

**BURNET COUNTY EMERGENCY SERVICE DISTRICT NO. 9**

ORDINANCE NO. 10-10-19-A

AN ORDINANCE ADOPTING PORTIONS OF THE 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 PENALTIES FOR VIOLATIONS; PROVIDING FOR ADMINISTRATION OF THE FIRE CODE AND AUTHORIZING THE FIRE CODE OFFICIAL 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 CODE OFFICIAL; 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 adopt a fire code 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) The following are hereby adopted as the Fire Code of Burnet County Emergency Service District No. 9 in the State of Texas, except within the corporate limits of any municipality located in the territory of the District that has adopted a fire code, 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 therefor; and each of all of the regulations, provisions, penalties; conditions and terms of said Fire Code on file in the office of the Burnet County Emergency Service District No. 9 are hereby referred to, adopted and made a part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions, and changes, if any, prescribed in this Ordinance.

(1) The 2015 International Fire Code (the “IFC”) and appendices B, C, D, E, F, G & I promulgated by the International Code Council, Inc.

(2) For the purpose of determining the types of construction referred in Appendix B and other relevant sections of the IFC, the definitions and descriptions of types of construction provided in Chapter 6, and other applicable chapters, sections, and provisions of the 2015 International Building Code (the “IBC”) shall be used.

(b) The remaining provisions of this Ordinance, together with all provisions incorporated in this Ordinance by reference shall constitute the Fire Code of the District. Pursuant to Texas Health & Safety Code Section 775.036, it is the intent of this Fire Code of the District to not conflict with any fire code that may be adopted by Burnet County, and to the extent of any conflict between the Fire Code of the District and any fire code adopted by Burnet County, the fire code adopted by Burnet County more stringent provision shall prevail.

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

## **Section 2. Administration**

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

(b) The Fire Code Official or his designated agent shall submit monthly activity reports to the Board of Emergency Services Commissioners of the District, covering inspection, review, and enforcement activities conducted during the prior month. The Fire Code Official or his designated agent shall keep an accurate account of all fees, fines, and other funds collected and received pursuant to this Ordinance, 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 Ordinance 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, or as otherwise permitted under the Texas Records Retention Act.

## **Section 3. Right of Entry**

(a) In addition to the authority allowed under the IFC, whenever necessary to make an inspection to enforce any of the provisions of this Ordinance for the prevention of fires and medical emergencies, or whenever the Fire Code Official has reasonable cause to believe that there exists in any building or upon any premises any condition in violation of this Ordinance, the Fire Code Official, or 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 Code Official by this Ordinance; provided that if such building or premises is occupied, they shall first present proper credentials and request 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 request entry. If such entry is refused, the Fire Code Official 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 request for entry is made as provided in section 4, to promptly permit entry therein by the Fire Code Official or the authorized agent of the Fire Code Official for the purpose of inspection and examination pursuant to this Ordinance. The District, the Fire Code Official, or his designees may take any action, at law or in equity, available under the Fire Code of the District to enforce this section and any other applicable section as set forth herein or as otherwise allowed under any applicable statute, law, rule, ordinance, or regulation.

#### **Section 4. Identification of District, Commissioners, and Appellate Body**

(a) Whenever the terms “jurisdiction”, “authority having jurisdiction”, “department”, “bureau of fire prevention”, or other like term are used in the IFC, same will be a reference to the District. All regulatory authority established by the provisions of the IFC incorporated in this Ordinance is established for the District.

(b) Any reference in the provisions of the IFC incorporated in this Ordinance to the “executive body” or “governing body” shall be a reference to the Board of Emergency Services Commissioners of the District.

(c) Any reference in the provisions of the IFC incorporated in this Ordinance to the “board of appeals” or other appellate body established by the IFC, shall be reference to the appellate body or panel of the District or as otherwise provided for herein or the IFC.

#### **Section 5. Appeals**

(1) The Commissioners of the District shall appoint four residents or owners of businesses in the territory of the District to serve as members of an appellate body (“Board of Appeals”) to hear and decide the complaint of any person aggrieved by a decision of the Fire Code Official or 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. Members of the Board of Appeals may be no more than two members of the Board of Emergency Services Commissioners and other residents or owners of businesses in the Territory served by the District. Three members of the appeal panel shall constitute a quorum, and in modifying an order of the Fire Code Office or designee, the affirmative vote of at least three members shall be

required. Members of the appellate body shall serve for a period of two years or until their successor is appointed.

(2) Board of Appeals shall hear the timely appeal of any decision of the Fire Code Official or other authorized official described in subsection (1). 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. Failure to timely and properly appeal a decision or action after 30 days or as required herein shall constitute waiver of any such appeal. A request to appeal shall include the mailing address and other contact information 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.

(3) The Board of Appeals shall convene to schedule a hearing of the appeal not less than five days and not more than 35 days after receipt of the request to appeal. The hearing of such appeal shall be scheduled not later than 21 days following the meeting of the Board of Appeals held to schedule the hearing. An appointment of Board of Appeals may include alternate appointments in the event that one or more appointees are unable to serve at the place and time scheduled for the appeal hearing.

(4) Except as provided in subsection (7), the Board of Appeals 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.

(5) An appellant shall be entitled to present evidence in support of the appeal and to cross-examine opposing witnesses. The Fire Code Official or designee shall be entitled to present evidence in support of such decision or action and to cross-examine witnesses. The Board of Appeals 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 Board of Appeals may be assisted by legal counsel for the District in making evidentiary rulings and determining reasonable procedures for conduct of the hearing.

(6) The Board of Appeals may affirm, reverse, or modify the decision from which an appeal is taken. The decision of the majority of the Board of Appeals shall be the decision of the appeal panel, but in no event less than three members of the Board of Appeals. The panel may reverse a decision only if, in the opinion of the majority: (I) the decision appealed is manifestly unjust and in conflict with the applicable Fire Code Provisions; 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 the Fire Code; and such reversal would not result in a greater

threat of danger to the life or safety. The appeal panel shall have no authority to waive requirements of this Ordinance or the Fire Code.

(7) If the Fire Code Official 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 Code Official or designee may require the demolition or removal of such structure not earlier 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 Board of Emergency Services Commissioners is authorized to convene the Board of Appeals or 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 6. Permits and Fees**

The fees applicable for permits, approvals, and inspections shall be established from time to time by the Board of Emergency Services Commissioners of the District by a resolution therefor. The District may require an owner or agent who applies with the District for any permits, approvals, or inspections to pay any additional costs related to any reviews of said permits, approvals, or inspections by third parties or otherwise.

### **Section 7. Penalties**

The District shall be entitled to bring a civil action, including, but not limited to injunctive relief, 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 \$2,000 per day that a violation of this Ordinance continues. Each day a violation continues after due notice has been served shall be deemed a separate offense hereunder. This Section modifies Section 109.4 of the IFC. In addition to the civil penalties and procedures set forth herein, the District may also impose criminal penalties as set forth in Section 109.4 of the IFC and amendments thereto hereunder.

### **Section 8. Amendments to the International Fire Code**

The following sections are hereby amended as follows:

**(1) Section 101.1 Title.** These regulations shall be known as the Fire Code of Burnet County Emergency Service District No. 9, hereinafter referred to as “this code” or “Fire Code.”

**(2) Section 104.7.3** The Fire Code Official is authorized to require the owner or agent to provide, without charge to the jurisdiction and at the sole cost and expense of the owner or agent, a Third Party Review for permits, approvals, inspections, or plans

submitted to the District for approval. Any Third Party Review required by the District will be conducted by an entity of the Fire Code Official's choice.

**(3) 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, as defined in the Texas Penal Code § 12.23, with a penalty not to exceed \$500.00, and a culpable mental state is hereby explicitly waived for any offense hereunder. Each day that a violation continues after due notice has been served shall be deemed a separate offense. The District shall also be entitled to bring a civil action for the enforcement of this code in any court of competent jurisdiction to enjoin any violation of this code or to impose a civil penalty in an amount of \$2,000 per day that a violation of this Code continues. Each day a violation continues after due notice has been served shall be deemed a separate offense hereunder.

**(4) Section 109.4 Violation penalties.** Persons who shall violate a provision of this 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 used under provisions of this code, shall be guilty of a Class C Misdemeanor, as defined in the Texas Penal Code § 12.23. Each day that a violation continues after due notice has been served shall be deemed a separate offense. The District shall be entitled to bring a civil action for the enforcement of this code in any court of competent jurisdiction to enjoin any violation of this code or to impose a civil penalty in an amount of \$2,000 per day that a violation of this Code continues.

**(5) 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 Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches.

**Exception:** Widths less than 25 feet as approved in writing by the Fire Code Official.

**(6) Section D103.3 Turning radius.** Fire Apparatus access roads shall be designed with an appropriate 25 foot inside turning and a 50 foot outside turning radius at turns to accommodate any operational fire department apparatus.

**Exception:** Radius less than 25 feet inside or 50 feet outside as approved in writing by the Fire Code Official.

**(7) Section D103.6 Signs.** Where required by the Fire Code Official, fire apparatus access roads shall be marked as follows:

Where curb and guttering exists, all of fire apparatus access roads shall be painted red and be conspicuously and legibly marked with the warning "FIRE LANE – TOW

AWAY ZONE” in white letters at least three inches tall, at intervals not exceeding 35 feet.

Where no curb and guttering exists, fire apparatus access roads shall be marked with permanent FIRE LANE – TOW AWAY ZONE signs at intervals not exceeding 50 feet. Signs shall have a minimum dimension of 12 inches wide by 18 inches high and have red letters on a white reflective background. Signs shall be posted on one side or both sides of the fire apparatus road as required by Section D103.6.1 or D103.6.2.

Sign Type “A”



Sign Type “B”



**(8) Section 307.2 Open Burning – Notification, permission, or permit required.**

For any burning other than residential maintenance, a permit shall be obtained from the Fire Code Official in accordance with Section 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention, or control of disease or pests, a bonfire, or any other outdoor burning within the District. All outdoor burning authorized within the District shall be conducted in full compliance with all applicable statutes, rules, or regulations, including this Ordinance, and in the case of conflict between any other applicable statute, rule, or regulation and this Ordinance, the more stringent provision shall prevail. In addition to any other remedy the Fire Code provides, any issued permits may be revoked at any time by the Fire Code Official if any conditions or limitations set forth in the permit or applicable statute, law, rule, or regulation have been violated by the permit holder.

**Outdoor Burning Procedure**

**Residential Maintenance** - All outdoor burning conducted within the District must be authorized and may require an on-site visit prior to initiating any outdoor burning. The individual responsible for the outdoor burning shall contact the **Fire Prevention Division by telephone or webform, Monday through Friday, 8a.m.–5p.m.** for notification and instructions. After the request is received, the Fire Code Official or a fire department officer may conduct an on-site inspection, if required, and permission may be granted to conduct the burn if said burn can be conducted in a safe manner and such burn is in compliance with all applicable statutes, laws, rules, or regulations, including the Texas Clean Air Act and the Texas Outdoor Burning Rule, Title 30, Texas Administrative Code (30 TAC), Sections 111.201 – 111.221. Open Burning as described above is to be intended for **residential maintenance and does not require a permit or permit fee**, given burning is occasional and not commercial in nature.

Any Open Burning other than that intended for residential maintenance described above, i.e. Lot Clearing, Prescribed Burning, or if in the Fire Code Official's opinion any request that exceeds acceptable height, size or frequency, shall require a prescribed time frame permit and/or permit fees. Application for such approval(s) shall only be issued to the owner of the land upon which the fire is to be kindled.

**Open Burning site requirements (All):**

- Site inspected or approved by the Fire Code Official or a fire department officer.
- Phone available on site to contact 9-1-1.
- Proposed burn site is at least **50** feet from any structure.
- Wind and/or other environmental conditions are favorable.
- Cannot burn prohibited items.
- Proposed burn site is manageable size and height.
- Approved water source or extinguishing equipment available at burn site.
- Burn site is downwind or at least **300** feet from any occupants that might be sensitive to smoke.
- Applicant to be informed of burn regulations.
- Applicant must abide by any additional requirements provided by the Fire Code Official or fire department officer.
- When issued, all permits shall be kept on the premises designated therein at all times and shall be posted in a conspicuous place on the premises, or shall be kept on the premises location designated by the Fire Code Official.

**(9) Section 307.2.1 Authorization.** All **outdoor burning** shall be done in accordance with Texas Outdoor Burning Rule Title 30 Texas Administrative Code (30 TAC) Sections 111.201 – 111.221. If a conflict should arise between this code and the Texas Outdoor Burning Rule, Title 30 Texas Administrative Code (30 TAC), Sections 111.201 – 111.221, then the more stringent rule shall apply. Where required by state or local law or this code, open burning shall only be authorized with prior approval from the state or local air and water quality management authority or other authorities having jurisdiction, provided that all conditions specified in the authorization are followed. If issued, permits may be revoked at any time by the Fire Code Official if any conditions or limitations set forth in the permit have been violated. This action, if taken, may result in fines, penalties as set forth herein, or additional fees issued by the District.

**(10) Section 105.3.3 Occupancy prohibited before approval.** The building or structure shall not be occupied prior to the code official issuing a permit that indicates that applicable provisions of this code have been met for any new structure or a change in an existing occupancy.

**(11) Section 503.6 Security Gates.** The installation of security gates across a fire apparatus road shall be approved by the Fire Code Official. Where security gates are installed, they shall have an approved means of emergency operation, including a



means of operation without power and a means of operation with a Knox Box. The security gates and emergency operation shall be maintained at all times. A single gate serving two-way traffic shall be 25 feet in clear open width. When two gates are installed and each only serves one direction of travel, they shall be 15 feet in clear open width each. This provision pertains to new and existing gates.

### **Section 9. References to Other Codes**

The District shall not have a building official or separate code regulating the construction of buildings, including but not limited to separate building code, mechanical code, plumbing code, or electrical code, except as expressly incorporated by the terms of this Ordinance and necessary for the proper interpretation or enforcement of this Ordinance or any fire code adopted hereunder. Only parts of other international codes that relate to fire safety are incorporated in this Ordinance. 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 disregarded as though such reference were deleted and all other parts of the affected sentence, section, article, or chapter remain in force and effective. Any reference in the IFC (or other provision incorporated in this Ordinance) 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 Ordinance by reference and to allow for the proper interpretation and enforcement of this Ordinance. 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 of any such other code that is not incorporated in this Ordinance or the Fire Code 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 Ordinance and the authority of the District.

### **Section 10. Conflicts**

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

### **Section 11. Severability**

Should any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the District's Fire Code. The Board of Emergency Services Commissioners hereby declares that it would have passed this Ordinance and the District's Fire Code, 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 illegal, unenforceable, or unconstitutional.

**Section 12. 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 13. Notice/Publication**

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

**Section 14. Effective Date**

This Ordinance shall be effective the \_\_\_\_ day of \_\_\_\_\_, 2019.

BURNET COUNTY EMERGENCY  
SERVICES DISTRICT NO. 9

By: \_\_\_\_\_  
Karen Bruett, President

ATTEST:

\_\_\_\_\_  
Secretary