

**AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, REPEALING ARTICLE 3.08, "ENERGY CONSERVATION," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER AND REPLACING IT WITH A NEW ARTICLE 3.08, "ENERGY CONSERVATION"; ADOPTING THE 2015 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE, SAVE AND EXCEPT THE DELETIONS AND AMENDMENTS SET FORTH HEREIN; REGULATING THE DESIGN OF BUILDING ENVELOPES FOR ADEQUATE THERMAL RESISTANCE AND LOW AIR LEAKAGE AND THE DESIGN AND SELECTION OF MECHANICAL, ELECTRICAL, SERVICE WATER-HEATING, AND ILLUMINATION SYSTEMS AND EQUIPMENT WHICH WILL ENABLE EFFECTIVE USE OF ENERGY IN NEW BUILDING CONSTRUCTION WITHIN THE TOWN OF PROSPER, TEXAS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the Town Council of the Town of Prosper, Texas ("Prosper"), has investigated and determined that it would be advantageous and beneficial to the citizens of Prosper to repeal existing Article 3.08, "Energy Conservation," of the Code or Ordinances and replace it with a new Article 3.08, "Energy Conservation"; and,

**WHEREAS**, the Town Council also has investigated and determined that it would be advantageous and beneficial to the citizens of the Prosper to adopt the 2015 Edition of the International Energy Conservation Code, save and except the deletions and amendments set forth below.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

**SECTION 1**

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2**

Existing Article 3.08, "Energy Conservation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby repealed in its entirety and replaced with a new Article 3.08, "Energy Conservation," to read as follows:

**"ARTICLE 3.08 ENERGY CONSERVATION**

**Sec. 3.08.001 Code Adopted; amendments**

The International Energy Conservation Code, 2015 Edition, copyrighted by the International Code Council, Inc., save and except the deletions and amendments set forth in Exhibit "A," attached hereto and incorporated herein for all purposes, is hereby adopted as the Energy Conservation Code for the Town, regulating the design of building envelopes for adequate thermal resistance

and low air leakage and the design and selection of mechanical, electrical, service water-heating, and illumination systems and equipment which will enable effective use of energy in new building construction within the Town (the "2015 International Energy Conservation Code"). The 2015 International Energy Conservation Code is made a part of this Article as if fully set forth herein. A copy of the International Energy Conservation Code, 2015 Edition, copyrighted by the International Code Council, Inc., is on file in the office of the Town Secretary of Prosper being marked and so designated as the 2015 International Energy Conservation Code.

**Sec. 3.08.002            Penalty for violation**

Any person, firm, corporation, or business entity violating this Article shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00), and each and every day that such violation continues shall be considered a separate offense; provided, however, that such penal provision shall not preclude a suit to enjoin such violation. The Town retains all legal rights and remedies available to it pursuant to local, state, and federal law."

**SECTION 3**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

**SECTION 4**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

**SECTION 5**

This Ordinance shall become effective January 1, 2019, after its passage and publication as required by law.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 11TH DAY OF DECEMBER, 2018.**

**APPROVED:**

  
\_\_\_\_\_  
**Ray Smith, Mayor**

ATTEST:

  
\_\_\_\_\_

Robyn Battle, Town Secretary



APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_

Terrence S. Welch, Town Attorney

## Exhibit A

### TOWN OF PROSPER AMENDMENTS

#### 2015 INTERNATIONAL ENERGY CONSERVATION CODE

The following additions, deletions, and amendments to the 2015 International Energy Conservation Code adopted herein are hereby approved and adopted.

**Section C101.1 Title** of the 2015 International Energy Conservation Code is amended to read as follows:

**C101.1 Title.** These regulations shall be known as the Energy Conservation Code of The Town of Prosper hereinafter referred to as "this code."

**Section C102.1 General** of the 2015 International Energy Conservation Code is amended by adding **Section C102.1.2 Alternative compliance** to read as follows:

**C102.1.2 Alternative compliance.** A building certified by a national, state, or local accredited energy efficiency program and determined by the Energy Systems Laboratory to be in compliance with the energy efficiency requirements of this Section may, at the option of the Code Official, be considered in compliance. The United States Environmental Protection Agency's Energy Star Program certification of energy code equivalency shall be considered in compliance.

**Section C106.1 Referenced codes and standards** of the 2015 International Energy Conservation Code is amended to read as follows:

**C106.1 Referenced codes and standards.** The codes, when specifically adopted, and standards referenced in this code shall be those that are listed in Chapter 5 and such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections C106.1.1 and C106.1.2. Whenever amendments have been adopted to the reference codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference made to NFPA 70 or the ICC Electrical Code shall mean the Electrical Code as adopted.

**Exception:** Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and the manufacturer's installation instructions shall apply.

**Section C107.2 Schedule of permit fees** of the 2015 International Energy Conservation Code is amended to read as follows:

**C107.2 Schedule of permit fees.** The fee schedule for all Energy Conservation Code work shall be as indicated in the Town of Prosper Fee Schedule as adopted by the Town Council.

**Section C107.3 Work commencing before permit issuance** of the 2015 International Energy Conservation Code is amended to read as follows:

**C107.3 Work commencing before permit issuance.** Any person who commences any work before obtaining the necessary permits shall be subject to a penalty of 100% of the usual permit fee in addition to the required permit fees.

**Section C107.5 Refunds** of the 2015 International Energy Conservation Code is amended to read as follows:

**C107.5 Refunds.** The Code Official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected. Not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this Code.
2. Not more than eighty percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.
3. The Code Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

**Section C108.4 Failure to comply** of the 2015 International Energy Conservation Code is amended to read as follows:

**C108.4 Failure to comply.** Any person who shall continue any work 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 guilty of a misdemeanor and, upon conviction, may be fined up to the maximum amount allowed by Texas law. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**Section C109 BOARD OF APPEALS** of the 2015 International Energy Conservation Code is amended to remove **Section C109.1 General** and replace with **Section C109.1 Board of Appeals** to read as follows:

**C109.1 Board of Appeals.** Any person shall have the right to appeal a decision of the Code Official to the Board of Appeals, as established by ordinance. The board shall be governed by the Town of Prosper's enabling ordinance.

**Section C202 GENERAL DEFINITIONS** of the 2015 International Energy Conservation Code, definition of "**PROJECTION FACTOR**" is added to read as follows:

**PROJECTION FACTOR.** The ratio of the horizontal depth of the overhang, eave or permanently attached shading device, divided by the distance measured vertically from the bottom of the fenestration glazing to the underside of the overhang, eave, or permanently attached shading device.

**Section C402.2 Specific building thermal envelope insulation requirements (Prescriptive)** of the 2015 International Energy Conservation Code is amended by adding **Section C402.2.7 Insulation installed in walls** read as follows:

**Section C402.2.7 Insulation installed in walls.** To ensure that insulation remains in place, insulation installed in walls shall be totally enclosed on all sides consisting of framing lumber, gypsum, sheathing, wood structural panel sheathing, netting, or other equivalent material approved by the Building Official.

**Section R101.1 Title** of the 2015 International Energy Conservation Code is amended to read as follows:

**R101.1 Title.** These regulations shall be known as the Energy Conservation Code of The Town of Prosper hereinafter referred to as "this code."

**Section R102.1 General** of the 2015 International Energy Conservation Code is amended by adding **R102.1.2 Alternative compliance** to read as follows:

**R102.1.2 Alternative compliance.** A building certified by a national, state, or local accredited energy efficiency program and determined by the Energy Systems Laboratory to be in compliance with the energy efficiency requirements of this section may, at the option of the Code Official, be considered in compliance. The United States Environmental Protection Agency's Energy Star Program certification of energy code equivalency shall be considered in compliance. Regardless of the program or the path to compliance, each 1- and 2-family dwelling shall be tested for air and duct leakage as prescribed in Section R402.4 and R403.3.3 respectively.

**Section R106.1 Referenced codes and standards** of the 2015 International Energy Conservation Code is amended to read as follows:

**R106.1 Referenced codes and standards.** The codes, when specifically adopted, and standards referenced in this Code shall be those that are listed in Chapter 5 and such codes and standards shall be considered part of the requirements of this Code to the prescribed extent of each such reference and as further regulated in Sections R106.1.1 and R106.1.2. Whenever amendments have been adopted to the reference codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference made to NFPA 70 or the ICC Electrical Code shall mean the Electrical Code as adopted.

**Exception:** Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and the manufacturer's installation instructions shall apply.

**Section R107.2 Schedule of permit fees** of the 2015 International Energy Conservation Code is amended to read as follows:

**R107.2 Schedule of permit fees.** The fees schedule for all Energy Conservation Code work shall be as indicated in the Town of Prosper Fee Schedule as adopted by the Town Council.

**Section R107.3 Work commencing before permit issuance** of the 2015 International Energy Conservation Code is amended to read as follows:

**R107.3 Work commencing before permit issuance.** Any person who commences any work prior to obtaining the necessary permits shall be subject to a penalty of 100% of the usual permit fee in addition to the required permit fees.

**Section R107.5 Refunds** of the 2015 International Energy Conservation Code is amended to read as follows:

**R107.5 Refunds.** The Code Official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this Code.
3. Not more than eighty percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The Code Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

**Section R108.4 Failure to comply** of the 2015 International Energy Conservation Code is amended to read as follows:

**R108.4 Failure to comply.** Any person who shall continue any work 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 guilty of a misdemeanor and, upon conviction, may be fined up to the maximum amount allowed by Texas law. Each day that a violation continues after due notice has been served shall be deemed a separate offence.

**Section R109 BOARD OF APPEALS** of the 2015 International Energy Conservation Code is amended by removing **Section R109.1 General** and replacing with **Section R109.1 Board of Appeals** to read as follows:

**R109.1 Board of Appeals.** Any person shall have the right to appeal a decision of the Code Official to the Board of Appeals, as established by ordinance. The board shall be governed by the Town of Prosper's enabling ordinance.

**Section R202 GENERAL DEFINITIONS** of the 2015 International Energy Conservation Code, definitions of "**DYNAMIC GLAZING**" and "**PROJECTION FACTOR**" are added to read as follows:

**DYNAMIC GLAZING.** Any fenestration product that has the fully reversible ability to change its performance properties, including *U*-factor, solar heat gain coefficient (SHGC), or visible transmittance (VT).

**PROJECTION FACTOR.** The ratio of the horizontal depth of the overhang, eave, or permanently attached shading device, divided by the distance measured vertically from the bottom of the fenestration glazing to the underside of the overhang, eave, or permanently attached shading device.

**Section R402.2 Specific insulation requirements (Prescriptive)** of the 2015 International Energy Conservation Code is amended by adding **Section R402.2.14 Insulation installed in walls** to read as follows:

**R402.2.14 Insulation installed in walls.** To ensure that insulation remains in place, insulation batts installed in walls shall be totally secured by an enclosure on all sides consisting of framing lumber, gypsum, sheathing, wood structural panel sheathing, netting, or other equivalent material approved by the Building Official.

**Section R402.3.2 Glazed fenestration SHGC** of the 2015 International Energy Conservation Code is amended by adding a paragraph and table following the **Exception** to read as follows:

Where vertical fenestration is shaded by an overhang, eave, or permanently attached shading device, the SHGC required in Table R402.1.2 shall be reduced by using the multipliers in Table R402.3.2 SHGC Multipliers for Permanent Projections.

**Table R402.3.2 SHGC Multipliers for Permanent Projections <sup>a</sup>**

| Projection Factor | SHGC Multiplier (all Other Orientation) | SHGC Multiplier (North Oriented) |
|-------------------|---|----------------------------------|
| 0 - 0.10          | 1.00                                    | 1.00                             |
| >0.10 – 0.20      | 0.91                                    | 0.95                             |
| >0.20 – 0.30      | 0.82                                    | 0.91                             |
| >0.30 – 0.40      | 0.74                                    | 0.87                             |
| >0.40 – 0.50      | 0.67                                    | 0.84                             |
| >0.50 – 0.60      | 0.61                                    | 0.81                             |
| >0.60 – 0.70      | 0.56                                    | 0.78                             |
| >0.70 – 0.80      | 0.51                                    | 0.76                             |
| >0.80 – 0.90      | 0.47                                    | 0.75                             |
| >0.90 – 1.00      | 0.44                                    | 0.73                             |

<sup>a</sup> North oriented means within 45 degrees of true north.

**Section R402.4.1.2 Testing** of the 2015 International Energy Conservation Code is amended to read as follows:

**R402.4.1.2 Testing.** The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding five (5) air changes per hour in Climate Zone 3. *{Remainder of text unchanged}*

**Section R402.4.1.2 Testing** of the 2015 International Energy Conservation Code is amended by adding a paragraph to read as follows:

Mandatory testing shall only be performed by individuals that are certified to perform air infiltration testing by national or state organizations as approved by the Building Official. The certified individual(s) shall be an independent third-party entity, and may not be employed or have any financial interest in the company that constructs the structure.

**R403.3.3 Duct Testing (Mandatory)** of the 2015 International Energy Conservation Code is amended by adding a paragraph to read as follows:

Mandatory testing shall only be performed by individuals that are certified to perform duct testing leakage testing by national or state organizations as approved by the Building Official. The certified individual(s) shall be an independent third-party entity, and may not be employed or have any financial interest in the company that constructs the structure.

**Section R405.6.2 Specific approval** of the 2015 International Energy Conservation Code is amended by adding a sentence to read as follows:

Acceptable performance software simulation tools may include, but are not limited to, REM Rate™, Energy Gauge and IC3. Other performance software programs accredited by RESNET BESTEST and having the ability to provide a report as outlined in Section R405.4.2 may also be deemed acceptable performance simulation programs and may be considered by the Building Official.

**TABLE R406.4 Maximum Energy Rating Index** of the 2015 International Energy Conservation Code is amended to read as follows:

**TABLE R406.4<sup>1</sup>  
MAXIMUM ENERGY RATING INDEX**

| CLIMATE ZONE | ENERGY RATING INDEX |
|--------------|---------------------|
| 3            | 65                  |

<sup>1</sup> This table is effective until August 31, 2019.

**TABLE R406.4<sup>2</sup>  
MAXIMUM ENERGY RATING INDEX**

| CLIMATE ZONE | ENERGY RATING INDEX |
|--------------|---------------------|
| 3            | 63                  |

<sup>2</sup> The table is effective from September 1, 2019 to August 31, 2022.

**TABLE R406.4<sup>3</sup>  
MAXIMUM ENERGY RATING INDEX**

| CLIMATE ZONE | ENERGY RATING INDEX |
|--------------|---------------------|
| 3            | 59                  |

<sup>3</sup> This table is effective on or after September 1, 2022.

End of Exhibit "A"