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AN ORDINANCE to DELETE and REPLACE PART 10, CHAPTER 3, ARTICLE A, SECTION 10-3004, IN ITS ENTIRETY, OF THE CODE OF ORDINANCES, FOR THE CITY OF EAST POINT GEORGIA; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

APPLICATION NO: 2009M-003-05

WHEREAS, the duly elected governing authority of the City of East Point, Georgia is the Mayor and Council thereof;

WHEREAS, the governing authority desires to amend Chapter 3, Building Regulations, of the East Point City Code of Ordinances;

WHEREAS, the amendments contained herein will help protect the integrity of workmanship for residential and commercial projects within the City;

NOW BE IT ORDAINED BY THE CITY COUNCIL OF EAST POINT, GEORGIA AS FOLLOWS:

Section 1. The Code of Ordinances of the City of East Point, Georgia Part 10, Chapter 3, Article A,

Section 10-3004 is deleted and replaced in its entirety as written below:

10-3004. Registration; Bond and Correction of Code Violations

(A) It shall be the duty of every general contractor, electrical contractor, plumbing contractor, HVAC contractor, owner, individual or other entity who shall make contracts for the erection, construction or repair of buildings for which a permit is required, and every such contractor or builder making such contractor and subcontracting same, or any part thereof to register his name in a book provided for that purpose, with the building inspector, giving full name, residence and place of business, and in case of removal from one place to another to cause to be made a corresponding change in such register accordingly.

1 It shall be the duty of every general contractor obtaining a permit for construction to give good and  
2 sufficient bond in the sum of \$25,000.00, to be approved by the Chief Building Official, conditioned to  
3 conform to the building regulations provided in this chapter and other ordinances or laws of the  
4 applicable governing body in reference to buildings.

5  
6 It shall be the further duty of every electrical contractor, plumbing contractor, HVAC contractor,  
7 owner, individual or other entity obtaining a permit for construction to give good and sufficient bond in  
8 the sum of \$10,000.00, to be approved by the Chief Building Official, conditioned to conform to the  
9 building regulations provided in this chapter and other ordinances or laws of the applicable governing  
10 body in reference to buildings.

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12 (B) Any licensed plumbing contractor or licensed HVAC contractor shall in accordance with the  
13 dictates of O.C.G.A. § 43-14-12(b) execute and deposit with the judge of the probate court in the  
14 county of his principal place of business a code compliance bond in the sum of \$10,000.00. Such  
15 bond shall be a cash bond in the sum of \$10,000.00 or be executed by a surety authorized and  
16 qualified to write surety bonds in the state and shall be approved by the judge of the probate court.  
17 Such bond shall comply with and conform to the requirements specified by O.C.G.A. § 43-14-12(b)  
18 as to form. Prior to the issuance of any building permits by the Chief Building Official or his designee,  
19 any licensed plumbing contractor or licensed HVAC contractor who chooses to execute and deposit a  
20 code compliance bond pursuant to the language of this subsection must furnish a copy of the  
21 approved code compliance bond to the Chief Building Official or his designee.

22  
23 (C) Any licensed plumbing contractor or HVAC contractor who has not executed and deposited with  
24 the judge of the probate court in the county of his principal place of business a code compliance bond  
25 as authorized by O.C.G.A. § 43-14-12(b) shall instead be subject to the code compliance bond  
26 requirements outlined in subsection (A) of this section.  
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1 (D) The bond required in subsection (a) of this section from owners who obtain permits to perform  
2 work for themselves shall only be required when the cost of the work permitted in any one year  
3 exceeds \$10,000.00.  
4

5 (E) The bond required of a builder, electrical contractor, owner, individual, or other entity, or of any  
6 licensed plumbing contractor or licensed HVAC contractor who chooses not to execute and deposit a  
7 code compliance bond pursuant to section 10-3004 (B) and who seeks to obtain a permit for  
8 construction pursuant to section 10-3004, shall be a code compliance bond in favor of the City  
9 ensuring that all construction, installation and modifications be done in compliance with this Code  
10 with coverage extending for a period of one year from the date of the final inspection.  
11

12 (F) The bond required of any licensed plumbing contractor or licensed HVAC contractor who  
13 chooses to execute and deposit a code compliance bond pursuant to section 10-3004(B) and who  
14 seeks to obtain a permit for construction pursuant to section 10-3004 shall be a code compliance  
15 bond which conforms to the requirements of section 10-3004(B).  
16

17 (G) Any final inspection report and certificate of occupancy issued for any structure shall have noted  
18 thereon: "To the best of the city's knowledge and belief at the time of inspection, the structure has  
19 been erected in substantial compliance with applicable building codes. No oversight by the office of  
20 the Planning and Zoning shall excuse violation of any ordinance of East Point."  
21

22 (H) After issuance of any final inspection report, the City reserves the right for a period of one year  
23 to reinspect a dwelling for latent code violations which existed at the time of final inspection but were  
24 not detected. Any inspection made after the issuance of the final inspection report and before the  
25 termination of the one-year requirement by the office of the Chief Building Official shall be in  
26 response to a written complaint by the owner.  
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1 (I) The builder, electrical contractor, plumbing contractor, HVAC contractor, owner, individual or  
2 other entity securing the permit shall be responsible for the correction of any code violations by him  
3 that are discovered during the period of construction and for a period of one year from the date of  
4 final inspection, excepting routine maintenance, abuse, modification and normal wear and tear.  
5

6 (J) In responding to a written complaint and upon inspection of the dwelling, should the office of the  
7 Chief Building Official determine that there exists in any structure covered by a bond issued pursuant  
8 to subsections (a) or (b) of this section, any violations of this Code, the principal on any such bond,  
9 being the builder, electrical contractor, plumbing contractor, HVAC contractor, owner, individual or  
10 other entity obtaining a permit for construction, shall be notified by certified mail of the violation and  
11 shall be allowed ten (10) working days from the receipt of the notification to respond to the charge of  
12 violation and to meet with the office of the Chief Building Official regarding a remedy for the violation.  
13 It shall be the responsibility of said principal to ensure that the office of the Chief Building Official has  
14 a current mailing address for the principal on every permit until one year has elapsed from the final  
15 inspection. Unless the principal informs otherwise in writing, the address provided on the building  
16 permit shall be deemed to be the proper mailing address for notifications under this section. The  
17 principal shall have thirty (30) days from the date the notice of violation is received, refused, or  
18 returned to correct the violations cited in the notice. Should the principal not correct the violation in a  
19 manner satisfactory to the office of the Chief Building Official, or, in the judgment of the Chief Building  
20 Official, have not made satisfactory progress in remedying the violation within this 30-day period,  
21 then said principal shall be notified in writing of the default and the surety shall be called upon to  
22 remedy the default within forty-five (45) days of notification.  
23

24 (K) The principal on the bond may appeal the notice of violation to the Planning and Zoning  
25 Commission provided by section 10-2180 et seq. to hear and rule on such complaints within twenty  
26 (20) days of the receipt of the notice of violation. The appeal must be in writing and filed in the office  
27 of the Chief Building Official. The appeal will be expeditiously reviewed by the appropriate plumbing,  
28 electrical, heating and air conditioning or home builders' advisory boards established to make

1 (B) *Indemnification*: In addition to the written waiver, the homeowner, properly owner, individual or  
2 other entity who shall make contracts for the erection, construction or repair of buildings for which  
3 a permit is required, shall indemnify and hold harmless the City of East Point and the general  
4 contractor, electrical contractor, plumbing contractor or HVAC contractor against any and all  
5 liability, claims, suits, losses, costs and legal fees caused by, arising out of, or resulting from any  
6 negligent act or omission of the general contractor, electrical contractor, plumbing contractor or  
7 HVAC contractor in the performance and/or failure to perform including the negligent acts or  
8 omission of any general contractor, electrical contractor, plumbing contractor or HVAC contractor  
9 or any direct or indirect employees of the general contractor, electrical contractor, plumbing  
10 contractor or HVAC contractor.

11  
12 Section 2. This ORDINANCE shall be codified in a manner consistent with the laws of the State of  
13 Georgia and the City of East Point.

14 Section 3. (a) It is hereby declared to be the intention of the Mayor and Council that all sections,  
15 paragraphs, sentences, clauses and phrases of this ORDINANCE are or were, upon their enactment,  
16 believed by the Mayor and Council to be fully valid, enforceable and constitutional.

17  
18 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent  
19 allowed by law, each and every section, paragraph, sentence, clause or phrase of this ORDINANCE is  
20 severable from every other section, paragraph, sentence, clause or phrase of this ORDINANCE. It is  
21 hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed  
22 by law, no section, paragraph, sentence, clause or phrase of this ORDINANCE is mutually dependent  
23 upon any other section, paragraph, sentence, clause or phrase of this ORDINANCE.

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25 (c) In the event that any phrase, clause, sentence, paragraph or section of this ORDINANCE  
26 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the  
27 valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and  
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1 recommendations on such matters. Should the Planning and Zoning Commission find the principal in  
2 violation of the code and in its judgment the violation is sufficiently serious as to affect the structural  
3 integrity or the expected normal service life of the structure or installed systems, or the safety and  
4 welfare of any occupants of the structure, the principal shall have thirty (30) days to remedy the  
5 violation to the satisfaction of the office of the Chief Building Official. Should the principal not correct  
6 the violation in a manner satisfactory to the office of the Chief Building Official, or, in the judgment of  
7 the Chief Building Official, have not made satisfactory progress in remedying the violation within this  
8 30-day period, then he shall be notified in writing of his default and the surety shall be called upon to  
9 remedy the default within forty-five (45) days of notification.

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11 (L) The surety's obligation shall be limited to an amount required to remedy the code violation, but in  
12 no event shall the obligation exceed the amount of the bond.

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14 **10-3004.1 Code Compliance Bond; Exceptions**

15 (A) *Waiver*: The homeowner, property owner, individual or other entity who shall make contracts for  
16 the erection, construction or repair of buildings for which a permit is required, may present in writing,  
17 to the Chief Building Official, prior to issuance of a permit, statements indicating that he/she waives  
18 the requirement for a Code Compliance Bond. Such written waiver shall include the following  
19 information:

- 20 a. Name, address and telephone number of homeowner, individual, or other entity making  
21 the contract  
22 b. Name, company name, address and telephone number of contractor/subcontractor  
23 performing the work  
24 c. Description of work to be performed including estimated cost  
25 d. Signature of homeowner, property owner, individual or other entity making the contract  
26 including date of signature  
27 e. Waiver letter must be notarized and dated  
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1 Council that such invalidity, unconstitutionally or unenforceability shall, to the greatest extent allowed by  
2 law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases,  
3 clauses, sentences, paragraphs or sections of the ORDINANCE and that, to the greatest extent allowed  
4 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the ORDINANCE shall  
5 remain valid, constitutional, enforceable, and of full force and effect.  
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7 Section 4. ALL ORDINANCES and parts of ORDINANCES in conflict herewith are hereby expressly  
8 repealed.  
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11 Section 5. Penalties in effect for violations of Part 10 of the Code of Ordinances, City of East Point,  
12 Georgia at the time of the effective date of this ORDINANCE shall be and are hereby made applicable to  
13 this ORDINANCE and shall remain in full force and effect.  
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16 Section 6. The effective date of this ORDINANCE shall be the date of adoption unless otherwise  
17 specified herein.  
18

19 APPROVED this 6 day of July 2009.  
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21   
22 Joseph L. Macon, Mayor

23 APPROVED AS TO FORM:  
24 Nina R. Hickson  
25 Nina Hickson, City Attorney

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27  
28 ATTEST:  
Brenda B. James  
Brenda James, City Clerk