

ORDER NO. 04-28-23-05
WILLIAMSON COUNTY EMERGENCY SERVICE DISTRICT NO. 9

AN ORDER AMENDING THE DISTRICT'S FIRE CODE TO ADOPT THE FIRE CODE AND LOCAL AMENDMENTS OF WILLIAMSON COUNTY; 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 EXECUTION OF AN INTERLOCAL AGREEMENT WITH WILLIAMSON COUNTY 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 CODE OFFICIAL; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the Board of Emergency Services Commissioners of Williamson County Emergency Services District No. 9 ("District") are authorized, pursuant to Texas Health & Safety Code § 775.036, to adopt, enforce, and amend a fire code;

WHEREAS, the District desires to amend its fire code adopted on or about the 14th day of November, 2008 and to provide for its enforcement 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. Adoption of Code

(a) Except as otherwise provided in other provisions of this Order, the following are hereby adopted and incorporated herein and made a part hereof as though fully set forth herein as provisions of the fire code applicable and enforceable throughout the territory of the District, except within the corporate limits of any municipality located in the territory of the District that has previously adopted a fire code, if any:

- (1) The Fire Code of Williamson County, its appendices, fees, and amendments as it exists on the date noted below and as it shall be amended from time-to-time.
- (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 2018 International Building Code ("IBC") are adopted.

(b) The remaining provisions of this Order, together with all provisions incorporated in this Order by reference shall constitute the Fire Code of the District (“Fire Code” or “Code”).

(c) In the event of a conflict between the IFC or any other code or provision incorporated in this Order and the express provisions of this Order, the express provisions of this Order shall apply.

Section 2. Administration

(a) The Williamson County Fire Marshal, together with such assistants and agents of the District, Williamson County, or third parties as the Fire Marshal may designate, are authorized to enforce this Order, to take all actions required or authorized in provisions incorporated in this Order by reference, and to conduct all inspections, review all plans, accept all applications for a permit or approval authorized or required by the terms of this Order and the Fire Code of the District, and take any action necessary to fully implement and enforce this Order and the Fire Code adopted hereunder.

(b) The Fire Marshal shall submit quarterly activity reports to the District, covering inspection, review, and enforcement activities conducted during the prior month. The Fire Marshal shall keep an accurate account of all fees, fines, and other funds collected and received pursuant to this Order, 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 Order shall be maintained in the central offices of the Fire Marshal for a period of not less than five years following the date such document was submitted to the Fire Marshal or prepared by the Fire Marshal, or as otherwise required by statute, law, rule, or regulation of the State of Texas.

(d) The District may provide for inspection and other acts necessary to carry out the intent of this Order or the Fire Code, including, but not limited to, hiring employees, retaining contractors, or entering into any necessary agreements with any individual or entity to implement and enforce the Fire Code adopted hereunder throughout the District.

(e) Any agreement entered into by and between Williamson County and the District related to the District’s Fire Code shall require the Williamson County Fire Marshal, at a minimum, to require the use of Inspection 360 and provide access to the Fire Marshals of the City of Round Rock, Texas and the City of Leander, Texas as well as to cooperate fully with those offices and entities.

Section 3. Right of Entry

(a) Whenever necessary to make an inspection to enforce any of the provisions of this Order for the prevention of fires and medical emergencies, or whenever the Fire Marshal

has reasonable cause to believe that there exists in any building or upon any premises any condition in violation of this Order, the Fire Marshal, or his designated agents, may enter such building or premises at all reasonable times to inspect same or to perform any duty imposed on the Fire Marshal by this Order; 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 Marshal 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 3, to promptly permit entry therein by the Fire Marshal or the authorized agent of the Fire Marshal for the purpose of inspection and examination pursuant to this Order. Any person violating this section shall be guilty of a Class C Misdemeanor, as defined in Texas Penal Code § 12.23, as amended.

Section 4. Stop Work Orders

Whenever any work or construction is being done contrary to the provisions of this Order or without any permit or approval required by this Order, the Fire Marshal, or the Fire Marshal'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 4, 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 Marshal. 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 Marshal shall be guilty of a Class C Misdemeanor, as defined in Texas Penal Code § 12.23.

Section 5. Identification of District, Commissioners, and Appellate Body

(a) Whenever the terms "jurisdiction," "authority having jurisdiction," "department," or "bureau of fire prevention" are used in the IFC, same will be a reference to the District and its contracted service provider, the Williamson County Fire Marshal. All regulatory authority established by the provisions of the IFC incorporated in this Order is established for the District and the Williamson County Fire Marshal.

(b) Any reference in the provisions of the IFC incorporated in this Order to the "executive body" shall be a reference to the Board of Emergency Services Commissioners of the District.

(c) Any reference in the provision of the IFC incorporated in this Order to the “board of appeals” or other appellate body established by the IFC shall be reference to the appellate body or panel, as applicable, referred to in section 8 of this Order.

Section 6. Amendments to IFC

(a) The District shall not have a building official or separate code regulating the construction of buildings, including but not limited to, a separate building code, mechanical code, plumbing code, or electrical code, except as expressly incorporated by the terms of this Order. Only parts of other uniform codes that relate to fire safety are incorporated in this Order. Any provision in the IFC or other provision incorporated in this Order by reference that refers to any act to be referred to or conducted by a building official shall be disregarded as though such reference were deleted and all other parts of the affected sentence, section, article, or chapter remained in force and effective. Any reference in the IFC (or other provision incorporated in this Order) to compliance in a manner provided in a building code, electrical code, plumbing code, or mechanical code shall be disregarded except to the extent that the provision of such other code is incorporated in this Order by reference. Such disregard of the manner of compliance shall not otherwise affect the requirement to comply [provided, however, that if a provision refers to compliance with the term any such other code that is not incorporated in this Order by reference, as opposed to compliance in a manner provided in such other code, the requirement of compliance shall be disregarded altogether]. In the event that the disregard of any such reference is unusual syntax or sentence structure of the remainder of such affected provision, a reasonable interpretation shall be given to the remainder, in light of the intent and purpose of this Order and the authority of the District.

(b) Section 109 is deleted in full, and Section 7, herein, is substituted in its place.

(c) The specific sections of the IFC by Williamson County are hereby amended as set forth in Exhibit A, attached hereto and incorporated herein for all purposes. Any future amendments to the Fire Code of Williamson County, Texas shall automatically become amendments Fire Code of the District without further action of the Board of Emergency Services Commissioners of the District, it being the intent of the District to have and enforce the same fire code in the District as is enforced in the unincorporated areas of Williamson County, Texas. If there is a conflict between this Fire Code and the Fire Code of Williamson County, Texas, the more stringent provision shall prevail.

Section 7. Appeals

(a) The Commissioners of the District hereby designate the Board of Appeals of Williamson County (“appellate body”) to serve as members of an appellate body to hear and decide the complaint of any person aggrieved by a decision of the Fire Marshal 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.

(b) The appellate body shall hear the timely appeal of any decision of the Fire Marshal 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 Board of Emergency Services 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, with a copy sent to the Fire Marshal of Williamson County, Texas in compliance with the Williamson County Fire Code. A request to appeal shall include the mailing address and work or resident telephone number of the appellant for the purpose of receiving notice of a hearing on the appeal and any other requirements as set forth in the Williamson County Fire Code. A notice of appeal shall not stay the decision or action from which the appeal is taken.

(c) The policies and procedures of Williamson County, Texas shall be followed for any appeal allowed for herein or in the Fire Code of the District.

(d) An appellant shall be entitled to present evidence in support of the appeal and to cross-examine opposing witnesses. The Fire Marshal or his/her designee shall be entitled to present evidence in support of such decision or action and to cross-examine witnesses. The appellate panel shall make all determinations regarding the admissibility of evidence and credibility of witnesses, 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 or the City in making evidentiary rulings and determining reasonable procedures for conduct of the hearing.

(f) The appeal panel may affirm, reverse, or modify the decision from which an appeal is taken. The decision of the majority of the appeal panel shall be the decision of the appeal 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 Order; and such reversal would not result in a greater threat of danger to the life or safety.

(g) If the Fire Marshal 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 Marshal 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 Williamson County Fire Marshal's office at any time prior to the expiration of such ten-day period. In such event, the president of the Board of Emergency Services 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, if the appellate board set forth herein is not available for any hearing.

Section 8. Penalties

(a) A violation of any provision of this Order shall be a Class C Misdemeanor, as defined in Texas Penal Code § 12.23. A separate violation shall occur each day that a violation of this Order continues.

(b) 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 Order in any court of competent jurisdiction to enjoin any violation of this Order or to impose a civil penalty in an amount of up to \$2,000.00 for each day that a violation of this Order continues.

(c) In the event of a conflict between this code and the Fire Code of Williamson County, Texas, the more stringent provision shall prevail.

Section 9. Fees

Any fees for the permitting, review, and inspection of occupancies or applications shall be established by resolution from time to time by Williamson County, Texas, without the necessity of amending this Order. For purposes of this Order, the initial fees related to the implementation and enforcement of the Fire Code shall be as set forth in Exhibit A, attached hereto and incorporated herein for all purposes, it being the intent of the District to have and enforce the same fees as charged under the Fire Code of Williamson County, Texas.

Section 10. Maintenance of Order

A copy of this Order 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 Order may be purchased from the publisher thereof.

Section 11. Severability

It is the intention of the Commissioners of the District that all provisions set forth or incorporated in this Order shall be fully severable. In the event that any provision of this Order or any provision incorporated in this Order by reference is found by a court of competent jurisdiction to be void or unenforceable, such void or unenforceable provision shall be severed as though it never formed a party of this Order, and all other provisions of this Order shall remain in full force and effect.

Section 12. Conflicts

All Orders that are in conflict with the provisions of this Order are hereby amended in conformance with this Order and all other orders of the District not in conflict with the provisions of this Order remain in full force and effect.

Section 12. Notice/Publication

The Fire Marshal may arrange for any notice or publication of this Order required by applicable law, if any, and maintain proof thereof in the records of the District.

Section 15. Effective Date

This Order shall be effective the 1 day of July 2023.

WILLIAMSON COUNTY EMERGENCY
SERVICES DISTRICT NO. 9

By: Michael Garcia
Michael Garcia, President

ATTEST:

RP Pudukollu
RP Pudukollu, Secretary

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The document has been completed.