

ORDER NO. 2005-1

TRAVIS COUNTY EMERGENCY SERVICE DISTRICT NO. 6

AN ORDINANCE ADOPTING PORTIONS OF THE 2003 INTERNATIONAL FIRE CODE AND PORTIONS OF THE INTERNATIONAL BUILDING CODE AND NATIONAL FIRE PROTECTION ASSOCIATION STANDARDS AND PROVISIONS OF OTHER INTERNATIONAL CODES REFERRED IN THE 2003 INTERNATIONAL FIRE CODE; PROVIDING FOR FEES TO BE PAYABLE FOR PERMITS, APPROVALS, AND INSPECTIONS; REQUIRING A PERMIT OR APPROVAL FOR CERTAIN HAZARDOUS USES AND ACTIVITIES; PROVIDING FOR CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS; PROVIDING FOR ADMINISTRATION OF THE FIRE CODE AND AUTHORIZING THE FIRE CHIEF AND HIS/HER DESIGNEES TO ADMINISTER AND ENFORCE THE CODE; AUTHORIZING ENTRY ONTO PROPERTY TO CONDUCT INSPECTIONS; AUTHORIZING STOP WORK ORDERS FOR WORK PERFORMED IN VIOLATION OF THE FIRE CODE; PROVIDING FOR APPOINTMENT OF AN APPELLATE BODY AND FOR APPEALS FROM DECISIONS OF THE FIRE CHIEF; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the Commissioners of the District are authorized, pursuant to Tex. Health & Safety Code § 775.036 to adopt and enforce a fire code;

WHEREAS, the Commissioners of the District desire to amend the District's fire code to adopt standards promulgated in the 2003 International Fire Code (the "IFC") and to provide for enforcement of such standards in furtherance of protecting the health and safety of those residing within the territory of the District and in furtherance of preventing fires and medical emergencies;

It is, therefore, ORDAINED, RESOLVED AND ORDERED that:

Section 1. Amendment of Code

Ordinance No. 2001-1 (adopting the Fire Code) is hereby amended in its entirety to be superseded by and to read as provided in this Ordinance.

Section 2.

(a) The following are hereby adopted as the Fire Code of the Travis County Emergency Service

District No. 6 in the State of Texas, regulating and governing the safeguarding of life and property from fire, medical, and explosion hazards arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore, and providing for penalties for violations, as if fully set out in this Ordinance, with the specific additions, insertions, deletions, and changes set forth set forth in this Ordinance:

(1) The 2003 International Fire Code (the "IFC") and appendices B, C, D E, F, and G promulgated by the International Code Council, Inc., except for the portions deleted, modified or amended by Sections 9 8 and 10 9 of this Ordinance.

(2) For the purpose of determining the types of construction referred in Appendix B of the IFC, the definitions and descriptions of types of construction provided in chapter 6 of the 2003 International Building Code (the "IBC") are adopted.

(3) The provisions of any International Code (e.g. Building, Plumbing, Mechanical, Electrical and other such codes) referred in portions of the IFC hereby adopted (as amended herein) are incorporated in this Ordinance as though fully set out herein, and compliance with such provisions of such other International Codes is required to the extent and in the manner that compliance therewith is required or allowed in the IFC.

(b) The Fire Chief may adopt regulations as authorized by Section 104.1 of the IFC to implement, administer, enforce, or comply with this Fire Code.

(c) This Ordinance will, to the extent reasonable, be construed in a manner consistent with the IFC. If there is a conflict between this Ordinance and the IFC, this Ordinance will prevail.

Section 3. Administration

(a) The Fire Chief of the District, together with such assistants and agents of the District as the Fire Chief may designate, are authorized to enforce this Fire Code, to take all actions required or authorized in provisions incorporated in this Ordinance by reference, and to conduct all inspections, review all plans, and accept all applications for a permit or approval authorized or required by the terms of this Fire Code.

(b) The Fire Chief or his designated agent shall submit monthly activity reports to the Commissioners of the District, covering inspection, review, and enforcement activities conducted during the prior month. The Fire Chief or his designated agent shall keep an accurate account of all fees, fines, and other funds collected and received pursuant to this Fire Code, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate.

(c) Approved plans, specifications, and other reports required by this Fire Code shall be maintained in the central offices of the District for a period of not less than five years following the date such document was submitted to the District or prepared by the District, as applicable.

Section 4. Right of Entry

(a) Whenever necessary to make an inspection to enforce any of the provisions of this Fire Code for the prevention of fires and medical emergencies, or whenever the Fire Chief has reasonable cause to believe that there exists in any building or upon any premises any condition in violation of this Fire Code, the Fire Chief, or his/her designated agents of the District may enter such building or premises at all reasonable times to inspect same or to perform any duty imposed on the Fire Chief by this Fire Code; provided that if such building or premises is occupied, they shall first present proper credentials and demand entry; and, except during construction of the improvement to be inspected, if such building or premises are unoccupied, the agent of the District shall make a reasonable effort to locate the owner or other person(s) having charge or control of the building or premises and demand entry. If such entry is refused, the Fire Chief shall have recourse to every remedy provided by law to secure entry.

(b) No owner or occupant or any other person having authority to control access to any building or premises shall fail or neglect, after demand for entry is made as provided in this Section 4, to promptly permit entry therein by the Fire Chief or the authorized agent of the Fire Chief for the purpose of inspection and examination pursuant to this Fire Code. Any person violating this section shall be guilty of a Class C Misdemeanor.

Section 5. Stop Orders

Whenever any work or construction is being done contrary to the provision of this Ordinance or without any permit or approval required by this Fire Code, the Fire Chief, or the Fire Chief's designee may order the work or construction stopped by notice in writing served on any person(s) engaged in performing or causing such work to be performed. Whenever work or construction is stopped in accordance with this Section 5, a written notice to stop work issued by the District shall be posted on the property in a manner reasonably visible to any person to perform any work on the property. All persons shall then cease all work or construction on the property until authorized to proceed by the Fire Chief. Any person failing to comply with a notice to stop work, or removing any notice to stop work from any premises without permission of the Fire Chief shall be guilty of a Class C Misdemeanor.

Section 6. Permit Required/Procedure.

- (a) A permit shall be required for any of the following activities in the territory of the District:
 - (i) construction of any building or dwelling for human use or occupation, other than a single family residence or structure used for residential purposes and comprised of fewer than three separate units;

- (ii) a subdivision of land effected by the filing of an application for subdivision with the County of Travis, the City of Austin, the City of Lakeway, the Village of Bee Cave, any other municipality organized under the law of the State of Texas and located in the territory of the District, or any combined office between any such city or village and the County of Travis that includes provision for one or more new road(s) or street(s) or the extension of any existing road or street, either for private use by owners of one or more lot(s) in the subdivision for access to such lot(s), or intended for dedication to the public use;
 - (iii) the construction of a development, including single family housing comprised of more than three dwellings, on previously undeveloped land;
 - (iv) a controlled burn;
 - (v) with regard to an existing structure, a substantial enlargement, alteration or repair, a moving, removal or demolition, or the conversion from any other use to a use described in subsection (a)(i) of this Section 6. The provisions of this Fire Code propounded for the resulting type of structure or use shall be applicable in connection with any permit obtained.
 - (vi) any of the uses or construction activities described in Sections 105.6 and 105.7 of the IFC
- (b) An application for a permit shall be made on a form promulgated by the Fire Chief and shall include all information necessary to evaluate compliance with all applicable provisions of this Fire Code, including two complete sets of construction drawings, together with information identifying the applicant, the owner of the affected property and such other information reasonably necessary for considering and acting on the application. All applications for any permit and all requests for any approval required by the terms of this Fire Code shall be submitted in writing to the central administrative offices of the District along with payment of the applicable fee. The fees applicable for permits, approvals, and inspections shall be established from time to time by the Commissioners of the District in an ordinance therefore.
- (c) A permit authorizing construction, repair, alteration, moving, removal, or demolition of an improvement shall expire on the date two years after issuance of the permit unless the work permitted has commenced prior to such date and such work continues without interruption until completed. A permit for handling, storing, processing or using any hazardous material or hazardous process may be valid for a period not to exceed three years.
- (d) Subject to the right of appeal ~~or as provided in connection with a request for a variance~~ provided in this Fire Code, the Fire Chief or his/her designated agent of the District shall determine and decide the issuance of all permits and approvals, the duration of any use permit, subject to the maximum duration authorized by this section, and compliance with all provisions of this Fire Code.
- (e) A permit or approval shall be issued in cases where compliance with all applicable provisions of this Fire Code has been demonstrated. ~~Except in connection with an application for a variance,~~ Not more than 30 days after all required information and application fees have been submitted the Fire Chief shall approve an application for an activity that is in compliance with applicable provisions of this Fire Code, deny an application for an activity that is not in compliance with applicable provisions of this Fire Code, or, in cases in which the Fire Chief is specifically given authority by this Fire Code to allow alternate means of

compliance, approve or deny any such alternate means of compliance.

- (f) As used in this Section, a “substantial” enlargement, alteration, or repair shall mean an enlargement, alteration, or repair, either: (1) the cost of which is equal to more than 50% of the most recent appraised value of the structure as determined by the Travis County Appraisal District; or (2) the total area repaired, altered or enlarged is equal to more than 50% of the total area of such structure prior to the work. Total area shall be determined by measurement of exterior walls.

~~Section. 7 Variances—~~

~~(a) A request for a variance from any requirement of this Fire Code may be included in an application for a required permit. Such a request must be based on the proposal of an equivalent method of protection and safety, may only be proposed for good cause based on special circumstances or characteristics of the affected property and not just economic hardship to the applicant, and the variance may only be granted if the variance would not result in an increased risk of fire, additional threat to public safety, and would not result in the necessity of extraordinary public expense or the creation of a nuisance.~~

~~(b) The Fire Chief or the Fire Chief’s designee shall consider all information provided by an applicant and recommend to the District’s Commissioners either the grant or denial of the variance. The Fire Chief’s recommendation shall be presented to the Commissioners not later than the first regularly-scheduled meeting of the Commissioners after 30 days following the submission of all required information and payment of the application fee in connection with the requested variance. The Commissioners shall determine the grant or denial of the requested variance when presented with the Fire Chief’s recommendation, but may defer a decision on a request for deferral made by the applicant for such variance. The Commissioners may grant or deny the variance, or grant the variance with such conditions as may be recommended by the Fire Chief or determined by the Commissioners.~~

Section 8 7. Identification of District, Commissioners Fire Code Official, and Fire Code

(a) Whenever the terms “jurisdiction”, “authority having jurisdiction”, “department”, or “department of fire prevention,” are used in the IFC, same will be a reference to the District. Whenever the term “Fire Code Official” are used in the IFC, same will be a reference to the District’s Fire Chief or his designee, except that for the purpose of promulgating any regulation pursuant to IFC Section 104.1, the term “Fire Code Official” shall refer only to the District’s Fire Chief. All regulatory authority established by the provisions of the IFC incorporated in this Order is established for the District.

(b) Any reference in the provisions of the IFC incorporated in this Order to the “executive body” shall be a reference to the Commissioners of the District.

(c) Any reference in the IFC or in this Ordinance to the “Fire Code” shall be a reference to the provisions of this Ordinance and all matters incorporated herein, as same may be amended from time to time.

Section 9 8. Deletions to the International Fire Code:

The following provisions of the IFC are not incorporated in this Ordinance, and are deleted from the provisions of the IFC incorporated herein:

- (a) The entirety of Sections 102.3 and 102.5**
- (b) The entirety of Section 103.4.1.**
- (c) The entirety of Section 108, Board of Appeals**
- (d) Exceptions 1 and 2 listed in Section 508.5.1, Where Required. (Fire Hydrant Systems) (This IFC section is further amended in Section 9 of this Ordinance).**
- (e) The entirety of Section 905.3.4.1 Hose and cabinet.**
- (f) The entirety of Section 905.5.3 Class II system 1-inch hose.**
- (g) Exception listed in Item 1 of Section 906.1.**
- (h) Footnote a in Table B105.1.**
- (i) The entirety of Sections D101, D102, D-103 and Figure D103.1 of Appendix D.**

Section 9 9. Amendments to the International Fire Code

The following sections of the IFC are hereby amended, and other amendments provided below are adopted as follows:

- (a) Section 109.3 is amended to provide as follows:**

Section 109.3 Violation penalties. Persons who shall violate a provision of this Fire Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or

certificate issued under provisions of this Fire Code, shall be guilty of a Class C Misdemeanor. Each day that a violation continues after due notice has been served shall be deemed a separate offense. In addition to criminal enforcement provisions of this section, the District shall be entitled to bring a civil action for the enforcement of this Fire Code in any court of competent jurisdiction to enjoin any violation of this code and/or to impose a civil penalty in an amount of up to \$200 per day that a violation of this Fire Code continues.

(b) Section 111.4 is amended to provide as follows:

Section 111.4 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 Class C Misdemeanor. Each day that a violation continues after due notice has been served shall be deemed a separate offense. In addition to criminal enforcement provisions of this section, the District shall be entitled to bring a civil action for the enforcement of this Fire Code in any court of competent jurisdiction to enjoin any violation of this Fire Code or to impose a civil penalty in an amount of up to \$200 per day that a violation of this Fire Code continues.

(c) Section 503.2.1 is amended to provide as follows:

Section 503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 25 feet, except for approved security gates in accordance with IFC Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches.

Exception: Widths as narrow as 20 feet as approved by the Fire Chief for good cause based on special circumstances or characteristics of the affected property and not just economic hardship to the applicant, if the decreased width, with any other special arrangements would not result in an increased risk of fire, additional threat to public safety, and would not result in the necessity of extraordinary public expense or the creation of a nuisance.

(d) Section 505.1 is amended to provide as follows:

505.1 Address numbers. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 8 inches (204 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Notwithstanding the foregoing, address numbers for dwellings of not more than two living units shall be of a size and location (including on driveways) as approved by the District's Fire Chief or his designee.

(e) Section 508.5.1 is amended to provide as follows:

Section 508.5.1 Where required. (Fire Hydrant Systems) Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, onsite fire hydrants and mains shall be provided as follows: A minimum of one (1) fire hydrant shall be provided within 300 feet of all portions of exterior walls, and a second hydrant provided within 500 feet. This measurement is taken from furthest required fire department vehicle

access point to the building and down the access road to the hydrant (MEASUREMENT NOT TAKEN AS A RADIUS). If a building is required to have an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, and a standpipe system installed in accordance with Section 905, a fire hydrant shall be located within 100 feet of the Fire Department Connection. (Exceptions to this IFC section are deleted pursuant to Section 9 8 of this Ordinance).

(f) IFC Section 804.1.1 is amended to add a second exception as follows:

Exception: Trees shall not be prohibited in an individual dwelling units that are permanent in nature in Groups R-2 and R-3.

(g) Additional new Section 903.3.1.2.1.1 is added to appear in conjunction with IFC Section 903.3.1.2.1.1 to provide as follows:

Section 903.3.1.2.1.1. Storage Rooms or Equipment Rooms in Balconies. Sprinkler protection shall be provided in storage rooms and equipment rooms accessed from a balcony. Such sprinkler protection shall be in accordance with NFPA 13R.

(h) Section 1008.1.3.4 is amended to provide as follows:

1008.1.3.4 Access-controlled egress doors. The entrance doors in a means of egress in buildings with an occupancy in Group A, B, E, M, R-1 or R-2 and entrance doors to tenant spaces in occupancies in Groups A, B, E, M, R-1 and R-2 are permitted to be equipped with an approved entrance and egress access control system which shall be installed in accordance with a method approved by the District's Fire Chief or his designee.

(i) Chapter 45. Referenced Standards. The referenced NFPA Standards are amended to include the most current published editions at the time of the adoption of this Ordinance. (Refer to Fire Criteria Manual for a listing of such published NFPA Standards).

(j) The Exception to Section D104.2 of Appendix D is amended to provide as follows:

Exceptions: 1. Projects having a gross building area of up to 124,000 square feet that have a single approved apparatus road when all buildings are equipped throughout with approved automatic sprinkler systems

2. As approved by the District's Fire Chief when the topography of the affected property makes it impracticable to provide for a secondary means of fire apparatus access, and when an equivalent method of protection and safety is proposed and the alternative measures so proposed will not result in an increased risk of fire, additional threat to public safety, and will not result in the necessity of extraordinary public expense.

(k) The following provisions shall control over any contrary provision of IFC Appendices C, D (as amended herein), or any other provision of the IFC:

(1) Fire apparatus roads that are longer than 150 feet that terminate at a dead end shall have a facility or feature approved by the District's Fire Chief or his designee for fire apparatus to turn around. Such facility or feature may include: (i) a cul-de-sac with a minimum 50 feet unobstructed

radius; (ii) a 25' x 80' "T" section or "Hammerhead" turn around, provided that not less than ten (10) additional feet of right-of-way, unobstructed by curbs in excess of one foot in height, landscaping, or other improvements, is available at each end of the "T" or "Hammerhead." (See diagram provided in Attachment "A" of this Ordinance).

(2) Gates installed in fire department access roads shall have an unobstructed width of not less than 25 feet for two-direction traffic flow. Gate opening width may be reduced to 15 feet for single lane one-way traffic flow and shall meet the following requirements:

- a. No gate may be installed across a required fire department access road or driveway without prior approval of the Fire Department. A detailed plan shall be submitted for review and approval prior to commencing any work. This requirement may be modified depending upon the complexity of the installation.
- b. When padlocks are used to secure gates, they shall only be of a type approved by the Fire Department. Gates equipped with electric control devices also shall have an override key switch installed. The key switch shall be of a type approved by the Fire Department. ("KNOX BOX" brand devices are expressly allowed).
- c. All electrically controlled gates shall be provided with a manual override to allow operation of the gate during a power outage.
- d. When open, gates shall not obstruct any portion of the required width of the driveway or access road.
- e. Gates shall be adequately supported to prevent dragging.
- f. Gates shall be operable by one person.
- g. Swing-style gates shall open a full 90 degrees and may swing in either direction. Sliding gates shall slide parallel to the security fence.
- h. All manually operated gates shall be designed so they remain in the open position when left unattended. Electrically operated gates shall be equipped with a fire department approved key switch. Activation of the switch shall open the gate(s) and cause it to remain in the open position until reset by emergency response personnel.
- i. Vertical clearance over the required vehicular access road or driveway shall be not less than 13 feet 6 inches.

(3) I. Type of Fire Hydrants.

- a. All hydrants must meet local utility authority standards.
- b. Every hydrant installed, regardless whether private or water utility

authority maintained, shall have not less than two (2) 2-1/2 inch outlets with National Standard Thread and one (1) 4 1/2 inch pumper outlet with National Hose Thread. (Except where City of Austin standards are accepted within the District).

c. Every hydrant installed shall be capable of flowing not less than 1250 gpm at 20-psi residual pressure.

II. Installation of Hydrants.

a. The Hudson Bend Fire Department requires a minimum of one (1) hydrant within 300 feet of furthest approved fire department access point to a building, a second hydrant within 500 feet of furthest approved fire department access point to a building. This measurement is taken from the location of the hydrant down the access road to the required furthest access point to the building. (MEASUREMENT NOT TAKEN AS A RADIUS OR STRAIGHT LINE).

b. Hydrants shall be installed in accordance with local utility authority standards.

(i) If it appears likely that fire hydrants are vulnerable to vehicular damage, appropriate crash posts shall be provided. Crash posts shall be four (4) inch schedule 40-iron pipe, cement filled and a minimum of three (3) feet high with two (2) feet of piping below the grade. No obstructions shall exist within a three (3) foot radius of fire hydrants.

(ii) Fire hydrants must be installed with the center of the four and a half (4 1/2) inch steamer opening at least 18 inches above finished grade. The four and a half (4 1/2) inch opening must face the driveway or street and must be totally unobstructed to the street. Set back from the face of the hydrant to the back of the curb shall be in accordance with local utility authority standards except that on private property, set back shall be three (3) to six (6) feet to avoid vehicular damage, unless specifically approved by the Fire Chief.

c. Hydrants shall be installed at the intersection of two (2) streets and in between intersections at distances not in excess of 300 feet between hydrants or as approved by the Fire Chief.

EXCEPTION: Distance between hydrants in single-family residential areas may be increased to a maximum 600 feet.

d. Hydrants shall be installed on both sides of all divided roads/ highways. Roads/highways where opposing lanes of traffic are separated by a vehicle obstruction shall be considered a divided road/highway.

e. No obstructions shall be within three (3) feet radius of the hydrant. The four and a half (4 1/2") inch pumper connection shall be totally unobstructed to street or drive.

f. Hydrants shall be painted silver and the bonnet and caps shall be painted the designated color per the gallons per minute (GPM) as follows:

Class AA	Light Blue	1500 or higher GPM
Class A	Green	1000 – 1499 GPM
Class B	Orange	500 – 1499 BPM
Class C	Red	Less than 500 GPM
Class D	Black	Out of Service

(l) The following amendments or deletions to the IFC adopted by Travis County by Order dated February 1, 2005 adopting Chapter 71, Fire Code (the County Code”) are hereby adopted and incorporated herein as though fully set out: Amendments effected in subsections (12)(Authorization for Outdoor Burning)(See Fire Protection Criteria Manual for additional regulations); and (13)(Location and Exception for open burning).

(m) Add to IFC Table 1004.1.2 Maximum Floor Area Allowances per Occupant Load the following:

Occupancy	Floor Area in Sq. Ft. per Occupant
Day Care	35 net

(n) IFC Section D107.1 Exception 1 (One or Two Family Residential Developments) is amended as follows:

1 Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.3, access from two directions shall not be required.

Section 11 10. Building Official

Any provision in the IFC or other provision incorporated in this Ordinance by reference that refers to any act to be referred to or conducted by a building official shall be a reference to the District’s Fire Chief or his designee.

Section 12 11. Permit Fees

The fees applicable for permits, approvals, and inspections shall be established from time to time by the Commissioners of the District in an Ordinance therefore.

Section 13 12. Appeals

- (a) The Commissioners of the District shall appoint five residents or owners of businesses in the territory of the District to serve as members of an Appeals Commission to hear and decide the complaint of any person aggrieved by a decision of the Fire Chief or his designee, regarding any request for a permit or approval, any decision to stop work, or stop use, and any decision to abate, repair, rehabilitate, demolish, or remove an unsafe structure or premises. Three members of the Appeals Commission shall constitute a quorum for the purpose of hearing and deciding an appeal. Any Commissioner may serve as a member of the Appeals Commission. Members of the Appeals Commission shall serve for a period of two years or until their successor is appointed.
- (b) An appellate panel of not less than three members of the Appeals Commission shall hear the timely appeal of any decision of the Fire Chief or other authorized official described in subsection (a). A request to appeal such a decision shall be submitted in writing addressed to the President of the Commissioners of the District and forwarded to the District's central administrative offices not more than 30 days after the date of the decision or action that is the subject of the appeal. A request to appeal shall include the mailing address of the appellant for the purpose of receiving notice of a hearing on the appeal. A notice of appeal shall not stay the decision or action from which the appeal is taken.
- (c) The Appeals Commission shall hear an appeal not later than 31 days following receipt of a timely notice of appeal.
- (d) Except as provided in subsection (g), the Commissioners, or the President of the Commissioners, as applicable, shall serve written notice of the date, time, and place of the appeal hearing not less than ten (10) days prior to the date of the hearing.
- (e) An appellant shall be entitled to present evidence in support of the appeal and to cross-examine opposing witnesses. The Fire Chief or his/her designee shall be entitled to present evidence in support of such decision or action and to cross-examine witnesses. At the start of the hearing, the members of the Appeals Commission present (the "Appellate Panel") shall appoint from among them a presiding officer, who, with the advice of the other members of the Appellate Panel, shall make all determinations regarding the admissibility of evidence, and may make reasonable rulings regarding the conduct of the hearing and the manner that evidence is presented. The Appellate Panel may be assisted by legal counsel for the District in making evidentiary rulings and determining reasonable procedures for conduct of the hearing. The Appellate Panel shall determine the credibility of all witnesses and other evidence presented at the hearing.
- (f) The Appellate Panel may affirm, reverse, or modify the decision from which an appeal is taken. The decision of the majority of the Appellate Panel shall be the decision of the Appellate Panel. The panel may reverse a decision only if, in the opinion of the majority: (I) the decision appealed is manifestly unjust; or (II) special circumstances make strict application of the rule that is the basis of the original decision impractical and the reversal of the decision is in conformity with the intent and purpose of this Ordinance; and (III) such reversal would not result in a greater threat of danger to life or property in or near the District.
- (g) If the Fire Chief determines in a written order served on the owner of property that a structure constitutes an imminent threat to the life or safety of any persons, the Fire Chief or his/her designee may require the demolition or removal of such structure not later than ten days following the date notice of such order is served on the owner of the affected property. Such owner may request an emergency appeal of such decision in writing delivered to the central administrative offices of the

District at any time prior to the expiration of such ten-day period. In such event, the president of the Commissioners is authorized to appoint an appellate panel and schedule a hearing of such appeal as soon as practicable and serve notice of the time, date and place of such appeal on such owner not less than two days prior to the date of the hearing of such appeal.

Section 14 13. Offenses/Penalties

(a) A person commits an offense if the person: (i) undertakes any action or commences any construction or development for which a permit or approval is required pursuant to this Fire Code without first obtaining the requisite permit or approval; (ii) uses or occupies any property, or effects the development or construction of any improvement to real property in the territory of the District that is not in compliance with any condition of a permit or approval given pursuant to this Fire Code; (iii) is uses or occupies any property, or effects the development or construction of any improvement to real property in the territory of the District that is not in compliance with any provision of this Fire Code, except as allowed pursuant to any variance, modification, or alternative means approved in a permit or approval given pursuant to this Fire Code; (iv) violates any other provision of this Fire Code.

(b) An offense described in subsection (a) shall be a Class C Misdemeanor. A separate offense shall occur each day that a violation of this Ordinance continues.

(c) In addition to the criminal enforcement provisions of this section, the District shall be entitled to bring a civil action for the enforcement of this Ordinance in any court of competent jurisdiction to enjoin any violation of this Ordinance or to impose a civil penalty in an amount of up to \$200 per day that a violation of this Ordinance continues.

Section 15 14. Conflicts

All Ordinances that are in conflict with the provisions of this Ordinance are hereby repealed and all other ordinances of the District not in conflict with the provisions of this Order remain in full force and effect.

Section 16 15. Severability/Enforceability

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

(b) Notwithstanding anything else to the contrary herein, in the event that applicable law, including but not limited to the provisions of Texas Local Government Code Chapter 245, exempts from any

provision of this Ordinance a project or development that is pending or existing on the effective date of this Ordinance, the most recent regulations adopted by the District that may lawfully be applied to such pending or existing project or development shall remain in effect for the purpose of such application.

Section 17 16. Maintenance of Ordinance

A copy of this Ordinance together with all provisions incorporated herein shall be maintained at the central administrative offices of the District for inspection and use by interested persons. The District shall inform any person inquiring where copies of the IFC and other provisions incorporated in this Ordinance may be purchased from the publisher thereof.

Section 18 17. Effective Date

This Order shall be effective the Nineteenth day of December, 2005.

Brad Ellis, President

ATTEST:

Administrator