

**ORDINANCE 2012-45**

**TO BE ENTITLED: "AN ORDINANCE TO AMEND CHAPTER 6, SECTION 6.3 SUBSECTION 2 AND SECTION 6.4 SUBSECTION 1 OF THE FRANKLIN ZONING ORDINANCE, WHICH ESTABLISHES REGULATIONS FOR REDUCTION OR RELEASE OF PERFORMANCE AGREEMENT AND SURETY."**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMAN OF FRANKLIN, TENNESSEE, AS FOLLOWS:**

**SECTION I.** That Chapter 6, Section 6.3.4 (2) of the City of Franklin Zoning Ordinance is hereby amended to add the following text noted in **bold** and is approved to read as follows:

**6.3. REDUCTION OR RELEASE OF PERFORMANCE AGREEMENT AND SURETY**

**6.3.4.** Except for maintenance obligations, which are governed by Section 6.4, a request for reduction of the surety or release of the Performance agreement shall not be granted until all of the following have been completed.

(1) The applicant shall present a letter to the Department of Planning and Sustainability requesting reduction of the surety, including the percentage amount of completion of the improvement, or release of the Performance Agreement, including a written statement from the engineer or landscape architect employed by the applicant stating that the improvements have been installed in accordance with the approved plans and specifications.

(a) Once such a written statement from the engineer has been received, an inspection by the applicable city department shall be performed at no cost to the applicant.

(b) During the landscape inspection season, as established in the Administrative Manual, once such a written statement from the landscape architect has been received; an inspection by the applicable city department shall be performed at no cost to the applicant.

- (2) The appropriate city department has submitted a statement to the Department of Planning and Sustainability indicating that the required public improvements and/or required landscaping have been inspected and satisfactorily completed in accordance with the approved plan. Final topping of a street may be permitted when at least 90 percent of the lots in the subdivision, or the section or sections thereof for which the Performance Agreement was established, have been build out, that is, Certificates of Occupancy have been issued for the homes located on the lots in question. The Performance Agreements for street improvements may be released when final topping is completed and accepted, provided that a maintenance obligation is established.

**Under the following conditions, final topping (lift) of a street surface may be installed prior to 90 percent of the lots in the subdivision, or the segment or sections thereof, for which the Performance Agreement was established, have been built out, that is a Final Certificate of Use & Occupancy have been issued for the buildings located on the lots in question.**

- (a) **The segment or sections of street have been in place for a period of not less than four (4) years unless otherwise determined by the Streets Department Director or their designee that installation of the final topping will preserve the structural integrity of the binder and base, and**
- (b) **The base, binder, curb, gutter, and structures within the segment or sections of street to be topped have been inspected and approved by the City of Franklin Streets Department Director or their designee, and**
- (c) **Upon satisfactory installation and acceptance by City of Franklin Streets Department Director or their designee of the final topping, the Performance Agreements for said street improvements may be released provided a Maintenance Obligation is established for a period that extends one year beyond the point in time ninety (90) percent of the lots in the subdivision or the segment or sections thereof for which the Performance Agreement was established, have been build out, that is, a Final Certificate of Use & Occupancy have been issued for the buildings located on the lots in questions, and**
- (d) **Except as provided, the lots adjacent to the segment or sections of street accepted shall be subject to Lot Bonds as described in Title 12 of the City of Franklin Municipal Code.**

**Exception:**

**In developer/builder controlled subdivisions, meaning the developer and builder are the same legal entity, Lot Bonds shall not be required until the Maintenance Obligation is no longer in effect as described above.**

**SECTION II.** That Chapter 6, Section 6.4. (1) of the Franklin Zoning Ordinance is hereby amended to add the following text noted in **bold** and is approved to read as follows:

**6.4 MAINTENANCE OBLIGATIONS**

...

- (1) The maintenance obligation shall remain in effect for a period of one year or until final release of the maintenance obligation by the Department of Planning and Sustainability or other appropriate city departments, whichever period is longer.

**Except as provided, the maintenance obligation shall remain in effect for a period of one year or until final release of the maintenance obligation by the Department of Planning and Sustainability or other appropriate city department, whichever period is longer.**

**Exception:**

**Streets Maintenance Obligation shall be as set forth in section 6.3.4(2).**

**SECTION III.** BE IT FINALL ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on third and final reading, the health, safety, and welfare of the citizens requiring it.

**ATTEST:**

**CITY OF FRANKLIN, TENNESSEE:**

By: \_\_\_\_\_  
**ERIC S. STUCKEY**  
City Administrator/Recorder

By: \_\_\_\_\_  
**DR. KEN MOORE**  
Mayor

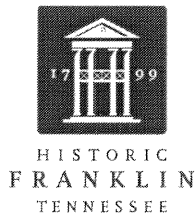
PLANNING COMMISSION RECOMMENDED: 8/23/12

FIRST READING: 9/11/12

SECOND READING: 10/09/12

PUBLIC HEARING HELD: 10/09/12

THIRD READING: \_\_\_\_\_




## MEMORANDUM

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September 11, 2012

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator   
Vernon Gerth, Assistant City Administrator for Community and Economic Development  
Catherine Powers, Planning and Sustainability Director

SUBJECT: Ordinance 2012-45, Zoning Text Amendment to amend Sections 6.3 and 6.4 within the *City of Franklin Zoning Ordinance*

### **Purpose**

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information regarding an amendment to Sections 6.3 and 6.4 of the *City of Franklin Zoning Ordinance* to revise requirements relating to Performance Agreements and Surety.

### **Background**

In the early years of the 21<sup>st</sup> Century, development in Franklin was intense, and the rate of project completion was short term. In 2008, the economy experienced a major downturn and many projects were slowed or stopped completely.

During the ensuing years, development continued to at a slower rate and some already started projects did not continue. This situation caused an issue with infrastructure, specifically the streets within a subdivision. At present, 90 percent of the lots within a subdivision or section must be developed before the final lift/topping can be installed on neighborhood streets. This creates a situation where without the final topping the binder may fail.

The purpose of this amendment is to allow the final topping to take place at four years or upon inspection by the Streets Director that installation will preserve the structural integrity. Upon inspection of the final topping, the Performance Agreement can be released, but the maintenance obligation will extend one year beyond the 90 percent completion.

This text amendment will benefit the residents of incomplete subdivisions by allowing curb, gutter and smooth surface with the final topping. It will also assure that the street does not fail.

This text amendment was recommended unanimously (6-0) by the Planning Commission at the August 23, 2012 FMPC meeting.

### **Financial Impact**

Not applicable to this item.

### **Options**

BOMA may approve, reject or amend the proposed text amendment.

### **Recommendation**

Approval of the text amendment is recommended.