-13-307.A of the City Municipal Code.

3. *Maintenance of property during remodeling.* During remodeling, all property shall be maintained in a reasonably clean and well-kept manner. All lumber and building materials shall be neatly piled or stacked in a safe manner and stored in the rear yard of the residential property or inside of the building construction perimeter except that building materials may be stored in a front yard for a period not to exceed 30 days. Properties shall be secured by fencing when the Chief Building Official determines fencing is necessary for public safety and/or welfare.

Exterior walls and roofs of buildings shall be covered with finished materials, in accordance with City-approved plans and the Building Code within six months from the commencement of construction. A written waiver of this requirement may be obtained from the Chief Building Official or his/her designated representative if the construction is screened from view from adjacent occupied or public property with fencing materials approved by City zoning and building regulations.

4. Definitions.
 - a. *Remodeling.* "Residential remodeling construction" is defined as construction of work which constitutes construction, enlargement, alteration, erection, repair, demolition, or improvement of an existing residential structure or other improvement located on residential property.
 - b. *Reasonable progress.* "Reasonable progress" shall mean a demonstration that all means reasonably available to the permittee to complete the work within the prescribed time have been exhausted.

- G. *Change of contractor or of ownership.* Chapter 1, Division II of the California Building Code is hereby amended to add Section 105.9 to read:

Section 105.9 Change of contractor or of ownership. A permit issued hereunder shall expire upon a change of ownership or a change of contractor for the building, structure or grading for which said permit was issued if the work thereon has not been completed and received a final inspection approval and a new permit shall be required for the completion of the work. If no

changes have been made to the plans or specifications last submitted to the Chief Building Official, a permit issuance fee as set forth in the City's fee resolution shall be charged to the permit applicant. If changes to the plans or specifications have been made, the Chief Building Official shall determine appropriate permit fees in accordance with the City's fee resolution.

- H. *Subcontractors.* Chapter 1, Division II of the California Building Code is hereby amended to add Section 105.10 to read:

Section 105.10 Subcontractors. For projects over \$8 million in value, At the time of permit issuance, prior to the commencement of work, and prior to adding or replacing a subcontractor after work commences, the applicant shall complete a form provided by the City Division of Building and Safety, which (i) lists all subcontractors, and—(ii) shows verification of workers' compensation insurance, state contractor license and license category, City business license and federal tax identification number for each subcontractor, and (iii) shows verification whether each contractor or subcontractor, or any companies associated with its principals, has any final, adverse determinations; any pending and / or previous enforcement actions; or paid any penalties to any applicable governing agency for any federal or state labor violations within the prior 7 years. No person shall contract or sub-contract construction work without a valid contractor's license pursuant to applicable provisions of the State of California Business and Professions Code.

If the applicant adds or replaces a subcontractor to the permitted project that is not listed in the form provided for above, then prior to the commencement of work of that subcontractor, the applicant shall complete a form provided by the City Division of Building and Safety that (i) lists the additional subcontractors, or (ii) shows verification of workers compensation insurance, state contractor license, and license category, City business license and federal tax identification number for each additional subcontractor, and (iii) shows verification whether each additional subcontractor has any final, adverse determinations; any pending and / or previous enforcement actions; or paid any penalties to any applicable governing agency for any federal or state labor violations within the prior 7 years.

In the event that the applicant cannot provide a complete list of valid subcontractors at the time of permit issuance, the applicant shall provide such information to the City, within a reasonable period of time after award of each permit and within a reasonable time after adding or replacing a subcontractor; provided, however, that if the applicant fails to provide a complete list of valid subcontractors prior to commencing work and/or prior to adding or replacing a subcontractor after work commences, the City shall have the unqualified right to revoke the subject permit(s). Failure to provide timely valid and current subcontractor listings at each and all times required by this subdivision shall could result in the permit applicant paying a penalty for default to the City in an amount equal to the original permit fee for each subcontractor

violation in order to defray City costs of enforcement of this section. In such instances, Failure to remit penalty payment shall constitute a violation of this code, punishable as a misdemeanor under the City charter.

- I. *Approvals.* Chapter 1, Division II of the California Building Code is hereby amended to add Section 105.11 to read:

Section 105.11 Approvals. To be valid, any approval, waiver, determination or similar action referenced in this code benefiting the party so requesting such action must be in writing and prepared by a City individual with authority to provide the same.

SECTION 3. CEQA Determination. In adopting this Ordinance, the City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations Sections 15061(b)(3) and 15378, in that it can be seen with certainty that the Municipal Code amendments propose no activity that may have a significant effect on the environment and will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

SECTION 4. This Ordinance shall become effective thirty (30) days after adoption.

SECTION 5. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

SECTION 6. The City Clerk shall certify to the passage of this Ordinance and this Ordinance shall be published as required by law and shall take effect as provided by law.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the ____ day of _____ 2022.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing ordinance was introduced for first reading on the 12th day of April 2022, and duly adopted at a regular meeting of the City Council of the City of Irvine, held on the ____ day of _____ 2022.

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

CITY CLERK OF THE CITY OF IRVINE