



# City Council Agenda Item Report

May 7, 2013

## Agenda Item

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**SUBJECT: Approval of the second reading of an Ordinance adopting the International Code Council (ICC) 2009 Edition of Certain Building Codes and Regulations.**

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### 1. BACKGROUND/HISTORY

Currently, the City is under the International Council of Codes (ICC), 2006 edition, for residential and commercial construction. Every three years, the ICC makes revisions to its family of codes; however, most cities wait until such amendments are accepted by the building community.

The family of codes the city has currently adopted are the following:

2006 edition:

- International Building Code
- International Energy Efficiency Code
- International Fuel Gas Code
- International Mechanical Code
- International Plumbing Code
- International Fire Code as adopted by ordinance # 070501-1
- International Property Maintenance Code
- International Residential Code
- International Existing Building Code
- National Electric Code, 2002 edition

As Council may recall at the April 2, 2013 Council meeting, a presentation was made by Dondi Atwell with ATS, Stanley Fees, City Engineer and Mike Duffey, Fire Marshall on the 2009 ICC edition, the International Existing Building Code and the 2009 IFC.

### 2. FINDINGS/CURRENT ACTIVITY

Staff reviewed ordinances from a number of cities in the area including but not limited to Austin, Bee Cave, Briarcliff, Cedar Park, Creedmoor, Jonestown, Kerrville,

Lago Vista, Leander, Wimberley and Wood Creek in looking into any additional areas to address within the ordinance.

Staff has presented the draft ordinance to the Austin Home Builders Association as well as the local homebuilders Meritage, Centex/Pulte, Gehan, Clark Wilson Builder, Buffington, Homes by AVI, Lennar, and Ryland. The Austin Home Builders Association has requested the ordinance become effective no sooner than June 1, 2013. The effective date of 90 days after approval by City Council listed in the ordinance meets this request.

Enclosed is a draft of the revised building code ordinance. The following is a summary highlighting changes to the existing building code ordinance:

#### General Provisions

- The ordinance provides for some parameters to ethical conduct on city employees; see Section 6.02.005.
- Incorporate City's fee schedule; see Section 6.02.006
- Certificate of insurance required for contractors; see Section 6.02.007
- ADA clearance; see Section 6.02.008

#### Building Code:

- Adoption of the Building Code, 2009 ed., and recommended changes within the code:
  - Sections 101.1 and 1612.3 insert City of Buda
  - Sections 1612.3 and 3412.2 insert October 5, 2004
  - Section 903.3.8 insert: Exception: All Group R-3, One and Two family dwellings
  - Adopt Appendices C, D, G (excluding G104 and G105), H, I, J and K.
  - The City Manager shall be the Building Official or his or her designee. No department shall be created nor an official inspector who cannot be removed from office without cause.
  - No permit required for an accessory structure 251 sf or less. (Section 105 of the IBC limits the size of the accessory structure to 120 sf. These structures are required to comply with setbacks, impervious cover and MEP permits.)
  - Homeowners can do work providing they show proof of homestead.
  - A design professional shall be either a state licensed architect or engineer.
  - A design professional that submits plans has to be either Texas licensed professional engineer and/or architect.
  - No utility service to a nonresidential building owner, occupant or tenant without first obtaining a certificate of occupancy. This includes transfer of service from one utility account holder to another.
  - The Board of Appeals is the Construction Board of Appeals.

#### Energy Conservation Code:

- Adoption of the Energy Conservation Code, 2009 ed., and recommended changes within the code:
  - Section 101.1 insert City of Buda
  - The Board of Appeals is the Construction Board of Appeals.
  - Heating and cooling systems shall have a minimum 14 SEER

#### Fuel Gas Code:

- Adoption of Fuel Gas Code, 2009 ed., and recommended changes within the code:

- Section 101.1 insert City of Buda
- Section 106.5.2 is amended to insert the City of Buda permit and inspection fee schedule
- Section 106.5.3 – insert 50%
- Section 108.4 – insert Misdemeanor, \$2,000 per violation
- Section 108.5 – insert \$500 to \$2,000
- Adopt Appendices A, B, C and D.
- The City Manager or his/her designee shall be the code official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the code official.
- The Board of Appeals is the Construction Board of Appeals.
- A person applying for a permit has to be State of Texas licensed master plumber or the home owner provided the homeowner can show proof of homestead.

Mechanical Code:

- Adoption of Mechanical Code, 2009 ed., and recommended changes within the code:
  - Section 101.1 insert City of Buda
  - Section 106.5.2 is amended to insert the City of Buda permit and inspection fee schedule
  - Section 106.5.3(2)(3) insert Fifty percent (50%)
  - Section 108.4 – insert Misdemeanor, \$2,000 per offense maximum fine. 30 days
  - Section 108.5 – insert \$500 to \$2,000
  - Adopt Appendices A
  - The City Manager or his/her designee shall be the code official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the code official.
  - The Board of Appeals is the Construction Board of Appeals
  - A person applying for a permit has to be State of Texas licensed air conditioning and refrigeration contractor or the home owner provided the homeowner can show proof of homestead.

Plumbing Code:

- Adoption of Plumbing Code, 2009 ed., and recommended changes within the code:
  - Section 101.1 insert City of Buda
  - Section 106.6.2 insert the City of Buda permit and inspection fee schedule
  - Section 106.6.3(2)(3) insert Fifty percent (50%)
  - Section 108.4 Insert Misdemeanor, \$2,000 per offense maximum fine. 30 days
  - Section 108.5 Insert: A minimum of \$500 not to exceed \$2,000 per day, 30 days.
  - Section 305.6.1 Insert 12 inches
  - Section 904.1 Insert 6 inches
  - Adopt Appendices A, B, C, D, E, F and G
  - The City Manager or his/her designee shall be the code official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the code official.
  - The Board of Appeals is the Construction Board of Appeals

- A person applying for a permit has to be State of Texas licensed master plumber or the home owner provided the homeowner can show proof of homestead.
- Fire sprinkler and irrigation systems need to get a permit prior to installation.
- A backflow prevention assembly shall be installed on all irrigation systems.

Property Maintenance Code:

- Adoption of Property Maintenance Code, 2006 ed., and recommended changes within the code:
  - Section 101.1 insert: City of Buda
  - Section 103.5 insert: City of Buda permit and inspection fee schedule
  - Section 112.4 Insert: A minimum of \$500 not to exceed \$2,000 per offense.
  - Section 302.4 Insert 18 inches
  - Section 304.14 Insert: No period shall be set.
  - Section 602.3 Insert: No period shall be set.
  - Section 602.4 Insert: No period shall be set.
  - The City Manager or his/her designee shall be the code official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the code official.
  - The Board of Appeals is the Construction Board of Appeals.
  - It shall be unlawful for a person to convert a structure into a residence, or use a non-residential structure for residential purposes, without first meeting the requirements of the International Residential Code for One and Two-Family Dwellings.

Residential Code:

- Adoption of Residential Code, 2009 ed., and recommended changes within the code:
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GROUND SNOW LOAD	WIND SPEED <sup>d</sup> (mph)	SEISMIC DESIGN CATEGORY <sup>f</sup>	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMPERATURE <sup>e</sup>	ICE BARRIER UNDERLAYMENT REQUIRED <sup>h</sup>	FLOOD HAZARDS <sup>g</sup>	AIR FREEZING INDEX <sup>i</sup>	MEAN ANNUAL TEMPERATURE <sup>j</sup>
			Weathering <sup>a</sup>	Frost line depth <sup>b</sup>	Termite <sup>c</sup>					
5 psf	Fastest mile - 90mph	A	Negligible	0"	Moderate to Heavy	32 F	No	9/2/2005	33 F	67 F

- Section 2603.6.1 Insert 12 inches, 12 inches.
- Section P2904.1.1 is deleted and amended as follows: Fire sprinklers are not required in Group R-3, One and Two-Family Dwellings. When sprinklers are installed in Group R-3 dwellings, they shall be installed in accordance with IRC Section P2904 and all applicable referenced standards.
- Adopt Appendices A; B; C; D; E excluding AE302, AE303, AE304, AE402; G; H; I; J; K; M; N; O and Q.
- The City Manager or his/her designee shall be the building official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the building official.

- No permit required for an accessory structure 251 sf or less. (Section R105 of the 2009 IRC limits the size of the accessory structure to 200 sf. These structures are required to comply with setbacks, impervious cover and MEP permits.)
- Homeowners can do work providing they show proof of homestead.
- A design professional shall be either a state licensed architect or engineer.
- A design professional that submits plans has to be either Texas licensed professional engineer and/or architect.
- No utility service to a nonresidential building owner, occupant or tenant without first obtaining a certificate of occupancy. This includes transfer of service from one utility account holder to another
- The Board of Appeals is the Construction Board of Appeals
- The Building Official shall issue a stop work order for any work contrary to the provisions of the code that is being performed in an unsafe or dangerous manner.

#### Electrical Code:

- Adoption of National Electrical Code, 2008 ed. This is a separate document that the ICC recognizes for electrical work. The following are additions to the administration of the electrical code:
  - A person applying for a permit has to be State of Texas licensed master electrician or the home owner provided the homeowner can show proof of homestead.
  - Permanent power shall not be released until a certificate of occupancy or temporary certificate of occupancy has been issued.

#### Existing Building Code:

- Adoption of Existing Building Code, 2009 ed., and recommended changes within the code:
- Staff worked with ATS on what areas to consider:
  - Section 101.1 insert: City of Buda
  - Section 1301.2 insert: date of adoption of the IEBC, 2009 edition
  - Adopt Appendices A and B
  - The City Manager or his/her designee shall be the building official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the building official.
  - The Board of Appeals is the Construction Board of Appeals.

#### Fire Code:

- Adoption of International Fire Code, 2009 ed., and recommended changes within the code:
- Staff worked with the Fire Marshall on what areas to consider:
  - Adopt Appendices B, C, D, E, F, G, H, I and J
  - Right of Entry required
  - Stop Work Orders
  - Violations
  - Failure to comply
  - Outdoor cooking prohibited – residential or multifamily with two or more stories
  - Fire apparatus access road
  - Gates shall have access locks
  - Address numbers
  - Fire flow

- Fire lanes
- Appeals – appellate body is the Construction Board of Appeals.

**3. FINANCIAL IMPACT**  
N/A.

**4. ACTION OPTIONS/RECOMMENDATION**

Staff requests City Council consider approval of the second reading of an Ordinance adopting the International Code Council (ICC) 2009 Edition of Certain Building Codes and Regulations.

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BUDA, TEXAS AMENDING CHAPTER SIX, ARTICLES 6.02 AND 6.03 AND CHAPTER 10, ARTICLE 10.03 MAKING AMENDMENTS TO CERTAIN INTERNATIONAL CODES AND STANDARDS, ESTABLISHING CERTAIN BUILDING REGULATIONS AND REQUIREMENTS; AND ESTABLISHING PENALTIES THEREFOR; CONTAINING A PROVISION RELATED TO CONFLICTS; AND CONTAINING A SEVERABILITY CLAUSE AND EFFECTIVE DATE.**

**WHEREAS**, the Texas Local Governmental Code empowers the City to enact building codes and regulations and provide for their administration, enforcement, and amendment; and

**WHEREAS**, the regulation of building and building construction by the City of Buda is necessary to protect the public health and welfare; and

**WHEREAS**, the City of Buda deems it necessary to provide such codes and regulations;

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUDA, TEXAS, THAT:**

The City of Buda Code of Ordinances is hereby amended as follows

**SECTION 1**

Chapter Six, Article 6.02 of the City of Buda Code of Ordinances is hereby repealed and replaced in its entirety with the following:

**ARTICLE 6.02 TECHNICAL AND CONSTRUCTION CODES AND STANDARDS**

**Division 1. Generally**

**Sec. 6.02.001 References to electrical code**

Any reference in any of the International Family of Codes that refers to or mentions an electrical code other than the National Electrical Code that is adopted by the city is hereby amended to refer to the National Electrical Code adopted by the city.

**Sec. 6.02.002 Adoption of codes by reference**

All of the regulations, provisions, penalties, conditions and terms of the codes adopted by this article, as revised and amended herein, are hereby referred to, adopted, and made a part hereof, as if fully set out in this article.

Sec. 6.02.003 Public availability of adopted codes

The city manager shall purchase one copy of the codes adopted by this article, which he shall keep on file in the city hall and make available to the public for inspection and copying, subject to all applicable copyright laws.

Sec. 6.02.004 Conflict

Unless otherwise noted, any adopted ICC codes shall be subordinated to any City of Buda Code of Ordinance(s), state and/or federal law(s). Should any area or provision come under conflict, the stricter shall prevail. Should any City of Buda Code of Ordinance be silent on any area or provision to designing, building, constructing, or maintaining of any and all applicable structures, the ICC codes shall prevail.

Sec 6.02.005 Restrictions on employees.

In addition to the restrictions contained in the city Code of Ethics and employee handbook, employees of the building inspection division may not have a financial interest in any construction activity within the city limits or the city's extraterritorial jurisdiction. The term "construction activity" includes:

- (1) The preparation of plans, specifications or cost estimates for any construction work;
- (2) The furnishing of labor, materials or supplies for any construction work;
- (3) The provision of maintenance or repair services, or replacement parts, supplies, equipment or appliances for any existing structure;
- (4) The provision of construction consulting or project management services; and
- (5) The provision of real estate inspection services.

This restriction will not extend to an employee's interest in a residence owned and occupied by the employee as a homestead. An employee may not be involved in the plan review, permit issuance or inspections of any construction work on the employee's homestead.

Sec 6.02.006 Permit Fees

Permit fees shall be established by City Council. A fee schedule shall be on file with the City.



Sec 6.02.007 Certificate of insurance required for contractors.

(a) A licensed contractor performing construction work in the city shall provide the City a copy of his or her State of Texas license, where applicable, along with a certificate of insurance that meets the requirements of this subsection. The City will not issue the applicable permit(s), until it receives the certificate of insurance. A certificate of insurance shall:

- (1) be written by a company licensed to do business in the State of Texas;
- (2) provide for commercial general liability insurance coverage for the builder for claims for property damage or bodily injury; and
- (3) be in a coverage amount of not less than \$300,000 for all claims arising in anyone (1) year period.

(b) This subsection of this ordinance does not alter the responsibility of any person performing any construction activity for damages to anyone or for performance of a contract. Neither the City nor any city officer or employee assumes any liability on the basis of an inspection activity or a license, certificate or permit issued pursuant to this ordinance.

Sec 6.02.008 Building Accessibility

- (a) Building accessibility standards and requirements are governed by the Americans with Disabilities Act (ADA), the Texas Accessibility Standards (TAS), and any provisions set forth in the codes as adopted herein. Unless otherwise noted herein, the minimum building accessibility standards shall be the ADA and/or TAS.
- (b) Before a contractor applies for a permit for a building or structure subject to section (50) of the state Architectural Barriers Act, the contractor shall provide proof that he has registered the construction documents with the state Department of Licensing and Regulation. Proof of registration consists of the project registration number from the state Department of Licensing and Regulation.

Sec 6.02.009 Applicability

Nothing within this code shall be construed as limiting the application and enforcement of this code in areas such as the city limits and extra-territorial jurisdiction (ETJ) as may be allowed by local, state, or federal laws, ordinances, or codes.

Section 6.02.010 Notice of Violation

All notices of a violation of this Chapter shall be in accordance with state and local law; notice of a violation shall not be required to establish an offense under this chapter.

Secs6.02.011–6.02.050 Reserved

## **Division 2. Building Code**

Sec. 6.02.051 Adopted

The following code is hereby adopted to govern construction and construction-related activities in the city: the International Building Code, 2009 edition.

Sec. 6.02.052 Amendments

(a) The International Building Code, establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures, by providing the standard for supplied utilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, and the condemnation of buildings and structures unfit for human occupancy, the use and the demolition of such structures, and providing for the issuance of permits and collection of fees therefor, is hereby adopted, revised and amended as follows:

Section 101.1. Insert: City of Buda.

Section 1612.3. Insert: City of Buda.

Section 1612.3. Insert: October 5, 2004.

Section 3412.2. Insert: October 5, 2004.

Section 903.3.8. Insert: Exception: All Group R-3, One and Two family Dwellings.

(b) The following appendices are hereby adopted: C, D, P, G (excluding G104 and G105), H, I, J and K.

(c) Subsection 103.2 is hereby deleted and replaced with the following:

103.2 Appointment. The City Manager or his/her designee shall be the building official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the building official.

(d) Subsection 105.1 is hereby deleted and replaced with the following:

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy classification of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. If the owner is to do the work him or herself, then the owner

shall provide proof to the building official stating that he or she owns and presently occupies the building as his homestead.

(e) Subsection 105.2 is hereby amended with the following:

105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. One-story detached accessory structures used as tool and storage sheds, play houses and similar uses, provided the floor area does not exceed 251 square feet.

(f) Subsection 105.8 is hereby added to read as follows:

105.8 Homestead. If the owner is to do the work him or herself, then the owner shall provide proof to the building official stating that he/she owns and presently occupies the existing building as his/her homestead, and will do the work with his/her own hands.

(g) Subsection 107.2.2.1 is hereby added to read as follows:

107.2.2.1 Any documents prepared by or required to be prepared by a licensed or registered design professional shall bear the professional's seal. The seal shall bear the professional's name and the legend "Licensed Professional Engineer," "Registered Professional Engineer" or "Registered Architect".

(h) Subsection 107.3.4.3 is hereby added to read as follows:

107.3.4.3 The design professional shall be an architect or engineer legally licensed or registered under the Texas statutes that regulate the practice of architecture or engineering.

(i) Subsection 107.3.4.4 is hereby added to read as follows:

107.3.4.4 In addition to the state law that requires certain types of buildings to be designed by a registered design professional, privately owned buildings with classifications A, E, and I occupancies shall be designed by registered design professionals.

(j) Subsection 107.3.4.5 is hereby added to read as follows:

107.3.4.5 The building official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the technical codes. For buildings and structures, the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and, if accompanied by drawings, show the structural design and that the plans and design conform to the requirements of the technical codes as to strength, stresses, strains, loads and stability. The building official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the building official copies of inspection reports as inspections are performed, and upon completion of the structure, electrical, gas, mechanical, and plumbing systems, a certification that the structure, electrical, gas, mechanical, and plumbing system has been erected in accordance with the requirements of the city's adopted codes. Where the building official relies upon such affidavit, the architect or engineer assures full responsibility for the compliance with all provisions of the technical codes and other pertinent laws or ordinances.

(k) Subsection 111.1 is hereby amended by adding the following:

111.1.1. No certificate of occupancy will be issued until the city has been fully paid all fees and costs that are related to the building or structure. The fees and costs include those related to the infrastructure of the building, such as impact fees and fees for the installation of water meter and water and wastewater connections.

111.1.2. Before utility service to a non-residential building is initiated for a new owner, occupant or tenant, the owner, occupant or tenant shall apply for and obtain a new certificate of occupancy from the building inspection division.

111.1.3 It is unlawful for a builder, building contractor, or building owner to allow any person to occupy a building until a certificate of occupancy is issued.

(l) Subsection 112.1 is hereby amended by adding the following:

112.1.1 It is unlawful for a building owner or occupant to institute utility service to any non-residential structure or transfer utility service from one account holder to another occupant or tenant until the utility service provider has received a utility release from the City based upon the issuance of a certificate of occupancy for the structure, occupancy or use.

(m) Subsection 113.1 is hereby deleted and replaced with the following:

113.1 General. In order to hear and decide appeals of orders, decision or determination made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a Construction Board of Appeals. The City Council shall adopt an enabling ordinance and bylaws creating the Construction Board of Appeals. All decision made by the Construction Board of Appeals shall be final.

(n) Subsection 113.3 is hereby deleted

(o) Subsection 115.2 is hereby deleted and replaced with the following:

115.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.

(p) Section 116 is hereby deleted

Secs. 6.02.053–6.02.100 Reserved

### **Division 3. Energy Code**

Sec. 6.02.101 Adopted

The following code is hereby adopted to govern construction and construction-related activities in the city: the International Energy Conservation Code, 2009 edition.

Sec. 6.02.102 Amendments

(a) The International Energy Conservation Code, regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the city, and providing for the issuance of permits and collection of fees therefor, is hereby adopted, revised and amended as follows:

Section 101.1. Insert: City of Buda.

(b) Section 108.4 is hereby amended

108.4 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 subject to the fine and penalties as set forth by the City of Buda Code of Ordinances.

(c) Section 109.1 is hereby deleted and replaced with the following:

109.1 General. In order to hear and decide appeals of orders, decision or determination made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a Construction Board of Appeals. The City Council shall adopt an enabling ordinance and bylaws creating the Construction Board of Appeals. All decision made by the Construction Board of Appeals shall be final.

(d) Section 109.3 is hereby deleted.

(e) Subsection 403.10 is hereby added:

403.10 Minimum SEER requirement. A minimum 14 SEER shall be required for energy efficiency.

Secs. 6.02.103–6.02.150 Reserved

#### **Division 4. Fuel Gas Code**

Sec. 6.02.151 Adopted

The following code is hereby adopted to govern construction and construction-related activities in the city: the International Fuel Gas Code, 2009 edition.

Sec. 6.02.152 Amendments

(a) The International Fuel Gas Code, establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, and the condemnation of buildings and structures unfit for human occupancy, the use and the demolition of such structures, and providing for the issuance of permits and collection of fees therefor, is hereby adopted, revised and amended as follows:

Section 101.1. Insert: City of Buda.

Section 106.5.2. Insert: City of Buda permit and inspection fee schedule.

Section 106.5.3. Insert: Fifty percent (50%).

Section 108.4. Insert: Misdemeanor, \$2,000 per violation.

Section 108.5. Insert: \$500 to \$2,000.

(b) The following appendices are hereby adopted: A, B, C and D.

(c) Section 103.2 is hereby deleted and replaced with the following:

103.2 Appointment. The City Manager or his/her designee shall be the code official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the code official.

(d) Section 109 is hereby deleted and replaced with the following:

#### SECTION 109 (IFGC) MEANS OF APPEAL

109.1 General. In order to hear and decide appeals of orders, decision or determination made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a Construction Board of Appeals. The City Council shall adopt an enabling ordinance and bylaws creating the Construction Board of Appeals. All decision made by the Construction Board of Appeals shall be final.

Limitations of authority. An application for appeal shall be based on a claim that the true intent of his code or the rules legally adopted thereunder have been incorrectly interpreted, the provision of this code do not fully apply or an equally good or better form of construction is proposed. The Construction Board of Appeals shall have no authority to waive requirements of this code.

Sec. 6.02.153 Permits; licensing.

(a) A person applying for a plumbing permit shall be:

- (1) A State of Texas licensed master plumber; or
- (2) Exempt under state law from the licensing requirement.

(b) If applicable, a state licensed master plumber shall register with the City in accordance with the city's registration policy and shall show proof of the license before any work is performed within the City.

(c) If a building owner is claiming an exemption under state law because he or she is planning to do the work him or herself, then the owner shall provide proof to the building official stating he or she owns the building as his or her homestead.

Secs. 6.02.154–6.02.200 Reserved

### **Division 5. Mechanical Code**

Sec. 6.02.201 Adopted

The following code is hereby adopted to govern construction and construction-related activities in the city: the International Mechanical Code, 2009 edition.

Sec. 6.02.202 Amendments

(a) The International Mechanical Code, regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems, and providing for the issuance of permits and collection of fees therefor, is hereby adopted, revised and amended as follows:

Section 101.1. Insert: City of Buda.

Section 106.5.2. Insert: City of Buda permit and inspection fee schedule.

Section 106.5.3 (2)(3) Insert: Fifty percent (50%).

Section 108.4. Insert: Misdemeanor, \$2,000 per offense maximum fine. 30 days

Section 108.5. Insert: \$500 to \$2,000.

(b) The following appendices are hereby adopted: A.

(c) Section 103.2 is hereby deleted and replaced with the following:

103.2 Appointment. The City Manager or his/her designee shall be the code official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the code official.

(d) Section 109 is hereby deleted and replaced with the following:

SECTION 109 MEANS OF APPEAL

109.1 General. In order to hear and decide appeals of orders, decision or determination made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a Construction Board of Appeals. The City Council shall adopt an enabling ordinance and bylaws creating the Construction Board of Appeals. All decision made by the Construction Board of Appeals shall be final.

Limitations of authority. An application for appeal shall be based on a claim that the true intent of his code or the rules legally adopted thereunder have been incorrectly interpreted, the provision of this code do not fully apply or an equally good or better form of construction is proposed. The Construction Board of Appeals shall have no authority to waive requirements of this code.



Sec. 6.02.203 Permits; licensing.

- (a) A person applying for a mechanical permit shall be:
  - (1) A State of Texas licensed air conditioning and refrigeration contractor; or
  - (2) Exempt under state law from the licensing requirement.
- (b) A state licensed air conditioning and refrigeration contractor shall register with the City in accordance with the city's registration policy and shall show proof of the license before any work is performed within the City.
- (c) If a building owner is claiming an exemption under state law because he or she is planning to do the work him or herself, then the owner shall provide proof to the building official stating he or she owns the building as his or her homestead.

Secs. 6.02.204–6.02.250 Reserved

**Division 6. Plumbing**

Part I. In General

Secs. 6.02.251–6.02.280 Reserved

Part II. Plumbing Code

Sec. 6.02.281 Adopted

The following code is hereby adopted to govern construction and construction-related activities in the city: the International Plumbing Code, 2009 edition.

Sec. 6.02.282 Amendments

(a) The International Plumbing Code, regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems, and providing for the issuance of permits and collection of fees therefor when used with money, is hereby adopted, revised and amended as follows:

Section 101.1. Insert: City of Buda.

Section 106.6.2. Insert: City of Buda permit and inspection fee schedule.

Section 106.6.3. (2) (3) Insert: Fifty percent (50%)

Section 108.4. Insert: Misdemeanor, not to exceed \$2,000 per day, 30 days

Section 108.5. Insert: A minimum of \$500 not to exceed a maximum of \$2,000 per offense.

Section 305.6.1. Insert: 12 inches.

Section 904.1. Insert: 6 inches

(b) The following appendices are hereby adopted: A, B, C, D, E, F and G.

(c) Section 103.2 is hereby deleted and replaced with the following:

103.2 Appointment. The City Manager or his/her designee shall be the code official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the code official.

(d) Section 109 is hereby deleted and replaced with the following:

#### SECTION 109 MEANS OF APPEAL

109.1 General. In order to hear and decide appeals of orders, decision or determination made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a Construction Board of Appeals. The City Council shall adopt an enabling ordinance and bylaws creating the Construction Board of Appeals. All decision made by the Construction Board of Appeals shall be final.

Limitations of authority. An application for appeal shall be based on a claim that the true intent of his code or the rules legally adopted thereunder have been incorrectly interpreted, the provision of this code do not fully apply or an equally good or better form of construction is proposed. The Construction Board of Appeals shall have no authority to waive requirements of this code.

Sec. 6.02.283 Permits; licensing.

- (a) A person applying for a plumbing permit shall be:
  - (1) A State of Texas licensed master plumber; or
  - (2) Exempt under state law from the licensing requirement.
- (b) If applicable, a state licensed master plumber shall register with the City in accordance with the city's registration policy and shall show proof of the license before any work is performed within the City.
- (c) If a building owner is claiming an exemption under state law because he or she is planning to do the work him or herself, then the owner shall provide proof to the building official stating he or she owns the building as his or her homestead.

Sec. 6.02.284 Fire sprinkler and irrigation system installation.

- (a) It shall be unlawful for a person to perform any service as a fire sprinkler installer or irrigation system installer without first registering and obtaining the necessary permits prior to installation.
- (b) Backflow prevention assembly shall be installed on all irrigation systems and in accordance with the specifications as set forth by the Building Department.

Secs. 6.02.285–6.02.330 Reserved

**Division 7. Property Maintenance Code**

Sec. 6.02.331 Adopted

The following code is hereby adopted to govern construction and construction-related activities in the city: the International Property Maintenance Code, 2009 edition.

Sec. 6.02.332 Amendments

(a) The International Property Maintenance Code, establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures, is hereby adopted, revised and amended as follows:

Section 1.01. Insert: City of Buda.

Section 103.5. Insert: City of Buda permit and inspection fee schedule.

Section 112.4 Insert A minimum of \$500 not to exceed a maximum of \$2,000 per offense.

Section 302.4 Insert: eighteen (18) inches

Section 304.14. Insert: No period shall be set.

Section 602.3. Insert: No period shall be set

Section 602.4. Insert: No period shall be set

(b) The following appendices are hereby adopted: A

(c) Section 103.2 is hereby deleted and replaced with the following

103.2 Appointment. The City Manager or his/her designee shall be the code official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the code official.

(d) Section 111 is hereby deleted and replaced with the following:

#### SECTION 111 MEANS OF APPEAL

111.1 General. In order to hear and decide appeals of orders, decision or determination made by the building or code official relative to the application and interpretation of this code, there shall be and is hereby created a Construction Board of Appeals. The City Council shall adopt an enabling ordinance and bylaws creating the Construction Board of Appeals. All decision made by the Construction Board of Appeals shall be final.

Limitations of authority. An application for appeal shall be based on a claim that the true intent of his code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or the requirements of this code are adequately satisfied by other means. The Construction Board of Appeals shall have no authority to waive requirements of this code.

111.6.2 Administration. The code official shall take immediate action in accordance with the decision of the Construction Board of Appeals.

111.8 Stays of enforcement. Appeals of notice and orders(other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Construction Board of Appeals.

Sec. 6.02.333 Conversion of structure into residence.

It shall be unlawful for a person to convert a structure into a residence, or use a non-residential structure for residential purposes, without first meeting the requirements of the International Residential Code for One and Two-Family Dwellings.

Secs. 6.02.334–6.02.380 Reserved

**Division 8. Residential Code**

Sec. 6.02.381 Adopted

The following code(s) is hereby adopted to govern construction and construction-related activities in the city: the International Residential Code for One and Two Family Dwellings, 2009 edition.

Sec. 6.02.382 Amendments

(a) The International Residential Code, regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses and providing for the issuance of permits and collection of fees therefor is hereby adopted, revised and amended as follows:

Section 101.1. Insert: City of Buda.

Table R301.2(1). Insert:

GROUND SNOW LOAD	WIND DESIGN <sup>d</sup> (mph)		SEISMIC DESIGN CATEGORY <sup>f</sup>	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP <sup>e</sup>	ICE BARRIER UNDERLAYMENT REQUIRE D <sup>h</sup>	FLOOD HAZARDS <sup>g</sup>	AIR FREEZING INDEX <sup>i</sup>	MEAN ANNUAL TEMP <sup>j</sup>
	WIND DESIGN <sup>d</sup>	Topographic effects		Weathering <sup>a</sup>	Frost line depth <sup>b</sup>	Termite <sup>c</sup>					
5 psf	Fastest mile - 90mph	No	A	Weathering <sup>a</sup> Negligible	Frost line depth <sup>b</sup> 0"	Termite <sup>c</sup> Moderate to Heavy	32 F	No	9/2/2005	33 F	67 F

Section P2603.6.1. Insert: 12 inches, 12 inches.

Section P2904.1.1 is deleted and amended as follows:

Fire sprinklers are not required in Group R-3, One and Two-Family Dwellings. When sprinklers are installed in Group R-3 dwellings, they shall be installed in accordance with IRC Section P2904 and all applicable referenced standards.

(b) The following appendices are hereby adopted: A; B; C; D; E excluding AE302, AE303, AE304, AE402; G; H; I; J; K; M; N; O and Q.

(c) Subsection R103.2 is hereby deleted and replaced with the following:

R103.2 Appointment. The City Manager or his/her designee shall be the building official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the building official.

(d) Subsection R105.1 is hereby deleted and replaced with the following:

R105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy classification of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. If the owner is to do the work him or herself, then the owner shall provide proof to the building official stating that he or she owns and presently occupies the building as his homestead.

(e) Subsection R105.2 is hereby amended with the following:

R105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

**Building:**

1. One-story detached accessory structures used as tool and storage sheds, play houses and similar uses, provided the floor area does not exceed 251 square feet.

(f) Subsection R105.10 is hereby added to read as follows:

R105.10 Homestead. If the owner is to do the work him or herself, then the owner shall provide proof to the building official stating that he/she owns and presently occupies the existing building as his/her homestead, and will do the work with his/her own hands.

(g) Subsection R106.1.4 is hereby added to read as follows:

R106.1.4 Any documents prepared by or required to be prepared by a licensed or registered design professional shall bear the professional's seal. The seal shall bear the professional's name and the legend "Licensed Professional Engineer," "Registered Professional Engineer" or "Registered Architect". The design professional shall be an architect or engineer legally licensed or registered under the Texas statutes that regulate the practice of architecture or engineering.

(h) Subsection R106.6 is hereby added to read as follows:

R106.6 The building official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the technical codes. For buildings and structures, the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and, if accompanied by drawings, show the structural design and that the plans and design conform to the requirements of the technical codes as to strength, stresses, strains, loads and stability. The building official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the building official copies of inspection reports as inspections are performed, and upon completion of the structure, electrical, gas, mechanical, and plumbing systems, a certification that the structure, electrical, gas, mechanical, and plumbing system has been erected in accordance with the requirements of the city's adopted codes. Where the building official relies upon such affidavit, the architect or engineer assures full responsibility for the compliance with all provisions of the technical codes and other pertinent laws or ordinances.

(i) Subsection R110.1 is hereby amended by adding the following:

R110.1.1. No certificate of occupancy will be issued until the city has been fully paid all fees and costs that are related to the building or structure. The fees and costs include those related to the infrastructure of the building, such as impact fees and fees for the installation of water meter and water and wastewater connections.

R110.1.2 It is unlawful for a builder, building contractor, or building owner to allow any person to occupy a building until a certificate of occupancy is issued.

(j) Subsection R112.1 is hereby deleted and replaced with the following:

R112.1 General. In order to hear and decide appeals of orders, decision or determination made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a Construction Board of Appeals. The City Council shall adopt an enabling ordinance and bylaws creating the Construction Board of Appeals. All decision made by the Construction Board of Appeals shall be final.

(k) Subsection R112.3 is hereby deleted

(l) Subsection 114.1 is hereby amended by adding the following:

R114.2 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.

Secs. 6.02.383–6.02.430 Reserved

## **Division 9. Electricity**

### **Part I. In General**

Secs. 6.02.431–6.02.460 Reserved

### **Part II. Electrical Code**

Sec. 6.02.461 Adopted

The following code is hereby adopted to govern construction and construction-related activities in the city: the National Electrical Code, 2008 edition.



Sec. 6.02.462 Permits; licensing.

(a) A person applying for a electrical permit shall be:

- (1) A State of Texas licensed master electrician; or
- (2) Exempt under state law from the licensing requirement.

(b) If applicable, a state licensed master electrician shall register with the City in accordance with the city's registration policy and shall show proof of the license before any work is performed within the City.

(c) If a building owner is claiming an exemption under state law because he or she is planning to do the work him or herself, then the owner shall provide proof to the building official stating he or she owns the building as his or her homestead.

Sec 6.02.463 Certificate of Occupancy

Permanent power shall not be released until a certificate of occupancy or temporary certificate of occupancy has been issued under the conditions as set forth in the City's Unified Development Code.

Secs 6.02.463- 6.02.500 Reserved

## **Division 10. Existing Building Code**

Sec. 6.02.501 Adopted

The following code is hereby adopted to be used as an alternative method of code compliance to the International Building Code for construction and construction-related activities in the city: the International Existing Building Code, 2009 edition.

Sec. 6.02.502 Amendments

(a) The International Existing Building Code, regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of said Existing Building Code is hereby adopted, revised and amended as follows:

Section 1.01. Insert: City of Buda.

Section 1301.2. Insert: the date of adoption of the International Existing Building Code, 2009 edition.

(b) The following appendices are hereby adopted: A and B

(c) Section 103.2 is hereby deleted and replace with the following:

103.2 Appointment. The City Manager or his/her designee shall be the building official. The City Manager or his/her designee shall have the sole discretion without cause to reconfigure, reassign re-delegate or dissolve the position of the building official.

(d) Subsection 112.1 is hereby deleted and replaced with the following

112.1 General. In order to hear and decide appeals of orders, decision or determination made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a Construction Board of Appeals. The City Council shall adopt an enabling ordinance and bylaws creating the Construction Board of Appeals. All decision made by the Construction Board of Appeals shall be final.

(e) Subsection 112.3 is hereby deleted

Secs 6.02.503-6.02.600 Reserved

## **SECTION 2**

Chapter Six, Article 6.03 of the City of Buda Code of Ordinances is hereby repealed and replaced in its entirety with the following:

### **ARTICLE 6.03 DANGEROUS BUILDINGS\***

#### **Division 1. Generally**

##### **Sec. 6.03.001 Dangerous buildings prohibited**

(a) Pursuant to the authority granted to the city in Texas Local Government Code, chapter 214, the city adopts this division to require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building which has any or all of the conditions or defects hereinafter described:

- (1) Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;
- (2) Regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

- (3) Boarded up, fenced, or otherwise secured in any manner if:
  - (A) The building constitutes a danger to the public even though secured from entry; or
  - (B) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described in subsection (2) above.

(b) All buildings described in subsections (1) through (3) above are hereby declared illegal and shall be abated by repair, rehabilitation, or by demolition.

**Sec. 6.03.002 Building standards**

(a) The standards set forth elsewhere in Chapter 6 of the Code of Ordinances shall apply to all buildings in the city regardless of the date of their construction and these standards shall be used by the Construction Board of Appeals, hereinafter "commission", in determining whether a building should be declared unsafe and ordered vacated, secured, repaired, removed, demolished, and/or the occupants relocated. Examples include, but are not limited to:

- (1) The building, structure, or any part thereof is liable to partially or fully collapse.
- (2) The structure or any part thereof was constructed or maintained in violation of any provision of the city's building code, or any other applicable ordinance or law of the city, county, state or federal government.
- (3) Any wall or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third (1/3) of its base.
- (4) The foundation or the vertical or horizontal supporting members are twenty-five (25) percent or more damaged or deteriorated.
- (5) The nonsupporting coverings of walls, ceilings, roofs, or floors are fifty (50) percent or more damaged or deteriorated.
- (6) The structure has improperly distributed loads upon the structural members, or they have insufficient strength to be reasonably safe for the purpose used.
- (7) The structure or any part thereof has been damaged by fire, water, earthquake, wind, vandalism, or other cause to such an extent that it has become dangerous to the public health, safety, or welfare.
- (8) The structure or any part thereof has inadequate means of egress as required by the city's building code.

(9) The structure does not have adequate light, ventilation, or sanitation facilities as required by the city's building code and plumbing code.

(10) The structure has parts thereof which are so attached that they may fall and injure persons or property.

(b) Minimum standards. The minimum standards that shall determine the suitability of a building for continued use or occupancy, regardless of the date of construction, are those found in the city's adopted standard codes found in Chapter 6 of this Code of Ordinances, including but not limited to building, electrical, plumbing, gas, mechanical, existing buildings, property maintenance and fire prevention codes.

### **Sec. 6.03.003 Notice of violation**

In the event the city's building inspector determines that there are reasonable grounds to believe that a building or any part thereof violates the standards set forth above, he shall take the following acts:

(1) Notify the owner of the building and any interested lienholder or mortgagee of his determination in reasonable detail to enable the owner to commence repairs as may be needed. The notice shall be sent certified mail with return receipt requested, using signature confirmation service, or by personal delivery, to the owner at the address as shown on the city tax records and to any person who holds a lien or mortgage on the property in question;

(2) He shall request a public hearing before the commission to determine whether there exists a violation of this division;

(3) He shall include in his notice the date, time, and location of the hearing before the commission; and

(4) He shall include in the notice sent to the owner, lienholder and mortgagee a statement that the owner, lienholder or mortgagee shall be required to submit at the public hearing proof of the scope of any work that may be required to comply with this division and the time it will take to reasonably perform the work.

The building inspector may seek voluntary compliance with this division with the owner, lienholder or mortgagee of the building or structure before seeking a hearing before the commission. If the building inspector receives voluntary compliance from the owner, lienholder or mortgagee, the building inspector need not seek a public hearing from the commission.

### **Sec. 6.03.004 Compliance**

(a) In conducting a hearing authorized under this division, the commission shall require the owner, lienholder, or mortgagee of the building to within 30 days:

- (1) Secure the building from unauthorized entry; or
- (2) Repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(b) If the commission allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

#### **Sec. 6.03.005 Time to comply**

The commission may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

- (1) Submits a detailed plan and time schedule for the work at the hearing; and
- (2) Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

#### **Sec. 6.03.006 Progress reports**

If the commission allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the commission shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the city manager to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the commission or the commission's designee to demonstrate compliance with the time schedules.

#### **Sec. 6.03.007 Security for performance**

If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the city that exceeds \$100,000 in total value, the commission may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this section. In lieu of a bond, the commission may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the commission. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the commission issues the order.

#### **Sec. 6.03.008 Burden of proof**

In a public hearing to determine whether a building complies with the standards set out in this division, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this division and the time it will take to reasonably perform the work.

**Sec. 6.03.009 Commission order**

(a) After the public hearing, if the building is found in violation of the standards set out above, the commission may:

- (1) Order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time;
- (2) Order that all occupants of the building be relocated within a reasonable time.

(b) After the public hearing at which a building is found in violation of this division, the city manager shall personally deliver, or send by certified mail, return receipt requested, or deliver by United States Postal Service using signature confirmation service, to each identified mortgagee and lienholder a notice stating:

- (1) An identification, which is not required to be a legal description, of the building and the property on which it stands;
- (2) A description of the violation of the standards set forth above that is present at the building; and
- (3) A statement that the city will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

**Sec. 6.03.010 Publication and service of order**

(a) Within 10 days after the date that the order is issued, the commission shall:

- (1) File a copy of the order in the office of the city secretary; and
- (2) Publish in a newspaper of general circulation in the city a notice containing:
  - (A) The street address or legal description of the property;
  - (B) The date of the hearing;
  - (C) A brief statement indicating the results of the order; and
  - (D) Instructions stating where a complete copy of the order may be obtained.

(b) After the hearing, the city manager shall promptly mail by certified mail, return receipt requested, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The city manager shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.

**Sec. 6.03.011 Failure to comply**

If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the city may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This section does not limit the ability of the city to collect on a bond or other financial guaranty that may be required by section 6.03.007.

**Sec. 6.03.012 Lien**

(a) If the city incurs expenses under sections 6.03.010 and/or 6.03.011, the city may assess the expenses on, and the city has a lien against, unless it is a homestead as protected by the state constitution, the property on which the building was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the city, and the balance due.

(b) If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by sections 6.03.003, 6.03.009, and 6.03.010, the lien is a privileged lien subordinate only to tax liens.

**Sec. 6.03.013 Effort to locate interested parties**

The city's agents satisfy the requirements of this division to make a diligent effort, to use their best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if they search the following records:

- (1) County real property records of the county in which the building is located;
- (2) Appraisal district records of the appraisal district in which the building is located;
- (3) Records of the secretary of state;
- (4) Assumed name records of the county in which the building is located;
- (5) City tax records; and

(6) City utility records.

When an agent of the city mails a notice in accordance with this division to a property owner, lienholder, or mortgagee and the United States Postal Service returns the notice as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered delivered.

**Sec. 6.03.014 Appeals**

Any appeal of a commission order must be filed with a court of competent jurisdiction within 20 days after the notice of the order is either personally delivered or deposited in the United States mail addressed to the owner, lienholder, or mortgagee by certified mail, return receipt requested.

**Sec. 6.03.015 Civil penalties for failure to comply**

In addition to the authority granted to the commission above, the commission may assess a civil penalty against the property owner for failure to repair, remove, or demolish the building. To secure the payment of the civil penalty, there is hereby imposed a lien against the land on which the building stands or stood, unless it is a homestead as protected by the state constitution. Promptly after the assessment of the civil penalty, the city manager must file for record, in recordable form in the office of the county clerk of the county in which the land is located, a written notice of the imposition of the lien. The notice must contain a legal description of the land.

**Sec. 6.03.016 Lien priority**

Except as provided above, the city’s lien to secure the payment of a civil penalty is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city’s lien attaches if the mortgage lien was filed for record in the office of the county clerk of the county in which the real property is located before the date the civil penalty is assessed. The city’s lien is superior to all other previously recorded judgment liens.

**Sec. 6.03.017 Interest**

Any civil penalty or other assessment imposed under this division accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full.

**Sec. 6.03.018 Amount of civil penalty**

The commission by order may assess and recover a civil penalty against a property owner at the time of an administrative hearing on violations of an ordinance, in an amount not to exceed \$1,000.00 a day for each violation or, if the owner shows that the property is the owner’s lawful homestead, in an amount not to exceed \$10.00 a day for each violation, if the city proves:

- (1) The property owner was notified of the requirements of the ordinance and the owner’s need to comply with the requirements; and



(2) After notification, the property owner committed an act in violation of the ordinance or failed to take an action necessary for compliance with the ordinance.

**Sec. 6.03.019 Effect of assessment**

An assessment of a civil penalty under this division is final and binding and constitutes prima facie evidence of the penalty in any suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty.

**Sec. 6.03.020 Filing order assessing civil penalty**

Promptly after the assessment of the civil penalty, the city secretary must file with the district clerk of the county a certified copy of an order issued under section 6.03.018 stating the amount and duration of the penalty. No other proof is required for a district court to enter a final judgment on the penalty.

**Secs. 6.03.022–6.03.030 Reserved**

**Division 2. Code**

**Sec. 6.03.031 Adopted**

The City may utilize all codes adopted under Chapter 6 of this Code of Ordinances for the purpose of establishing rules and regulations governing the repair and removal of dangerous buildings in the city, effective immediately.

**SECTION 3**

Section 10.03.001 and Section 10.03.034 of the City of Buda Code of Ordinances are hereby amended to read, each in its entirety:

Sec.10.03.001 Adopted

- (a) The following code is hereby adopted to govern construction and construction-related activities in the city: the International Fire Code, 2009 edition.
- (b) Any reference in the International Fire Code that refers to or mentions an electrical code other than the National Electrical Code that is adopted by the city is hereby amended to refer to the National Electrical Code adopted by the city.
- (c) Each and all of the regulations, provisions, penalties, conditions and terms of said code are hereby referred to, adopted, and made a part hereof as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in this article.

- (d) The city manager shall purchase one copy of the code adopted by this section, which he shall keep on file in the city hall and make available to the public for inspection and copying, subject to all applicable copyright laws.

Sec. 10.03.034 Amendments adopted by district

- (a) The fire code as adopted by the city is hereby amended as follows: The city adopts all of the amendments to the fire code that are adopted by the Hays County Emergency Services District No. 8 in their Order No. 08-23-12-01 that is attached for reference to this Ordinance , and shall recognize any future amendments and/or revisions to the fire code from the Emergency Services District No. 8 as deemed necessary , provided that the following items in the attached order are amended by the city:

1. Subsection 101.1 is hereby deleted.
2. Section 9 (“Appeals”)is hereby deleted and replaced with the following:

**Section 9. Appeals.** Board of appeals established. In order to hear and decide appeals of orders, decision or determination made by the fire code official relative to the application and interpretation of this code, there shall be and is hereby created a Construction Board of Appeals. The City Council shall adopt an enabling ordinance and bylaws creating the Construction Board of Appeals. All decision made by the Construction Board of Appeals shall be final.

3. Subsection 108.3 is hereby deleted.
4. The following appendices are hereby adopted: B, C, D, E, F, G, H, I and J.

- (b) Furthermore, all references in the order to the district shall be limited for purposes of this order to the city limits.

**SECTION 4.** This ordinance shall be cumulative of all other ordinances of the City of Buda, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Buda except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

**SECTION 5.** The sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without

the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

**SECTION 6.** This Ordinance shall take effect ninety (90) days immediately from and after its final passage and any publication in accordance with the requirements of the City of Buda and the laws of the State of Texas.

PASSED AND APPROVED on first reading by the City Council of the City of Buda on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

PASSED, APPROVED AND ADOPTED on second reading by the City Council of the City of Buda on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

APPROVED:

\_\_\_\_\_  
Todd Ruge, Mayor

ATTEST:

\_\_\_\_\_  
Danny Batts, City Secretary