



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: O-1

Date: January 24, 2007

Subject: Request that the City Council consider adopting ordinances amending Tyler City Code Chapter 6 by adopting the 2006 International Energy Conservation Code with amendments, adopting the 2006 International Fuel Gas Code with amendments, adopting the 2006 International Mechanical Code with amendments, adopting the 2006 International Plumbing Code with amendments, and adopting the 2006 International Residential Code with amendments.

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Item Reference: Texas Local Government Code Chapter 388; Tyler City Code Chapter 6

The Development Services Department has reviewed, and recommends adoption of, the 2006 Edition of the International Codes (Energy, Fuel Gas, Mechanical, Plumbing, and Residential), along with the amendments described below. Adoption of the 2006 International Codes will facilitate proper inspection activities by the City of Tyler relating to fuel gas piping systems, fuel gas utilization equipment, and related accessories. On January 4, 2007, the Construction Board of Adjustment and Appeals voted to recommend adoption of the 2006 International Codes (Energy, Fuel Gas, Mechanical, Plumbing, and Residential) plus amendments. Following review by the Construction Board, the Legal Department made an additional change to Section 6-50 by removing an outdated reference to the 2001 Supplement to the International Codes, and by specifying that copies can be obtained from the Inspection Division of the Development Services Department. It is recommended that this and all of the other updated International Codes have an effective date of April 1, 2007. This short delay will allow time for City Staff to meet with affected persons and will provide a transition phase.

**ADOPTION OF 2006 INTERNATIONAL ENERGY CONSERVATION
CODE AND AMENDMENTS**

Texas Health and Safety Code Section 388.003(b) establishes the International Energy Conservation Code as it existed on May 1, 2001, as the energy code for the State with regard to all residential (other than single-family), commercial and industrial construction. Texas Health and Safety Code Section 388.003(c) requires municipalities to establish procedures for the administration and enforcement of the International Energy Conservation Code. Section 388.003(d) authorizes cities to adopt local amendments, as long as such amendments are not less stringent than the Energy Code. Local amendments must also comply with the National Appliance Energy Conservation Act of 1987.

It is recommended that this and all of the other updated International Codes have an effective date of April 1, 2007. This short delay will allow time for City Staff to meet with affected persons and will provide a transitional phase.

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Important amendments to the 2006 International Energy Conservation Code include the following:

New Section 101.5.3. Appoints the Chief Building Official or designee as the “Code Official” primarily responsible for enforcement of the Code.

New Section 101.5.4. References City Code Section 2-62, which governs the liability of City officials, City employees, and members of City boards.

New Section 101.5.5. The language relating to a “Construction Board of Adjustment and Appeals” that is used in all of the other International Codes is added.

New Section 101.5.6. Makes it unlawful for anyone to violate the 2006 Energy Conservation Code. Adds reference to penalty clause in City Code Section 1-4.

**SIGNIFICANT CHANGES FROM THE 2000 INTERNATIONAL ENERGY
CONSERVATION CODE TO THE 2006 INTERNATIONAL ENERGY
CONSERVATION CODE**

Section 301.1 Climate Zones by State, County and Territories. Smith County falls under Zone 3, Moist and Warm humid area.

Section 402.4 Air leakage and building thermal envelope. The building thermal envelope shall be durably sealed to limit infiltration. The sealing methods between dissimilar materials shall allow for differential expansion and contraction.

Section 403.1 Controls. At least one thermostat shall be provided for each separate heating and cooling system.

Section 403.1.1 Heat pump supplementary heat. Heat pumps having supplementary electric-resistance heat shall have controls that, except during defrost, prevent supplemental heat operation when the heat pump compressor can meet the heating load.

Section 403.2.1 Insulation. Supply and return ducts shall be insulated to a minimum of R-8. Ducts in floor trusses shall be insulated to a minimum of R-6. Exception: Ducts or portions thereof located completely inside the building thermal envelope.

Section 403.2.2 Sealing. All ducts, air handlers, filter boxes, and building cavities used as ducts shall be sealed. Joints and seams shall comply with Section M1601.3.1 of the International Residential Code.

Section 403.4 Circulating hot water systems. All circulating service hot water piping shall be insulated to at least R-2. Circulating hot water systems shall include an automatic or readily accessible manual switch that can turn off the hot water circulating pump when the system is not in use.

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Section 502.4.4 Outdoor air intakes and exhaust openings. Stair and elevator shaft vents and other outdoor air intakes and exhaust openings integral to the building envelope shall be equipped with not less than a Class I motorized, leakage-rated damper.

Section 502.4.5 Loading dock weather seal. Cargo doors and loading dock doors shall be equipped with weather seal to restrict infiltration when vehicles are parked in the doorway.

Section 502.4.6 Vestibules. A door that separates conditioned space from the exterior shall be protected with an enclosed vestibule, with all doors opening into and out of the vestibule equipped with self-closing devices. Vestibules shall be designed so that in passing through the vestibule it is not necessary for the interior and exterior doors to open at the same time.

Section 503.2.3(1). Air conditioning units and condenser units. As of January 2006, all unitary air conditioners and condensing units, electrically operated, will have a minimum efficiency rating of 13 SEER.

Section 503.2.4.1 Thermostatic controls. The supply of heating and cooling energy to each zone shall be controlled by individual thermostatic controls capable of responding to temperature within the zone. Where humidification or dehumidification or both is provided, at least one humidity control device shall be provided for each humidity control system.

Section 503.2.7 Duct and plenum insulation and sealing. Located in unconditioned space – **R6**
Located outside the building - **R8**.

Section 504.7.3 Pool Covers. Pools Heated to over 90 degrees Fahrenheit are required to have a Pool Cover. Pool cover must be vapor retardant.

Section 505.2.1 Interior lighting controls. Each area enclosed by walls or floor-to-ceiling partitions shall have at least one manual control for the lighting serving that area. The required controls shall be located within the area served by the controls or be a remote switch that identifies the lights served and indicates their status.

Section 505.2.2.1 Light reduction controls. Each area that is required to have a manual control shall also allow the occupant to reduce the connected lighting load in a reasonably uniform illumination pattern by at least 50 percent.

Section 505.2.2.2 Automatic lighting shutoff. Automatic lighting shutoff control device required in all buildings larger than 5,000 square feet.

Section 505.2.3 Sleeping Unit Lighting Control. Hotel/Motel Guest Room, boarding houses, or similar are required to have a master switch at each room or main room entry.

- Must control all permanently wired luminaires or switched receptacles.

Section 505.4 Exit Signs. Internally illuminated exit signs shall not exceed 5 Watts per side.

Section 505.6.1 Exterior building grounds lighting. Building grounds lighting luminaires over 100 watts must have source efficacy of at least 60 lumens per watt.

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The Construction Board of Adjustment and Appeals has reviewed the attached Ordinance, and recommends approval.

ADOPTION OF THE 2006 INTERNATIONAL FUEL GAS CODE WITH AMENDMENTS

On December 5, 2001, the City Council adopted the 2000 International Fuel Gas Code, with amendments. This is one of the standard technical codes that is used nationwide.

The Development Services Department has reviewed, and recommends adoption of, the 2006 Edition of the International Fuel Gas Code, along with the amendments described below. Adoption of the 2006 International Fuel Gas Code will facilitate proper inspection activities by the City of Tyler relating to fuel gas piping systems, fuel gas utilization equipment, and related accessories. On January 4, 2007, the Construction Board of Adjustment and Appeals voted to recommend adoption of the 2006 International Fuel Gas Code plus amendments. Following review by the Construction Board, the Legal Department made an additional change to Section 6-50 by removing an outdated reference to the 2001 Supplement to the International Codes, and by specifying that copies can be obtained from the Inspection Division of the Development Services Department. It is recommended that this and all of the other updated International Codes have an effective date of April 1, 2007. This short delay will allow time for City Staff to meet with affected persons and will provide a transition phase.

Important amendments to the 2006 International Fuel Gas Code include the following:

103.2. Appoints the Chief Building Official or designee as the “Code Official” primarily responsible for enforcement of the 2006 International Fuel Gas Code. Provisions relating to removal from office are deleted, as this is already governed by City Charter, City Code, and City Policy.

103.4 Deletes the liability provisions, as liability of City officials, City employees, and members of City boards is already governed by City Code Section 2-62.

Sections 106.5.2 and 106.5.3. References to fees are deleted, as fees are already governed by City Code Chapter 6.

Section 108.4. References to penalties are deleted, as penalties are already governed by City Code Section 1-4.

Section 109. The 2006 International Fuel Gas Code makes major changes to the membership and powers of a “Board of Appeals.” The current ordinance language relating to membership and powers of the “Construction Board of Adjustment and Appeals” has worked well over the past several years. To avoid disrupting the Construction Board’s current membership and powers, the current ordinance language relating to the Construction Board is re-adopted.

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Appendices. Appendices A (Sizing and Capacities of Gas Piping), B (Venting Systems), C (Exit Terminals) and D (Recommended Procedure for Safety Inspection of Existing Appliance Installations) are expressly adopted.

ADOPTION OF 2006 INTERNATIONAL MECHANICAL CODE AND AMENDMENTS

On November 5, 2001, the City Council adopted the 2000 International Mechanical Code, with amendments. This is one of the standard technical codes that is used nationwide.

The Development Services Department has reviewed, and recommends adoption of, the 2006 Edition of the International Mechanical Code, along with the amendments described below. Adoption of the 2006 International Mechanical Code will facilitate proper inspection activities by the City of Tyler relating to mechanical systems, system components, equipment, and appliances. On January 4, 2007, the Construction Board of Adjustment and Appeals voted unanimously to recommend adoption of the 2006 International Mechanical Code plus amendments. It is recommended that this and all of the other updated International Codes have an effective date of April 1, 2007. This short delay will allow time for City Staff to meet with affected persons and will provide a transition phase.

Important amendments to the 2006 International Mechanical Code include the following:

Section 103.2. Appoints the Chief Building Official or designee as the “Code Official” primarily responsible for enforcement of the 2000 International Mechanical Code. Provisions relating to removal from office are deleted, as City Charter, City Code, and City Policy already govern this.

Section 103.4. Deletes the liability provisions, as liability of City officials, City employees, and members of City boards is already governed by City Code Section 2-62.

Sections 106.5.2 and 106.5.3. References to fees are deleted, as fees are already governed by City Code Chapter 6.

Section 108.4. References to penalties are deleted, as City Code Section 1-4 already governs penalties.

Section 109. Section 109 sets forth the membership and powers of a “Board of Appeals.” The current ordinance language relating to membership and powers of the “Construction Board of Adjustment and Appeals” has worked well over the years. To avoid disrupting the Construction Board’s current membership and powers, the current ordinance language relating to the Construction Board is re-adopted.

Section 306.3. Increases the size of access for safer servicing of equipment.

Section 306.3.2. Adds requirements for ceiling access.

Appendix B. Appendix B relating to a Permit Fee Schedule is deleted, as fees are already governed in City Code Chapter 6.

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ADOPTION OF 2006 INTERNATIONAL PLUMBING CODE AND AMENDMENTS

On December 5, 2001, the City Council adopted the 2000 International Plumbing Code, with amendments. This is one of the standard technical codes that is used nationwide.

Texas Occupations Code Section 1301.255(a) requires the Texas State Board of Plumbing Examiners to adopt the Uniform Plumbing Code as adopted by the International Association of Plumbing and Mechanical Officials, and the International Plumbing Code as published by the International Code Council (ICC), as those codes existed on May 31, 2001. Under Section 1301.255(b), the Texas State Board of Plumbing Examiners may, by rule, adopt later editions of the plumbing codes as adopted under Subsection (a). Texas Occupations Code Section 1301.255(d) authorizes municipalities, when adopting plumbing codes for the design, installation and maintenance of a plumbing system, to amend any provisions of the codes and standards to conform to local concerns. Such amendments cannot substantially vary with the Board rules or other State rules.

The Development Services Department has reviewed, and recommends adoption of, the 2006 Edition of the International Plumbing Code, along with the amendments described below. Adoption of the 2006 International Plumbing Code will not only meet the requirements of State law, but will also facilitate proper inspection activities by the City of Tyler relating to plumbing.

The Construction Board of Adjustment and Appeals has the responsibility of reviewing updates of the International Codes. On January 4, 2007, the Construction Board of Adjustment and Appeals voted unanimously to recommend adoption of the 2006 International Plumbing Code, plus amendments. Following review by the Construction Board, the Legal Department made an additional change to Section 6-70 to state specifically that copies can be obtained in the Inspection Division of the Development Services Department. It is recommended that this and all of the other updated International Codes have an effective date of April 1, 2007. This short delay will allow time for City Staff to meet with affected persons and will provide a transition phase.

Important amendments to the 2006 International Plumbing Code include the following:

Section 103.2. Appoints the Chief Building Official or designee as the “Code Official” primarily responsible for enforcement of the 2006 International Plumbing Code. Provisions relating to removal from office are deleted, as this is already governed by City Charter, City Code, and City Policy.

Section 103.4. Deletes the liability provisions, as liability of City officials, City employees, and members of City boards is already governed by City Code Section 2-62.

Sections 106.6.2 and 106.6.3. References to fees are deleted, as fees are already governed by City Code Chapter 6.

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Section 108.4. References to penalties are deleted, as penalties are already governed by City Code Section 1-4.

Section 109. The 2006 International Plumbing Code makes major changes to the membership and powers of a “Board of Appeals.” The current ordinance language relating to membership and powers of the “Construction Board of Adjustment and Appeals” has worked well over the years. To avoid disrupting the Construction Board’s current membership and powers, the current ordinance language relating to the Construction Board is re-adopted.

Section 502.3. Increases the size of access opening for easier access for service of equipment.

Section 502.3.1. Adds a subsection .1 requiring 250 lb rated stairways for 40 to 50 gallon water heaters and 350 lb rated stairways for all water heaters over 50 gallons.

Section 605.1.1. Requires PEX water systems to be installed with a manifold and accessible fittings.

Section 605.9 Adds a subsection to prohibit joints of all water piping under slab.

Appendix A. This appendix relating to a Permit Fee Schedule is deleted, as fees are already governed by City Code Chapter 6.

ADOPTION OF THE 2006 INTERNATIONAL RESIDENTIAL CODE WITH AMENDMENTS

Texas Local Government Code Section 214.212(a) adopts International Residential Code as it existed on May 1, 2001, as the standard municipal residential building code in the State. Texas Local Government Code Section 214.212(b) states that the International Residential Code applies to all construction, alteration, remodeling, enlargement, and repair of residential structures in a municipality. Under Section 214.212(c), municipalities may establish procedures to adopt local amendments to the International Residential Code, as well as for the administration and enforcement thereof.

Texas Local Government Code Section 214.213(a) provides that the 2006 International Residential Code does not apply to the installation and maintenance of electrical wiring and related components. Texas Local Government Code Section 214.213(b) goes on to state that a municipality is not required to review and consider adoption of amendments to the International Residential Code regarding electrical provisions. Texas Local Government Code Section 214.214(a) adopts the National Electrical Code, as it existed on May 1, 2001, as the municipal electrical construction code in the State. The City Council previously adopted the 2005 Edition of the National Electrical Code, so that code is already in effect in Tyler.

The Development Services Department has reviewed, and recommends adoption of, the 2006 Edition of the International Residential Code with the amendments described below. Adoption of the 2006 International Residential Code will not only meet the requirements of State law, but will also facilitate proper inspection activities by the City of Tyler relating to residential building

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construction. It is recommended that this and all of the other updated International Codes have an effective date of April 1, 2007. This short delay will allow time for City Staff to meet with affected persons and will provide a transition phase.

Significant Changes to the 2006 International Residential Code include the following:

Section R101.2. Provisions. The provisions of the IRC for One- and Two-Family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and townhouses, not more than three stories above-grade in height with a separate means of egress and their accessory structures.

Section R110.1. Occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the Residential Code, and other ordinances. Certificates presuming to give authority to violate or cancel the provisions of the Residential code or other ordinances shall not be valid.

Section R202. Accessory Structure. A structure not greater than 3000 square feet in floor area, and not over two-stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot. (An area and height limitation has been added).

Fire Separation Distance. The distance measured from the building face to:

1. To the closest interior lot line; or
 2. To the centerline of a street, an alley, or public way; or
 3. To an imaginary line between two buildings on the lot.
- (The distance shall be measured at right angles from the face of the wall).

Section R302. Fire Separation. Exterior walls are now required to have a minimum 1-hour fire-resistance rating where the fire-separation distance is less than 5 feet. In addition, unprotected openings are permitted in limited quantities for fire-separation distances between 3 feet and 5 feet.

Section R305.1. Minimum Height of Ceilings. This includes all habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms, and basements; shall have a minimum ceiling height of not less than 7 feet. Door and window egresses shall have a minimum ceiling height of seven (7) feet.

Section R308.3 Glazing Materials Permitted in Hazardous Locations. The use of polished wire glass tested in accordance with ANSI Z97.1 is no longer permitted.

Section R309.2. Separation of Detached Garage. Garages located less than 3 feet from a dwelling unit on the same lot shall be protected with not less than ½ -inch gypsum board applied to the interior side of exterior walls that are within this area. Garages beneath habitable rooms shall be separated by the application of not less than 5/8-inch type X gypsum board or equivalent.

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Section R310.1. Emergency Escape and Rescue Openings. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

Section R310.1.4, R310.4. Operation of Emergency Escape and Rescue Openings. The limitations for operation of emergency escape and rescue openings, including any security devices that cover the openings, now include performance language preventing any operation that takes special knowledge. Devices such as combination locks or latches that require a unique operation sequence are now prohibited.

Section R310.5. Emergency Openings Under Decks and Porches. Emergency escape windows are allowed to be installed under decks and porches provided the location of the deck allows the emergency escape window to be fully opened and provides a path not less than 36 inches in height to a yard or court.

Section R311.6.1. Maximum Slope of Ramps. Ramps must have a maximum slope of 1 unit vertical to 12 units horizontal.

Section R312.1. Guards at Elevated Ramps. Porches, balconies, ramps or raised floor surfaces located more than 30 inches above the floor or grade below shall have guards not less than 36 inches in height.

Section R313.1. Smoke Alarms. All smoke alarms shall be listed in accordance with IRC Section 217 and installed in accordance with the provisions of the Residential Code and the household fire warning equipment provisions of NFPA 72. All alarms within a single dwelling shall be interconnected.

Section R313.1.1. Smoke Alarms in Existing Dwellings. When alterations, repairs, or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be provided with smoke alarms located as required for new dwellings; the smoke alarms shall be interconnected and hardwired.

Section R319.1.5. Protection of Glued-Laminated Members Against Decay. The portions of glued-laminated timbers that form the structural supports of a building or other structure and are exposed to weather and are not properly protected by a roof, eave, or similar covering shall be pressure treated with preservative, or be manufactured from naturally durable or preservative-treated wood.

Section R613.1. Window Installation. Windows shall be installed and flashed in accordance with the manufacturer's written installation instructions. Written installation instructions shall be provided by the manufacturer for each window.

Section R613.2. Window Sills. In dwelling units, where the opening of an operable window is located more than 72 inches above the finished grade or surface below, the lowest part of the clear opening of the window shall be a minimum of 24 inches above the finished floor of the room in which the window is located. Glazing between the floor and 24 inches shall be fixed or have openings such that a 4 inch diameter sphere cannot pass through.

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Section R802.5. Roof Framing. Ceiling joists that are connected to rafters and act as rafter ties, or the rafter ties used to resist the outward thrust forces of the rafters are no longer allowed to be placed higher than the lower one-third of the attic height.

Important amendments to the 2006 International Residential Code include the following:

R101.2. To comply with State law, this section is amended to state that the International Residential Code does not apply to the installation and maintenance of electrical wiring and components. Deletes all Chapters of the IRC that relate to electrical wiring and components. This section is also amended to state that if there is any conflict between the 2006 International Plumbing Code and the 2000 International Residential Code, the provisions of the 2006 International Plumbing Code shall control.

R102.7. Grandfathers legally existing structures.

R104.8. Deletes the liability provisions, as liability of City officials, City employees, and members of City boards is already governed by City Code Section 2-62.

R112. The 2006 International Residential Code makes major changes to the membership and powers of a “Board of Appeals.” The current ordinance language used in other International Codes that relates to membership and powers of the “Construction Board of Adjustment and Appeals” has worked well over the years. To avoid disrupting the Construction Board’s current membership and powers, the ordinance language currently being used in other International Codes is adopted as part of this ordinance as well.

R113.4. References to penalties are deleted, as penalties are already governed by City Code Section 1-4.

Figure R403.3(1) relating to insulation placement for frost-protected footings in heated buildings is Deleted.

M1305.1.3 The change increases the size of openings for equipment access, enabling safer access for service.

New M1305.1.3.2 Adds subsection addressing weight limit safety issues for pull down stairs used to access equipment.

New M1305.1.3.3 Adds subsection to clarify openings in ceilings, not covered in 1305.1.3

P2904.5.1 Requires cross-linked polybutylene (PB), cross-linked polyethylene (PEX), or PEX-AL-PEX pipe to be installed with a factory approved manifold system and to be readily accessible.

New P2904.6.1. All fittings for chlorinated polyvinyl chloride (CPVC), polybutylene (PB), and cross-linked polyethylene (PEX) piping shall be readily accessible and no fittings shall be installed below the concrete slab.

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New P2904.9.1.2.1 Adds subsection which addresses no fittings being allowed under the slab for CPVC pipe.

New P2904.9.1.3.1 Adds subsection which addresses no fittings being allowed under the slab for PVC.

New P2904.9.4.3. Mechanical joints. States that no joints to the pipe shall be allowed under the slab.

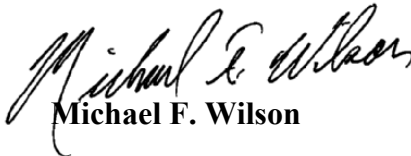
P2904.16. Above-ground joints. Amended to state that all joints shall be readily accessible.

Appendices. Appendices A, B, C, D, E, F, G, H, J, K, M, N, O, P and Q are adopted. Appendix I. relating to Private Sewage Disposal/International Private Sewage Disposal Code, and Appendix L. relating to Permit Fees, are deleted.

RECOMMENDATION:

Staff and the Construction Board of Appeals recommend that the City Council adopt the attached ordinances adopting the 2006 International Energy Conservation Code with amendments, adopting the 2006 International Fuel Gas Code with amendments, adopting the 2006 International Mechanical Code with amendments, adopting the 2006 International Plumbing Code with amendments, and adopting the 2006 International Residential Code with amendments.

**Drafted/Recommended By:
Department Leader**


Michael F. Wilson

**Edited/Submitted By:
City Manager**

ORDINANCE NO. 0-2007-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 6, "BUILDINGS AND STRUCTURES", OF THE CODE OF ORDINANCES, CITY OF TYLER, TEXAS, RELATING TO ADOPTION OF THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE WITH AMENDMENTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, as part of the ongoing recodification and review of City ordinances, it is necessary to amend certain chapters of the Code to reflect current policies and procedures of the City and to be consistent with changing state and federal statutes; and

WHEREAS, on 8/28/02, the City Council adopted the 2000 International Energy Conservation Code, with amendments; and

WHEREAS, Texas Health & Safety Code Section 388.003(b) states that in regard to residential (other than single-family), commercial, and industrial construction, the International Energy Conservation Code is adopted as the energy code for the State; and

WHEREAS, Texas Health & Safety Code Section 388.003(d) authorizes municipalities to include local amendments to the 2006 Energy Conservation Code if such amendments are not less stringent than the Code and if in compliance with the National Appliance Energy Conservation Act of 1987; and

WHEREAS, Texas Health & Safety Code Section 388.003(c) requires municipalities to establish procedures for the administration and enforcement of the International Energy Conservation Code; and

WHEREAS, the 2006 International Energy Conservation Code with amendments as recommended by the Construction Board of Adjustment and Appeals should be adopted; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Tyler City Code Chapter 6, "Buildings and Structures", Article X., "Energy Conservation Code", is hereby amended by amending Section 6-160 to read as follows:

Section 6-160. Energy conservation code adopted.

The 2006 Edition of the International Energy Conservation Code, as amended in Section 6-161, is hereby adopted by reference and incorporated herein. Copies of the Energy Conservation Code and amendments thereto are available in the Building Inspection Division of the Development Services Department, City Library and City Clerk's offices. (Ord. 0-2002-32; 8/28/02) (0-2007-7, 1/24/07)

PART 2: That Tyler City Code Chapter 6, "Buildings and Structures", Article X., "Energy Conservation Code", is hereby amending by deleting current Section 6-161 and adopting a new Section 6-161 to read as follows:

Section 6-161. Amendments to energy conservation code.

The 2006 International Energy Conservation Code is amended as follows:

a. Add a new Section 101.5.3 as follows:

101.5.3. Building official. The building official or designee is hereby designated as the Code Official and is authorized to interpret and enforce the provisions of this code. In exercising such powers, the building official or designee shall have the same authority as granted to the building official and code official in the other International Codes. Code-certified inspectors shall perform inspections and shall enforce the Code in the inspectors' jurisdiction.

b. Add a new Section 101.5.4 as follows:

101.5.4. Liability. Indemnification of City officials, City employees, and members of City Council appointed boards is governed by City Code Section 2-62.

c. Add a new Section 101.5.5 as follows:

101.5.5. Construction Board of Adjustment and Appeals

101.5.5.1. Appointment. There is hereby established a board to be called the Construction Board of Adjustment and Appeals, which shall consist of seven (7) members and two (2) alternates. The Board shall be appointed by the applicable governing body.

101.5.5.2. Membership and Terms. The Construction Board of Adjustment and Appeals should consist of seven (7) members. Such board members should be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors or building industry representatives. At least one regular member shall have either a Master Electrician's license or be a licensed electrical engineer. In addition to the regular members, there should be two alternate members, one member at large from the building industry and one member at large from the public. A board member shall not act in a case in which the member has a personal or financial interest. Terms shall be as set forth in City Code Section 1-20.

101.5.5.3. Quorum and Voting. A simple majority of the board shall

constitute a quorum. In varying any provision of this code, the affirmative votes of the majority present, but not less than three affirmative votes, shall be required. In modifying a decision of the building official, not less than four affirmative votes, but not less than a majority of the board, shall be required. In the event that regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.

101.5.5.4. Secretary of Board. The building official shall act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member and any failure of a member to vote.

101.5.5.5. Powers. The Construction Board of Adjustment and Appeals shall have the power, as further defined in 101.5.5.6, to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes.

101.5.5.6. Appeals.

101.5.5.6.1. Decision of the Building Official. The owner of a building, structure or service system, or duly authorized agent, may appeal a decision of the building official to the Construction Board of Adjustment and Appeals whenever any one of the following conditions are claimed to exist:

1. The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
2. The provisions of this code do not apply to this specific case.
3. That an equally good or more desirable form of installation can be employed in any specific case.
4. The true intent and meaning of this code or any of the regulations thereunder have been misconstrued or incorrectly interpreted.

101.5.5.6.2. Variances. The Construction Board of Adjustment and Appeals, when so appealed to and after a hearing, may vary the application of any provision of this code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:

1. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
2. That the special conditions and circumstances do not result from the action or inaction of the applicant.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures or service system.

4. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.

5. That the grant of the variance will be in harmony with the general intent and purpose of this code and will not be detrimental to the public health, safety and welfare.

101.5.5.6.3. Conditions of the Variance. In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with this code. Violation of the conditions of a variance shall be deemed a violation of this code.

101.5.5.6.4. Notice of Appeal. Notice of appeal shall be in writing and filed within 30 calendar days after the decision is rendered by the building official. Appeals shall be in a form acceptable to the building official.

101.5.5.6.6. Unsafe or Dangerous Buildings or Service Systems. In the case of a building, structure or service system which, in the opinion of the building official, is unsafe, unsanitary or dangerous, the building official may, in the order, limit the time for such appeals to a shorter period.

101.5.5.6.7. Procedures of the Board. Rules and Regulations. The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet on call of the chairperson. The board shall meet within 30 calendar days after notice of appeal has been received.

101.5.5.6.8. Decisions. The Construction Board of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official or varies the application of any provision of this code, the building official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant. Every decision of the board shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.

d. A new Section 101.5.6 is adopted to read as follows:

101.5.6. Violation penalties. It shall be unlawful for any person, firm or corporation to violate any of the provisions of this code. Penalties for violations of this code are set forth in City Code Section 1-4. (Ord. 0-2007-7, 1/24/07)

PART 3: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 4: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas. The effective date after publication shall be April 1, 2007.

PASSED AND APPROVED this 24th day of January, A. D., 2007.

JOSEPH O. SEEBER, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY