

## MEMORANDUM

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October 4, 2010

**TO:** City of Franklin Board of Mayor and Alderman

**FROM:** Eric Stuckey, City Administrator *ES*  
Vernon Gerth, ACA-Community and Economic Development  
Kristen Corn, Staff Attorney

**SUBJECT:** Ordinances 2010-69 and 2010-70 creating the Building and Streets Standards Board of Appeals

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### **Purpose**

The purpose of this memorandum is to provide information to the Board of Mayor and Aldermen (BOMA) in consideration of two ordinance amendments that combine the City's three existing technical Boards of Appeals into a single Building and Streets Standards Board of Appeals.

### **Background**

Since the State of Tennessee and City of Franklin have adopted the International Code Series each of the construction disciplines has its own manual. Examples of these manuals include Commercial Building (IBC), Residential Building (IRC), Plumbing (IPC), Electrical (NEC), Mechanical (IMC), Fire (NFPA & IFC), and the Property Maintenance (IPMC). Each one of these code manuals prescribes a "Means of Appeals" and Appeals Board to a staff interpretation or for an equitable alternative. Historically, the City has maintained three different technical Boards of Appeals but several have not met for years. In lieu of staff spending time soliciting members and keeping all of the existing and new Boards of Appeals active, staff proposes to create a single Building and Streets Standards Board of Appeals whose membership reflects the requisite experience and knowledge to interpret the City's adopted building construction and development standards. Since the proposed Building and Street Standards Board of Appeals will be comprised of a cross-section of licensed and certified professionals, staff is also recommending a means for appealing or interpretation of the City's Transportation and Street Technical Standards. Currently, there is no appeal process designated for the appeal of a determination made by the City Engineer in implementing the City's Technical Street Standards.

As a special note, former City Employee and Plumbing Official Steve Cook shared his vision of a combined Board of Appeals with colleagues prior to leaving employment. Staff has completed the work Steve started.

### **Financial Impact**

There are no additional financial implications expected with the exception of the staff time saved in soliciting membership for the various Boards of Appeal.

### **Recommendation**

The approval of the Building and Street Standards Board of Appeals as proposed in Ordinances 2010-69 and 2010-70 is recommended.

**ORDINANCE 2010-69**

**TO BE ENTITLED: "AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE CITY OF FRANKLIN MUNICIPAL CODE TITLE 12 – BUILDING, UTILITY, ETC. CODES FOR THE PURPOSE OF COMBINING THE CITY'S EXISTING TECHNICAL BOARDS OF APPEALS INTO A SINGLE BUILDING AND STREETS STANDARDS BOARD OF APPEALS."**

**WHEREAS**, for the purpose of promoting the public health, safety, comfort, convenience, and general welfare of the people of Franklin, Tennessee the Board of Mayor and Aldermen is authorized to prescribe regulations and standards that encourage and advance the quality of life within the City; and

**WHEREAS**, the Board of Mayor and Aldermen desires that the Franklin Municipal Code provides an efficient process for validating the decisions and interpretations of staff in the application and enforcement of the various adopted building codes and street standards; and

**WHEREAS**, the Board of Mayor and Aldermen by creating a single, Building and Streets Standards Board of Appeals whose membership contains the requisite technical knowledge and expertise to rule on the various adopted life safety building codes and street standards and which replaces several existing Boards of Appeals.

**NOW, THEREFORE:**

**SECTION I. BE IT ORDAINED** BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that Title 12, Chapter 1, Section 12-102 of the Franklin Municipal Code be deleted in its entirety and replaced with the following language:

**Sec. 12-102. Amendments to the 2009 Edition of the International Building Code.**

- (1) In accordance with the provisions of Section 104.1, the Building Official shall be authorized to designate state review officials as his authorized representatives to enforce the provisions of the codes adopted and enforced by the state and to provide review services for all institutional and educational occupancies, as defined by the building code, constructed within the corporate limits of the city.
- (2) Sections 105.1.1 and 105.1.2 of the International Building Code, which reference annual permits, are hereby deleted.
- (3) Sections 105.2 (1) and (12) of the International Building Code, are hereby deleted from the exemptions for requiring permits for accessory structures and structural awnings.
- (4) Section 109.4 Work Commencing Before permit Issuance is deleted and in its place is approved to read as follows:

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty as specified in Title 22 – Comprehensive Fees and Penalties.
- (5) Section 109.7 Reinspection Fee is created and approved to read as follows:

If in the opinion of the Building Official, after appropriate inspection, any construction inspected under the terms of this section fails to comply with the law, and notice is given to the permit holder or his agent, and any reinspection of the same work is required, then a fee as specified in Title 22, Comprehensive Fees and Penalties, shall be assessed against and collected from the permit holder or his agent. No portion of the permitted work shall continue without first paying the reinspection fee.

- (6) Section 113 Board of Appeals is deleted and in its place is approved to read as follows:

Section 113. Means of Appeal. Appeals of decisions of the Building Official (or his designee) made under the International Building Code shall be heard by the Building and Streets Standards Board of Appeals established in Title 12, Chapter 12 of the Municipal Code.

- (7) Appendix B of the International Building Code is deleted.

- (8) Chapter 4 of the International Building Code is modified by creating a new section 424 which shall read as follows:

#### 424 GOVERNMENT OWNED CONFERENCE CENTER BUILDINGS

424.1 Scope. The provisions of section 424 shall apply to buildings or structures defined in section 424.2 as government owned conference center buildings.

424.2 Definitions. For the purpose of this section, a "government owned conference center building" is defined as a single building or structure three stories or less in height for assembly purposes wherein one adjacent hotel tenant had no more than five entrances into the conference center and the building is owned by a unit of state or local government.

424.3 Tenant Separation. A government owned conference center building, separated by property lines from a hotel need not comply with exterior wall requirements at Table 601 in accordance with the International Building Code, 2009 Edition at the common property line. A wall at a common property line shall not be considered a party wall.

- (9) Deletes Chapter 11 of the International Building Code in lieu of Handicap Accessibility Codes adopted and enforced by the State of Tennessee and the subsequent requirements found in Title 12, Chapter 11 of the City of Franklin Municipal Code.

- (10) General Amendments.

(a) Whenever the building code refers to the "building official," it shall, for the purposes of the building code, means such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the building code.

(b) A plan review fee for construction documents is hereby established by the City of Franklin in accordance with the schedule as specified in Title 22, Comprehensive Fees and Penalties. The plan review fee shall be paid at time of submittal of blueprints for review and shall be for initial submittal and one resubmitted for

review only. The plan review fee is required for all projects other than one- and two-family dwelling projects, inclusive of accessory structures for one- and two-family dwellings. Construction plans reviewed and approved will be valid for one year from the date of approval.

- (c) The qualifications of the building official shall be those defined by the City of Franklin job description for this position.
- (d) All contractors doing work within the City of Franklin shall comply with the Tennessee Code Annotated, Title 62, Chapter 6.
- (e) The building permit fee is hereby established by the City of Franklin in accordance with the schedule as specified in Title 22, Comprehensive Fees and Penalties.
- (f) A fee as specified in Title 22, Comprehensive Fees and Penalties, shall be submitted for any permit issued for demolition of an existing structure within the City of Franklin.\*

**SECTION II. BE IT ORDAINED** BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that Title 12, Chapter 2, Section 12-202 of the Franklin Municipal Code be deleted in its entirety and replaced with the following language:

**Sec. 12-202. Amendments to the 2009 Edition of the International Plumbing Code.**

- (1) Whenever the International Plumbing Code refers to the "Administrative Authority," it shall be deemed a reference to the Board of Mayor and Aldermen of the city.
- (2) Wherever "Plumbing Official" is named or referred to it shall mean the person appointed or designated to administer and enforce the provisions of the plumbing code.
- (3) Sections 101.1 insert "City of Franklin".
- (4) Section 106.6.2 shall require all plumbing work requiring a permit as set forth in this section a fee paid at the time of approval of application, as specified in Title 22 - Comprehensive Fees and Penalties.
- (5) Section 109 Board of Appeals is deleted and in its place is approved to read as follows:  
  
Section 109 Means of Appeal. Appeals of decisions of the Building Official (or his designee) made under the International Plumbing Code shall be heard by the Building and Streets Standards Board of Appeals established in Title 12, Chapter 12 of the Municipal Code.
- (6) General Amendments.
  - (a) All plumbing permits shall be subject to the approval of the plumbing official.
  - (b) If in the opinion of the building official or his designee, after appropriate inspection, any work inspected under the terms of this section fails to comply with the law, and notice is given to the permittee or his agent, and any reinspection of

the same work is required, then a fee as specified in Title 22, Comprehensive Fees and Penalties, may be assessed against and collected from the permittee or his agent. No portion of the permitted work shall continue without first paying the reinspection fee.

- (c) Any person, firm, corporation, or agent who shall violate a provision of this code or fail to comply therewith or with any of the provisions thereof, or violate a detailed statement or plan submitted and approved there under, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate event for each day or portion thereof during which any violation of any of the provisions of this code is committed or continued, and upon conviction or any such violation such person shall be punished by a fine as specified in Title 22, Comprehensive Fees and Penalties.
- (d) Plumbing materials and methods shall be those that are tested and approved in accordance with the plumbing code and Chapters 25 through 32 of the residential code.
- (e) For all new construction and for alterations or addition to existing structures, maximum water flow and consumption shall be regulated by § 604.4 of the plumbing code.
- (f) Car wash installations involving new construction or additions or alterations to existing facilities shall be equipped with a water recycling system approved by the plumbing official.
- (g) All new nonresidential construction shall provide protection to the potable water supply through a backflow prevention device.
- (h) All backflow prevention devices and their installation must be as specified by the plumbing code and applicable state and local laws.
- (i) When washing machines are installed above a finished ceiling, they shall be in a safety pan of not less than one and one-half inches deep and not less than 24 gauge galvanized sheet steel. The pan shall be drained by an indirect waste pipe no less than one-inch diameter to an approved location.

**SECTION III: BE IT FURTHER ORDAINED** BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that Title 12, Chapter 3, of the Franklin Municipal Code be deleted in its entirety and replaced with the following language:

**Sec. 12-302. Amendments to the 2008 Edition of the National Electrical Code.**

- (1) Whenever the National Electrical Code refers to "enforcement," it shall be deemed a reference to the City of Franklin Building and Neighborhood Services Department.
- (2) Whenever the National Electrical Code refers to "Electrical Board," it shall be deemed a reference to the Building and Streets Standards Board of Appeals established in Title 12, Chapter 12 of the Municipal Code.

**SECTION IV: BE IT FURTHER ORDAINED** BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that Title 12, Chapter 4, Section 12-404 of the Franklin Municipal Code be deleted in its entirety and replaced with the following language:

**Sec. 12-404. Amendments to the 2009 Edition of the International Fuel Gas Code.**

(1) Section 109 Means of Appeal is deleted and in its place is approved to read as follows:

Section 109 Means of Appeal. Appeals of decisions of the Building Official (or his designee) made under the International Fuel Gas Code shall be heard by the Building and Streets Standards Board of Appeals established in Title 12, Chapter 12 of the Municipal Code.

**SECTION V: BE IT FURTHER ORDAINED** BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that Title 12, Chapter 4, Sections 12-405, 12-406, and 12-407 of the Franklin Municipal Code are deleted in their entirety.

**Sec. 12-405.** Deleted.

**Sec. 12-406.** Deleted.

**Sec. 12-407.** Deleted.

**SECTION VI. BE IT FURTHER ORDAINED** BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that Title 12, Chapter 8, Section 12-802 of the Franklin Municipal Code be deleted in its entirety and replaced with the following language:

**Sec. 12-802. Amendments to the 2009 Edition of the International Existing Building Code.**

- (1) Whenever the International Existing Building Code refers to the "Building Official," it shall, for the purposes of the code, mean the Director of the Building and Neighborhood Services Department or his designee.
- (2) Wherever the International Existing Building Code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed a reference to the Board of Mayor and Aldermen of the City of Franklin.
- (3) Whenever the International Existing Building Code refers to the "Board of Appeals," it shall be deemed a reference to the Building and Streets Standards Board of Appeals as appointed by the City of Franklin Board of Mayor and Aldermen of the City of Franklin.

**SECTION VII. BE IT FURTHER ORDAINED** BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that Title 12, Chapter 9, Section 12-902 of the Franklin Municipal Code be deleted in its entirety and replaced with the following language:

**Sec. 12-902. Amendments to the 2009 Edition of the International Mechanical Code.**

- (1) Whenever the mechanical code refers to the "Mechanical Department" or the "Mechanical Official," it shall be deemed a reference to the Building and Neighborhood

Services or to such other person designated to administer and enforce the provisions of the mechanical code.

- (2) Section 109 Means of Appeal is deleted and in its place is approved to read as follows:

Section 109 Means of Appeal. Appeals of decisions of the Building Official (or his designee) made under the International Mechanical Code shall be heard by the Building and Streets Standards Board of Appeals established in Title 12, Chapter 12 of the Municipal Code.

- (3) Section 304.1 is modified by adding, after the first sentence, a second sentence, which shall read as follows: "Boiler permits and inspections shall be obtained through the State of Tennessee Boiler Inspection Division as required by T.C.A. § 68-20-101."

- (4) Permit fees for inspecting ventilating, ductwork, air-conditioning refrigeration systems and other mechanical installations shall be as specified in Title 22, Comprehensive Fees and Penalties.

- (5) (a) All new vented decorative appliance installations shall be equipped with pilot safety devices in accordance with American National Standards Institute, ANSI Z21.50-1986 Section 1.8 Automatic Gas Ignition Systems.

(b) Vented decorative appliances shall be listed and approved by a certified testing laboratory and installed in accordance with the manufacturer's instructions and code requirements.

(c) All chimney dampers must be permanently blocked open to provide pilot venting. Blocking must be accomplished by the use of a clamp supplied by the appliance manufacturer or a field-fabricated clamp providing a one-half inch damper opening.

(d) A fireplace screen or glass door must be installed with any vented decorative appliance.

**SECTION VIII. BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that Title 12, Chapter 10, Section 12-1002 of the Franklin Municipal Code be deleted in its entirety and replaced with the following language:**

**Sec. 12-1002. Amendments to the 2009 Edition of the International Residential Code.**

- (1) Section R105.2 (1) and (5), Work exempt from permit, are amended to read as follows and included in the list of types of work that are exempt from the requirement to obtain a building permit:

Section R105.2 (1) Building:

One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet. Permits for accessory structures, shall be required in accordance with the City of Franklin Zoning Ordinance.

Section R105.2 (5) Building:

Sidewalks and driveways located entirely on private property. Permits for sidewalks and driveways shall be required in accordance with the City of Franklin Zoning Ordinance.

- (2) Section 112 Board of Appeals is deleted and in its place is approved to read as follows:

Section 112 Means of Appeal. Appeals of decisions of the Building Official (or his designee) made under the International Residential Code shall be heard by the Building and Streets Standards Board of Appeals established in Title 12, Chapter 12 of the Municipal Code.

- (3) R313, Automatic Fire Sprinkler Systems of the International Residential Code, 2009 Edition, is deleted in lieu of automatic fire sprinkler system requirements found in Title 7 section 232 of the City of Franklin Municipal Code

- (4) Except as provided all foundation walls are to be installed on concrete footings.

(a) The Building Official may authorize the use of pre-engineered concrete foundation systems as recognized in Section R402.3 of the International Residential Code to be installed without a continuous concrete footing conditioned upon:

- i. The permit applicant submitting a foundation plan and load calculations, signed and sealed by a currently licensed State of Tennessee Structural Engineer in conjunction with the building permit application, and
- ii. A soils report prepared by a certified State of Tennessee geotechnical engineer, shall be provided to the inspector, on-site, prior to the placement of the required stone base, and
- iii. At the discretion of the building official, an as-built survey to verify the location and height of the foundation walls prior to above ground construction commencing, and
- iv. Compliance with all other applicable City of Franklin adopted building codes, amendments, and ordinances.

- (5) The text of Table 403.1 is deleted and the following substituted therefore: Footings, which support a single story structure, shall have minimum dimensions of eight (8) inches thickness and 16 inches width. Footings, which support 2-story structures, shall have minimum dimensions of 10 inches thickness and 20 inches width. Footings, which support more than two stories, shall have minimum dimensions of 12 inches thickness and 24 inches width. Footings are to be continuous with a minimum of two (2) courses of 1/2-inch or greater reinforcing steel installed. Some site conditions may necessitate footings to be engineered.

- (6) The first sentence of section R406.1 is amended to delete the words "and enclose habitable or usable spaces located below grade" so that the sentence reads: Except where required to be waterproofed by section R406.2, foundation walls that retain earth shall be damp-proofed from the top of the footing to the finished grade.



- (7) The first sentence of section R406.2 is amended to delete the words "and enclose habitable or usable spaces located below grade" so that the sentence reads: In areas where a high water table or other severe soil-water conditions are known to exist, exterior foundation walls that retain earth shall be waterproofed with a membrane extending from the top of the footing to the finished grade.
- (8) Section R406.3 is deleted in its entirety and the following substituted therefore: Wood foundations located below grade will not be allowed within the City of Franklin.
- (9) The text of Section R407 is deleted and the following substituted therefore: No foundation columns made of wood shall be used in crawl spaces where use of concrete masonry blocks or similar material can be used in compliance with the applicable code. In situations where such concrete masonry blocks or similar material cannot accomplish this according to code, columns must be designed by an engineer before installation. When a designed alternative column is used, protection from possible moisture or other conditions causing deterioration will be necessary. Steel pipe, of adequate size and loading capacity, may be used as interior crawl space columns when pier footings are elevated at least two inches above final grade of crawl space area. Such pipes shall be anchored top and bottom and shall be painted with a rust-resistant paint.
- (10) At least one positive drain will be required in every crawl-space foundation upon which a structure is to be constructed. Positive drains shall be installed in such a manner to drain all water that may accumulate. Crawl space grading shall be accomplished prior to any construction beginning on the foundation. Such grading will be consistent in grade that will drain any possible water from all areas of the crawl space. No pockets or trenches will be allowed to collect water. Natural soils will be required to achieve proper grade to the positive drain.

**SECTION IX. BE IT FURTHER ORDAINED** BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that Title 12, Chapter 12 of the Municipal Code be created and approved to read as follows:

**CHAPTER 12. BUILDING AND STREETS STANDARDS BOARD OF APPEALS**

- Sec. 12-1201. Board of Appeals Established.
- Sec. 12-1202. Board Composition.
- Sec. 12-1203. Meetings and Organization of the Board.
- Sec. 12-1204. Duties and Responsibilities of the Board; Appeals to the Board.

**Sec. 12-1201. Building and Streets Standards Board of Appeals established.**

- (1) There is hereby established the Building and Streets Standards Board of Appeals whose members shall be appointed by the Mayor and approved by the Board of Mayor and Aldermen for terms as follows: two (2) for five (5) years, two (2) for four (4) years, two (2) for three (3) years, three (3) for two years. Thereafter, each new member shall serve for five (5) years or until successor has been appointed.
- (2) The members shall serve without compensation.

**Sec. 12-1202. Board composition.**

- (1) The Board shall consist of nine (9) voting members who are residents of Williamson County and qualified through their individual experience to pass upon matters pertaining to building, fire, life safety code-related issues, and roadway design. Their qualifications shall be as follows:
  - (a) One member shall be a State of Tennessee Licensed Electrician.
  - (b) One member shall be a State of Tennessee Licensed Plumber.
  - (c) Two members shall be State of Tennessee Licensed Architects.
  - (d) Three members shall be State of Tennessee Licensed Professional Engineers of the Civil, Mechanical, Structural or Electrical disciplines.
  - (e) One member shall be State of Tennessee Licensed Civil Engineer practicing in the Traffic discipline.
  - (f) One member shall be a qualified professional with fire and life safety knowledge, skills, or experience.

**Sec. 12-1203. Meetings and organization of the board.**

- (1) The board shall hold its first meeting not later than thirty (30) days following its appointment. Thereafter, the board shall meet at such intervals as it may deem necessary for the proper performance of its duties, but no less than once quarterly.
- (2) At all meetings, five (5) members of the board shall constitute a quorum for the transaction of business and all questions before the board at the meeting shall be determined by a majority vote of those present.
- (3) The board shall elect a chair annually at its first meeting after appointment and at its first meeting after December 1 thereafter.
- (4) The meetings shall be open to the public.

**Sec. 12-1204. Duties and responsibilities of the board; appeals to the board.**

- (1) The Building and Streets Standards Board of Appeals shall hear and decide appeals of orders, decisions or determinations made by the Building Official, Fire Code Official, and City Engineering relating to the application and interpretation of the technical provisions of the adopted building, electrical, plumbing, mechanical, fuel gas, property maintenance, fire and life safety codes for both residential and commercial properties and buildings or structures, appurtenances connected or attached to such buildings or structures, and the transportation and street standards and design requirements as adopted by the City of Franklin, Tennessee.
- (2) The Board shall not have the authority to waive or modify any of the code provisions as listed or adopted.
- (3) The permit applicant, property owner, or their agent shall have the right to appeal a

decision of the Building Official, the Fire Code Official, City Engineer, or their designee, to the board.

- (4) An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted therein have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed.
- (5) The application shall be filed by written notification to the Building Official, Fire Code Official, or City Engineer within twenty (20) days after the notice was served.

**SECTION X. BE IT FINALLY 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 second and final reading, the public health, safety and welfare requiring it.

**ATTEST:**

**CITY OF FRANKLIN, TENNESSEE**

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

BY: \_\_\_\_\_  
**JOHN C. SCHROER**  
Mayor

PASSED FIRST READING \_\_\_\_\_

PASSED SECOND READING \_\_\_\_\_