

 **Division 2. Building Code and Residential Code** **Sec. 3.02.051 Building code adopted**

The International Building Code, 2012 edition, and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word except for the local amendments provided for in section 3.02.053. (Ordinance 2587, sec. I(3.101(A)), adopted 9/23/13)

 **Sec. 3.02.052 Residential code adopted**

The International Residential Code, 2012 edition, and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word except for the local amendments provided for in sections 3.02.053 and 3.02.054. (Ordinance 2587, sec. I(3.101(I)), adopted 9/23/13)

 **Sec. 3.02.053 Amendments to building code or residential code**

The International Building Code or International Residential Code is amended to provide the following:

- (1) A survey by a surveyor licensed by the state is required on all residential construction when a concrete slab is involved and shall be based on actual forms and must include a finished floor elevation of 12 inches above the centerline of the front street, or 18 inches above the curb or 12 inches above the base floodplain elevation, whichever is higher. A form survey is not required where there is an existing survey with absolute reference points. This exception shall not apply to projects located within the 100-year floodplain.
- (2) Surveys required hereunder shall show all municipal and private easements.
- (3) A final "as built" survey shall be submitted prior to receipt of certificate of occupancy and shall show the owner's name. The permit department shall submit notice of the certificate of occupancy to the water department and no service shall be extended to the construction without such notice.
- (4) Smoke and/or heat detectors shall be required in all attics in addition to all other required locations. Each unit shall operate on 110 volt electric service, have battery backup and be interconnected in such a way that should any detector sound an alarm, all detectors will sound an alarm.
- (5) Any and all mobile homes located within the city or its extraterritorial jurisdiction shall within 6 months after adoption of this article comply with HUD requirements for anchoring and be skirted with a nonflammable material.
- (6) In any garage attached to a residence, all walls and ceilings adjacent to the residence shall be covered with 5/8" sheetrock.
- (7) Section 105.2 Notes 1.6 of the International Building Code are not adopted.

(Ordinance 2587, sec. IV(3.104(a)), adopted 9/23/13)

 **Sec. 3.02.054 Amendments to residential code**

The International Residential Code is amended to provide the following:

- (1) Chapter 4, section R401.1-Application, shall be amended to provide:

- (A) All concrete slabs up to 4" thick shall be reinforced with minimum #3 rebar on 16" centers.
- (B) All deformed bars (rebar) shall conform to ASTM A-615, A-616, A-617. Bar mats shall conform to ASTM A184. Welded wire fabric shall conform to ASTM A-185 or A-497.
- (C) All flat work shall be reinforced with #6 wire mesh or #3 rebar on 18" centers.
- (D) All reinforcement shall be elevated as required in ACI 318 and ACI 302.
- (E) Wood shingles on new construction are prohibited except when the new construction is an addition to an existing wood shingle roof or is placed on a decorative structure such as a gazebo, by way of example only, which is located more than ten feet (10') from the main structure.

(2) Section R105.2 notes 1, 5 & 10 of the International Residential Code are not adopted.

(Ordinance 2587, sec. IV(3.104(c)), adopted 9/23/13)

(3) PEX piping with a material designation code of 5X06 or greater is allowed for plumbing only. (Ordinance 2620 adopted 3/10/14)

 **Secs. 3.02.055–3.02.100 Reserved**

Division 3. Existing Buildings Code

 **Sec. 3.02.101 Adopted**

The International Existing Buildings Code, 2012 edition, and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word except for the local amendments provided for in section 3.02.102. (Ordinance 2587, sec. I(3.101(C)), adopted 9/23/13)

 **Sec. 3.02.102 Amendments**

The International Existing Building Code is amended to provide the following:

(1) Section 105.2 Note 1 of the International Existing Building Code is not adopted.

(Ordinance 2587, sec. IV(3.104(f)), adopted 9/23/13)

 **Secs. 3.02.103–3.02.150 Reserved**

Division 4. Property Maintenance Code

 **Sec. 3.02.151 Adopted**

The International Property Maintenance Code, 2012 edition, and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word. (Ordinance 2587, sec. I(3.101(H)), adopted 9/23/13)

 **Secs. 3.02.152–3.02.200 Reserved**

The International Fuel Gas Code, 2012 edition, and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word. (Ordinance 2587, sec. I(3.101(E)), adopted 9/23/13)

Secs. 3.02.252–3.02.300 Reserved

Division 7. Electricity*

Part I. In General

Sec. 3.02.301 Definitions

Electric wiring and apparatus. Includes all materials, devices, machinery, appliances, appurtenances, or conductors used in connection with the production of electric lights, heat, or power, or the transmission of electrical signals.

Journeyman electrician, maintenance or apprentice electrician. Any person, other than a master electrician, who is engaged in the practical installation, alteration or changing of electric wiring and apparatus.

Maintenance electrician. An electrician regularly employed on a permanent basis, by any reason [person], and who performs work only in the confines of the building or buildings in or on the premises where he/she is regularly employed on a permanent basis, who does electrical maintenance work, or shall be known as maintenance work [sic], shall be known as a maintenance electrician. (Maintenance shall mean the keeping in safe repair of any and all electrical installations, apparatus and equipment on the premises of the place of permanent employment but does not include the installation of new and additional electrical work, electrical equipment, or electrical apparatus.) Such electrician shall be a qualified master electrician.

Master electrician. Any person skilled in the planning, supervision, installation, alteration or changing of electric wiring and apparatus, and familiar with the rules, laws and regulations governing the same.

Temporary cut-in (TCI). Temporary electrical service up to ninety days; at the expiration of the 90-day time period, service will become permanent unless electrical service is terminated by the chief electrical inspector or his/her designate in writing to Houston Lighting and Power.

(1999 Code, sec. 3.406; Ordinance adopting Code)

Sec. 3.02.302 General wiring installation standards

(a) Wires to be strong and properly supported. Every corporation, partnership, association, or individual owning or operating a line of wires over streets, alleys, or buildings in this city shall use only wires that are suitable and strong, shall suitably and safely attach them to strong and sufficient supports and insulate them at all points of attachment and shall remove all wires when abandoned for use.

(b) Wires not to interfere with fire department. No wire or wires shall be installed, operated or maintained over any street, alley, sidewalk, or building in this city which shall be liable to seriously interfere with the work of the fire department in the use of ladders or other apparatus, or which shall obstruct or render hazardous the use of fire escapes, and on complaint of the fire chief said obstructing, interfering or hazardous wires shall be removed or properly rearranged.

(c) Signal wires. Wherever possible and expedient, signal wires shall not be carried on the same pole with or in dangerous proximity to high potential electric light or power wires, and where a joint occupancy pole line composed of these two (2) classes of system is necessary, or where the routes traversed by

- (2) Right of entry. The chief electrical inspector and/or any deputy electrical inspector shall have the right during reasonable hours to enter any building, manhole, or subway in the discharge of his official duties and/or for the purpose of inspecting the electrical apparatus or appliances therein contained, and for that purpose he shall be given prompt access to all buildings, private or public, and to all manholes and subways, on application to the company, firm, or individual owning or in charge or control of same.
- (3) Notification to violators. Where wires or apparatus are found in a dangerous or unsafe condition, or are deemed to be an interference with the work of the fire department, inspectors shall notify the person, firm or company owning, using, or operating them to place them in a safe, secure and non-interfering condition. Any corporation, copartnership, association, or individual or agent thereof failing, neglecting, or refusing within a reasonable time to make the necessary repairs or changes, and have the necessary work completed within a reasonable time after the receipt of said notice, shall be deemed guilty of violation of this division.
- (4) Authority of deputy inspectors. Each deputy electrical inspector shall in every case be known to be competent to discharge the duties of the chief electrical inspector, and the rights and privileges conferred upon the chief electrical inspector are hereby conferred upon each deputy electrical inspector when properly appointed.
- (5) Concealment of work. The chief electrical inspector and/or any deputy electrical inspector is hereby authorized and directed to remove any flooring, lathing or plaster, sheetmetal or any other material which may conceal any electrical wiring or apparatus contrary to the provisions of this division. On completion of the inspection of any electric wiring or apparatus designed to be concealed and found to be in full compliance with the provisions of this division, it shall be the duty of an electrical inspector to post a notice to that effect at the main disconnecting means, or other conspicuous place, and said notice shall be considered as an express permission to conceal said electric wiring and apparatus, but no concealment shall take place until such notice has been posted by an electrical inspector.
- (6) Authority to remove wires or turn off current. The fire marshal or an electrical inspector or a competent person delegated by them or either of them shall have the power to at once cause the removal of all wires, or the turning off of all electric current, where the circuits interfere with the work of the fire department during the progress of a fire. An electrical inspector is hereby authorized and empowered to cause the turning off of electric current from all conductors or apparatus which are deemed by him/her to be in an unsafe condition, or which have not been installed in conformity with the provisions of this division.
- (7) Decisions on questions. The chief electrical inspector shall decide all questions not provided for in this division pertaining to the installation, operation, or maintenance of electric wiring and apparatus.

(1999 Code, secs. 3.404, 3.405)

Sec. 3.02.352 Permit required

No alteration or change shall be made in the electric wiring or apparatus nor shall any such electric wiring or apparatus be installed in any building without first securing from an electrical inspector a permit, nor shall any change be made in any wiring or apparatus after inspection without notifying an electrical inspector and securing a new permit. (1999 Code, sec. 3.410)

Sec. 3.02.353 Application for permit; issuance

Before issuing a permit for the installation of any electric wiring or apparatus, or for the alteration of or change in any electric wiring or apparatus, as provided in the preceding section, an application shall be filed with the chief electrical inspector describing such installation, alteration or change to be made, including the apparatus and material to be used. No permit shall be issued until such application shall have

been paid [made] to the permit clerk of the city. Permits shall be issued only when the application bears the true signature of the master electrician, except, when the applicant is physically incapacitated or expects to be absent from the county and the application so states under oath, special permission may be granted by the building and standards commission. No deviation shall be made in the details for wiring of apparatus as shown on any application unless a new application is filed and a new permit granted, for which a permit fee shall be charged and collected as though it were a new permit. (1999 Code, sec. 3.411)

Sec. 3.02.354 Certificate of satisfactory inspection

Upon completion of the installation or of any alteration or change of electric wires and apparatus in any building, it shall be the duty of the corporation, copartnership, association or individual doing the same to notify an electrical inspector, who shall inspect the same within a reasonable time, and if in accordance with the ordinances, rules and regulations of the city shall issue a certificate of satisfactory inspection which shall contain the date of inspection and an outline of the results [and no certificate shall be issued] unless all apparatus, wires, etc., connected therewith are in strict conformity with the rules and regulations herein set forth; nor shall current be turned on any wiring apparatus until a certificate of satisfactory inspection is issued. All electrical construction, all material and all apparatus used in connection with electric work and the operation of all electrical apparatus shall be in conformity with this division. (1999 Code, sec. 3.412)

Sec. 3.02.355 Exceptions to permit requirement

No permit shall be required for the installation, maintenance, or alteration of wiring, apparatus, devices, appliances or equipment for telegraph, telephone, signal service or central stations protective service used in conveying signals or intelligence, except where electrical work is done on the primary side of the source of power at a voltage over 50 volts and of more than 500 watts. No permit shall be required for poles and guy anchors for the installation, maintenance, or alteration of electric wiring, apparatus, devices, appliances, or equipment to be installed by an electric public service company for the use of such company in the generation, transmission, distribution, sale or utilization of electrical energy. However, an electric public service company shall not do any wiring on a customer's premises other than wiring which is a part of the company's distribution system, including metering equipment wherever located and transformer vaults in which company's transformers are located, nor shall any of its employees do any work other than that done for said company as hereinbefore provided for by virtue of this exemption. (1999 Code, sec. 3.413)

Sec. 3.02.356 Permit fees

Electrical permit fees shall be collected by the city as provided for in the fee schedule found in [appendix A](#) of this code. (1999 Code, sec. 3.414)

Sec. 3.02.357 Interference with inspectors

No corporation, copartnership, association, or individual or agent thereof shall interfere with the chief electrical inspector or any person or persons deputized to assist him/her as hereinbefore provided while in the performance of duty, and each such interference shall be deemed to constitute a separate offense within the intent and meaning of this division. (1999 Code, sec. 3.416)

Sec. 3.02.358 Concealing work prior to inspection

No corporation, copartnership, association, or individual or agent thereof shall hereafter conceal or cause to be concealed any electric wiring or apparatus mentioned in this division except with the express permission of an electrical inspector. (1999 Code, sec. 3.419)

Sec. 3.02.359 Liability for damages

This division shall not be construed to relieve or loosen the responsibility of any party owning, operating or controlling any electric wiring, apparatus, devices, appliances, fixtures or equipment for damages to person or property caused by any defect therein, nor shall the city be held as assuming by this division any such liability by reason of the inspection authorized herein, or the certificates of approval issued as herein provided, or otherwise. (1999 Code, sec. 3.420)

 **Secs. 3.02.360–3.02.400 Reserved**

 **Division 8. Mechanical Code***

 **Sec. 3.02.401 Adopted**

The International Mechanical Code, 2012 edition, and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word. (Ordinance 2587, sec. I(3.101(F)), adopted 9/23/13)

 **Secs. 3.02.402–3.02.450 Reserved**

 **Division 9. Energy Conservation Code***

 **Sec. 3.02.451 Adopted**

(a) The International Energy Conservation Code, 2012 edition, as published by the International Code Council (code) is hereby adopted for the regulation of design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope and mechanical, lighting and power systems in the city. No local amendment shall impose any regulation less stringent than published in the code. (Ordinance 2587, sec. I(3.1100), adopted 9/23/13)

(b) The International Energy Conservation Code, 2012 edition, and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word. (Ordinance 2587, sec. I(3.101(B)), adopted 9/23/13)

 **Secs. 3.02.452–3.02.500 Reserved**

 **Division 10. Swimming Pool and Spa Code**

 **Sec. 3.02.501 Adopted**

The International Swimming Pool and Spa Code, 2012 edition and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word. (Ordinance 2587, sec. I(3.101(J)), adopted 9/23/13)

 **ARTICLE 3.01 GENERAL PROVISIONS** **Sec. 3.01.001 Registration of contractors****(a) Definitions.**

Contractor. In the aggregate, refers to electrical contractor, fire alarm/sprinkler contractor, general contractor, HVAC contractor, irrigation contractor, plumbing contractor, roofing contractor, sign contractor, subcontractor, and swimming pool contractor as those terms are defined in this section.

Electrical contractor. Any person who installs, alters, or repairs any electrical appliance, wiring, fixtures or conduits used to supply electricity to or within any building, structure or other facility.

Fire alarm/sprinkler contractor. Any person engaged in leasing, selling, maintaining, servicing, repairing, altering, replacing, or relocating fire alarm systems or causing such to be sold, leased, maintained, serviced, repaired, altered, or moved within any building, structure or other facility.

General contractor. Any person engaged in the construction, alteration or repair of buildings or other structures, driveways, sidewalks, or street pavement.

HVAC contractor. Any person engaged in a business related to heating, ventilation, or air conditioning (HVAC), including the installation of heat pumps, refrigeration equipment, air handlers or other equipment or devices used to remove heat from any building, structure or other facility or equipment used to heat any building, structure or other facility.

Irrigation contractor. Any person who installs, repairs or maintains any system designed to spray, soak or sprinkle water on lawns, gardens, shrubbery or other landscape vegetation located on any property or surrounding any building, structure or other facility.

Plumbing contractor. Any person who engages in the activity or business of constructing, installing, altering, or repairing any plumbing or sanitary sewer system in or connected to any building, structure or other facility.

Roofing contractor. Any person who installs, repairs or replaces roofs or roofing material on any building, structure or other facility.

Sign contractor. Any person who erects, constructs, maintains or repairs any structure designed to be used in connection with advertising, promoting or disseminating information generally referred to as a "sign," whether freestanding or attached to a building, structure or other facility, and including any sign which incorporates any electrical or lighted components.

Subcontractor. Any person who is engaged to perform work under the direction of a contractor as that term is herein defined.

Swimming pool contractor. Any person who constructs or replaces or performs any structural repair on any in-ground or above-ground swimming pool, whether made of concrete, gunite, metal, plastic or other material.

(b) Registration required. Any person who engages in business as a contractor in the city shall register with the city prior to performing any work or obtaining a building or other construction or sign permit.

(c) Engaging in business without registering. It shall be unlawful for any person to engage in business in the city as a contractor who has not registered as a contractor.

(d) Information required.

(1) Anyone wishing to register as a contractor shall complete an application in the public

works department of the city.

(2) Anyone wishing to register shall provide the following information:

- (A) Original of any license/registration required by the state (copy to be made by the public works department at time of application).
- (B) Full name of the contractor applicant.
- (C) Physical and mailing address of the applicant.
- (D) Applicant's personal and business telephone numbers.
- (E) Applicant's original driver's license for copying by the city.
- (F) Proof of motor vehicle and comprehensive liability insurance with \$300,000.00 minimum, listing the city as certificate holder.

(1999 Code, sec. 3.105)

(e) Annual fee; expiration. The annual fee for contractor registration is in the amount established in [appendix A](#) to this code per year or any part thereof. Each application for contractor registration and each renewal application shall be accompanied by an application fee in the amount established in [appendix A](#) to this code. Registration, initial or renewal, shall expire on December 31. (1999 Code, sec. 3.105; Ordinance adopting Code)

(f) Compliance with applicable regulations. It shall be the duty of each contractor doing business in the city to comply with all ordinances relating to building and construction in the city or any other ordinance pertaining to the activities of the contractor.

(g) Comprehensive liability and motor vehicle insurance. All contractors shall have in force at the time of registration:

- (1) General comprehensive liability insurance in the minimum amount of \$300,000.00 showing the city as certificate holder; and
- (2) Liability insurance for each motor vehicle used in the contractor's business.

(h) Revocation. Any contractor registration may be revoked by the public works director for failure to comply with the terms of this section or any other ordinance of the city relating to the contractor's business or for repeated violation of the ordinances of the city.

(i) Worker's compensation insurance. Any contractor performing work for the city must, in addition to the other requirements herein, show proof that such contractor has worker's compensation insurance.

(j) Penalty. In addition to any other penalty provision contained herein and in addition to a penalty for any other violation of the ordinances of the city, any person who violates this section shall, upon conviction, be guilty of a misdemeanor and may be fined in accordance with the general penalty provision found in [section 1.01.009](#) of this code for each day such violation continues.

(1999 Code, sec. 3.105)

**ARTICLE 5.04 FIRE CODES****Sec. 5.04.001 Fire code**

(a) There is hereby adopted by the city, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the International Fire Code, being particularly the 2012 edition thereof, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code not less than one (1) copy has been and now is filed in the office of the city secretary, and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this article shall take effect, the provisions thereof shall be controlling within the limits of the city. (Ordinance 2587, sec. II(5.101), adopted 9/23/13)

(b) The International Fire Code, 2012 edition, and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word except for the local amendments provided for in [section 5.04.002](#). (Ordinance 2587, sec. I(3.101(D)), adopted 9/23/13)

**Sec. 5.04.002 Life safety code**

The NFPA 101 Life Safety Code, 2012 edition, and appendixes thereto, and subsequent amendments and additions, is hereby adopted by reference as though it were copied herein word for word. (Ordinance 2587, sec. I(3.101(K)), adopted 9/23/13)

**Sec. 5.04.003 Amendments to the fire code**

The International Fire Code 2012 edition, chapter 3, section 308.3, is amended by adding the following language:

(1) The construction, erection, maintenance or use of a barbecue pit or the burning of any combustible material within 10 feet of any wall of a multifamily residential building, or on or beneath any balcony, porch, roof overhang or a veranda of a multifamily residential building constitutes a fire hazard which endangers life and threatens property.

(A) No person shall construct, erect, install, maintain or use any barbecue pit or burn any combustible material within 10 feet of any wall of a multifamily residential building, or on or beneath a balcony, porch, roof overhang or a veranda of a multifamily residential building.

(B) It is unlawful for any person to construct, erect, install, maintain or use any barbecue pit or burn any combustible material within 10 feet of any wall of a multifamily residential building, or on or beneath a balcony, porch, roof overhang or a veranda of a multifamily residential building.

(C) Electric barbecue pits are excepted from this section provided they have no open flame and are equipped with, and there is present, a noncombustible metal lid, with a handle, fitting over the entire cooking surface.

(D) For purposes of this section:

(i) **Barbecue pit**. Shall mean any kind of device used for cooking food by exposing such food directly to red heat or open flames from heated briquettes, charcoal, natural gas, propane, compressed gas, wood or paper.

(ii) **Multifamily residential building**. Shall mean a building containing more than one residential unit including apartment complexes, duplexes, fourplexes,

condominiums or any other structure where more than one family may reside in a residential unit.

(iii) ***Burn***. Shall mean to light a fire, which produces heat or light, resulting in the combustion of any material including wood, natural gas, liquid petroleum gas, charcoal, briquettes or paper.

(Ordinance 2587, sec. IV(3.104(e)), adopted 9/23/13)

Sec. 5.04.004 Permit fees

Fire prevention permit fees shall be as provided for in the fee schedule found in [appendix A](#) of this code. (1999 Code, sec. 5.102)

ARTICLE 5.05 SMOKE DETECTORS

Division 1. Generally

Sec. 5.05.001 Commercial buildings

Owners of any building constructed after the date of this article and used for commercial purposes or assembly of any kind, who are not otherwise required to install smoke detectors by any other ordinance or statute, shall install a smoke detector in accordance with the following conditions:

- (1) If the building contains a heat-producing source, then:
 - (A) At least one smoke detector shall be placed inside each hallway or passageway within forty (40) feet of the heat-producing source.
 - (B) In buildings with no hallways or passageways, one smoke detector shall be placed on the ceiling one-half (1/2) the distance from the heat-producing source to the farthest exit.
- (2) Such smoke detectors must:
 - (A) Be designed to detect both the visible and invisible products of combustion;
 - (B) Be designed to produce a sound audible for at least twenty (20) feet;
 - (C) Be powered by battery or alternating current;
 - (D) Be tested and approved for use as a smoke detector by Underwriters' Laboratories Factory Mutual Research Corporation or United States Testing Company, Inc.
 - (E) Be installed according to the manufacturer's instructions on a ceiling or wall and maintained in good working order.
- (3) For purposes of this section, a heat-producing source shall be defined as:
 - (A) A permanent or temporary device using natural gas, liquid petroleum gas, oil, or any other liquid hydrocarbon to make a flame capable of producing 30,000 or more BTUs.
 - (B) Any permanent or temporary electrical device with a rated output of 1,250 or more watts.

(C) Any permanent or temporary device using wood or coal to make a flame.

(1999 Code, art. 3.800)

 **Secs. 5.05.002–5.05.030 Reserved**

 **Division 2. Dwelling Units***

 **Sec. 5.05.031 Definitions**

In this division:

Bedroom. Any room which is designed with the intent that it be used for sleeping purposes.

Corridor. A passage which connects parts of the dwelling unit.

Dwelling unit. A home, mobile home, duplex unit, apartment unit, condominium unit or any dwelling unit in a multi-unit residential structure. It also shall mean one (1) or more rooms which are subject to a single rental agreement and which are rented to a tenant or tenants for use by persons as a permanent residence.

Landlord. The owner, lessor or sublessor of a dwelling unit. A managing agent or leasing agent, whether residing or officing on-site or off-site, shall be considered the agent of the landlord for purposes of notice and other communications required or allowed under this division. Otherwise, a manager or agent of the landlord shall be considered a landlord under this act only if the manager or agent purports to be the owner, lessor or sublessor in the rental agreement.

Smoke detector. A device which is:

- (1) Designed to detect visible or invisible products of combustion;
- (2) Designed with an alarm audible to the bedrooms it serves;
- (3) Powered by either battery, alternating current, or other power source;
- (4) Tested and listed for use as a smoke detector by Underwriters' Laboratories, Inc., Factory Mutual Research Corporation, or United States Testing Company, Inc.; and
- (5) In good working order.

Tenant. Any person who is entitled to occupy a dwelling unit to the exclusion of others and who is obligated to pay rent for the dwelling unit under a written or oral rental agreement.

Test of smoke detector. The performance of the act or acts which the manufacturer of a smoke detector recommends for that particular model of smoke detector as a simple test of whether or not the smoke detector is in good working order.

Units constructed after September 1, 1981. Any unit for which a building permit was issued after September 1, 1981, or, if no building permit is issued, any unit which is occupied as a residence for the first time after September 1, 1981.

Units constructed on or before September 1, 1981. Any unit for which a building permit was issued on or before September 1, 1981, or which was occupied as a residence for the first time on or before such date.

(1999 Code, sec. 3.701)

 **Sec. 5.05.032 Penalty**

Any landlord as herein defined violating any provision of this division shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine as provided for in the general penalty provision found in [section 1.01.009](#) of this code. Each separate day or any portion thereof during which any violation of this division occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this division. (1999 Code, sec. 3.708)

 **Sec. 5.05.033 Exemptions**

This division shall not apply to dwelling units which are owner-occupied and not rented or leased to a tenant, in whole or in part, or nursing and convalescent homes licensed by the department of state health services and certified to meet the Life Safety Code under federal law. (1999 Code, sec. 3.706)

 **Sec. 5.05.034 Waiver of requirements**

The landlord's duty of installation of smoke detectors under this division may not be waived. (1999 Code, sec. 3.707)

 **Sec. 5.05.035 Installation in new dwelling units**

(a) For all dwelling units constructed after the adoption of this division, at least one (1) smoke detector shall be installed by the landlord outside of each separate bedroom in the immediate vicinity of the bedroom, except that:

- (1) Where the dwelling unit is designed with the intent that a single multi-purpose room be used for dining, living, and sleeping purposes, the smoke detector shall be located inside the room rather than outside;
- (2) Where the bedrooms are served by the same corridor, at least one (1) smoke detector shall be installed in the corridor in the immediate vicinity of the bedrooms; and
- (3) Where one (1) or more bedrooms are located on a level above the cooking and living area, the smoke detector shall be placed at the center of the ceiling directly above the top of the stairway.

(b) A smoke detector required by this division shall be installed prior to commencement of possession of the dwelling unit by the tenant in accordance with the manufacturer's recommended procedures, subject to the following:

- (1) A smoke detector shall be installed on a ceiling or wall;
- (2) If installed on a ceiling, the smoke alarm shall be installed no closer than six inches (6") to a wall;
- (3) If installed on a wall, the smoke detector shall be installed no closer than six inches (6") to the ceiling and no further than twelve inches (12") from the ceiling;
- (4) A smoke detector may be located elsewhere if permitted by ordinance or by a local, city, county, or state fire marshal; and
- (5) If a smoke detector is electrically operated rather than battery operated, the power system and installation procedures for the smoke detector shall comply with applicable local ordinances.

(1999 Code, sec. 3.702)

 **Sec. 5.05.036 Installation in existing dwelling units**

(a) For all dwelling units constructed before the adoption of this division, at least one (1) smoke detector shall be installed by the landlord in accordance with [section 5.05.035](#) on or before September 1, 1984. A smoke detector required by this section shall be installed in accordance with the location and installation procedure requirements of [section 5.05.035](#). Installation of smoke detectors prior to September 1, 1984, shall be at the discretion of the landlord or tenant.

(b) Prior to September 1, 1984, a tenant may install a battery-operated smoke detector in a unit covered by subsection (a) of this section without prior consent of the landlord, provided the smoke detector is installed in accordance with the location and installation procedure requirements of [section 5.05.035](#).

(c) At the end of the rental period or the renewal or extension of the rental period, the tenant may remove a smoke detector installed by the tenant, but the tenant shall be liable to the landlord for any unnecessary damages to the dwelling unit in removing the smoke detector.

(1999 Code, sec. 3.703)

 **Sec. 5.05.037 Testing, inspection and repair**

(a) Upon commencement of a tenant's possession of a dwelling unit containing a smoke detector, the landlord shall have a duty to test the smoke detector to verify that it is in good working order. Upon installation of a smoke detector by a landlord after commencement of the tenant's possession of a dwelling unit, the landlord shall have a duty to test the smoke detector at that time to verify that it is in good working order.

(b) During the term of the rental agreement or any renewal or extension thereof, the landlord shall have a duty to inspect and repair a smoke detector only if the tenant has given notice to the landlord of malfunction or made a request to the landlord for inspection or repair. The notice to the landlord need not be in writing unless written notice is required in the written rental agreement. The landlord shall comply with the tenant's request for inspection and repair within a reasonable time, considering the availability of material, labor, and utilities.

(c) A landlord shall not have a duty to inspect or repair a smoke detector if the damage or malfunction is caused by the tenant or the tenant's family, guests, or invitees during the term of the rental agreement or any renewal or extension period of the rental agreement. Provided, however, a landlord shall have a duty to repair or replace a smoke detector covered by this section if the tenant pays in advance for the reasonable cost of the repair or replacement, including labor, materials, taxes, and overhead.

(d) A landlord shall have satisfied his duty to inspect or repair a damaged or malfunctioning smoke detector if, after a test of the smoke detector, the test indicates that the smoke detector is in good working order.

(1999 Code, sec. 3.704)

 **Sec. 5.05.038 Replacement of batteries**

After commencement of possession by the tenant of a dwelling unit, the landlord shall have no duty to provide replacement batteries for a battery-operated smoke detector which was in good working order according to a test of the smoke detector at the time of commencement of possession by the tenant. (1999 Code, sec. 3.705)