

ORDINANCE 2010-48

TO BE ENTITLED: "AN ORDINANCE TO ADD SECTION 5.8.5 TO CHAPTER 5, SECTION 5.8 OF THE CITY OF FRANKLIN ZONING ORDINANCE TO REGULATE DEVELOPMENT WITHIN THE CORPORATE LIMITS OF FRANKLIN, TENNESSEE, TO MINIMIZE DANGER TO LIFE AND PROPERTY DUE TO FLOODING, AND TO MAINTAIN ELIGIBILITY FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM."

WHEREAS, the City of Franklin is a participant in the National Flood Insurance Program (NFIP);

WHEREAS, the NFIP and FEMA require local communities to maintain certain requirements;

WHEREAS, this ordinance revises the current Franklin Zoning Ordinance to conform to the Tennessee state model NFIP construction standards, which includes the NFIP standards; and

WHEREAS, this ordinance does not effect the provisions of 3.4.4 or 3.4.5 of the Franklin Zoning Ordinance, which governs permitted-uses in the Floodway Overlay Zoning District (FWO) or the Floodway Fringe Zoning Overlay District (FFO).

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

SECTION I. That Chapter 5, Section 5.8 of the City of Franklin Zoning Ordinance is hereby amended to add the following Section 5.8.5 and is approved to read as follows:

5.8.5 Floodplain Protection

(1) Statutory Authorization, Findings Of Fact, Purpose And Objectives

(a) Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Franklin Tennessee, Board of Mayor and Aldermen, do ordain as follows:

(b) Findings of Fact

1. The Franklin, Tennessee, Board of Mayor and Aldermen wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.

2. Areas of the City of Franklin, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(c) Statement of Purpose

It is the purpose of Section 5.8.5 of the Franklin Zoning Ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This section is designed to:

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(d) Objectives

The objectives of this section are:

1. To protect human life, health, safety and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas to minimize blight in flood areas;

7. To ensure that potential homebuyers are notified that property is in a flood prone area;
8. To maintain eligibility for participation in the NFIP.

(2) General Provisions

(a) Application

Section 5.8.5 shall apply to all areas within the incorporated area of the City of Franklin Tennessee.

(b) Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified in the City of Franklin, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47187C0180F; 47187C0182F; 47187C0190F; 47187C0192F; 47187C0195F; 47187C0203F; 47187C0204F; 47187C0205F; 47187C0208F; 47187C0209F; 47187C0211F; 47187C0212F; 47187C0213F; 47187C0214F; 47187C0220F; 47187C0230F; 47187C0335F dated, September 29, 2006, along with all supporting technical data, are adopted by reference and declared to be a part of Section 5.8.5.

(c) Requirement for Floodplain Development Permit

A Floodplain Development Permit shall be required in conformity with Section 5.8.5 prior to the commencement of any development or redevelopment activities.

(d) Compliance

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of Section 5.8.5 and other applicable regulations.

(e) Abrogation and Greater Restrictions

Section 5.8.5 is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where Section 5.8.5 conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(f) Interpretation

In the interpretation and application of Section 5.8.5, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(g) Warning and Disclaimer of Liability

The degree of flood protection required by Section 5.8.5 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. Section 5.8.5 does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas

will be free from flooding or flood damages. Section 5.8.5 shall not create liability on the part of the City of Franklin, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on Section 5.8.5 or any administrative decision lawfully made hereunder.

(h) Penalties for Violation

Violation of the provisions of this Section 5.8.5, or failure to comply with any of its requirements, shall be in accordance with Chapter 7 of this ordinance.

(3) Administration

(a) Designation of Section 5.8.5 Administrator

The Floodplain Administrator shall be designated by the City Administrator, in writing, and is hereby appointed as the Administrator to implement the provisions of Section 5.8.5.

(b) Permit Procedures

Application for a Floodplain Development Permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The Floodplain Development Permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application Stage

- (i) Elevation in relation to mean-sea-level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under Section 5.8.5.
- (ii) Elevation in relation to mean-sea-level to which any nonresidential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under Section 5.8.5.
- (iii) A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed nonresidential floodproofed building will meet the floodproofing criteria in Subsection 5.8.5(4) of this ordinance.
- (iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean-sea-level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest

floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(c) Duties and Responsibilities of the Administrator

Duties of the Administrator shall include, but not be limited to, the following:

1. Review all Floodplain Development Permit to assure that the permit requirements of Section 5.8.5 have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development or redevelopment to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
3. Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
6. Record the elevation, in relation to mean-sea-level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new

and substantially improved buildings, in accordance with Subsection 5.8.5(3)(b) of this ordinance.

7. Record the actual elevation, in relation to mean-sea-level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Subsection 5.8.5(3)(b) of this ordinance.
8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Subsection 5.8.5(3)(b) of this ordinance.
9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 5.8.5.
10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A, on the City of Franklin, Tennessee FIRM meet the requirements of Section 5.8.5.
11. Maintain all records pertaining to the provisions of Section 5.8.5 in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of Section 5.8.5 shall be maintained in a separate file or marked for expedited retrieval within combined files.

(4) Provisions For Flood Hazard Reduction

(a) General Standards

In all areas of special flood hazard, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of Section 5.8.5, shall meet the requirements of "new construction" as contained in Section 5.8.5;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions in Section 5.8.5, shall be undertaken only if said non-conformity is not further extended or replaced;
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Subsection 5.8.5(4) of this ordinance;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

(b) Specific Standards

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Subsection 5.8.5(4) of this ordinance, are required:

1. Residential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than three (3) feet above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate

equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”.

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Section 8.3 of this ordinance). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”.

2. Nonresidential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”.

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Section 8.3 of this ordinance). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”.

Nonresidential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Subsection 5.8.5(3) of this ordinance.

3. Enclosures

All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
 - i. Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one (1) foot above the finished grade;
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Subsection 5.8.5(4) of this ordinance.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - i. In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
 - ii. In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Section 8.3 of this ordinance).
- c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Subsection 5.8.5(4) of this ordinance.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
 - i. Be on the site for fewer than one hundred-eighty (180) consecutive days;
 - ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;
 - iii. The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Subsection 5.8.5(4) of this ordinance).

(c) Standards for Special Flood Hazard Areas with Established Base Flood Elevations and with Floodways Designated

Located within the Special Flood Hazard Areas established in Subsection 5.8.5(2) of this ordinance, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

- 1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the Base Flood Elevation,

velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the City of Franklin, Tennessee and certification, thereof.

2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Subsection 5.8.5(4) of this ordinance.

(d) Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Special Flood Hazard Areas established in Subsection 5.8.5(2) of this ordinance, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Subsection 5.8.5(4) of this ordinance.

(e) Standards for Streams Without Established Base Flood Elevations and Floodways (A Zones)

Located within the Special Flood Hazard Areas established in Subsection 5.8.5(2) of this ordinance, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2, below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Subsection 5.8.5(4) of this ordinance.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at

least three (3) feet above the highest adjacent grade (as defined in Section 8.3 of this ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 5.8.5(3)(b) of this ordinance. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Subsection 5.8.5(4) of this ordinance.

4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty (20) feet, whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Franklin, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Subsection 5.8.5(4) of this ordinance. Within approximate A Zones, require that those subsections of Subsection 5.8.5(4) of this ordinance, dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(f) Standards for Areas of Shallow Flooding (AO and AH Zones)

Located within the Special Flood Hazard Areas established in Subsection 5.8.5(2) of this ordinance, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in Subsection 5.8.5(4) of this ordinance, apply:

1. All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Subsection 5.8.5(4) of this ordinance.
2. All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic

loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.8.5 and shall provide such certification to the Administrator as set forth above and as required in accordance with Subsection 5.8.5(3)(b) of this ordinance.

3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(g) Standards for Areas Protected by Flood Protection System (A-99 Zones)

Located within the Areas of Special Flood Hazard established in Subsection 5.8.5(2) of this ordinance, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Subsections 5.8.5(3) and 5.8.5(4) of this ordinance, shall apply.

(h) Standards for Unmapped Streams

Located within the City of Franklin, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Subsections 5.8.5(3) and 5.8.5(4) of this ordinance.

(5) Appeals to the Board of Zoning Appeals

(a) Variance Procedures

In the case of a request for a variance to a provision within Section 5.8.5 the following shall apply:

- i. The City of Franklin, Tennessee Municipal Board of Zoning Appeals (BZA) shall hear and decide appeals and requests for variances from the requirements of Section 5.8.5, as specified in Section 2.4.5 of this ordinance.

- ii. Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of Section 5.8.5 to preserve the historic character and design of the structure.
- iii. In passing upon such applications, the BZA shall consider all technical evaluations, all relevant factors, all standards specified in other sections of Section 5.8.5, and:
 - (a) The danger that materials may be swept onto other property to the injury of others;
 - (b) The danger to life and property due to flooding or erosion;
 - (c) The susceptibility of the proposed facility and its contents to flood damage;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - (j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
- iv. Upon consideration of the factors listed above, and the purposes of Section 5.8.5, the BZA may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of Section 5.8.5.
- v. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(b) Conditions for Variances

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Subsection 5.8.5(5) of this ordinance
2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as \$25 for \$100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.
4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

(c) Zoning District Boundary Interpretations

1. The BZA may review questions relating to the district boundaries for the FWO and the FFO, delimited according to the Zoning Map, as specified in Section 3.1.2 of the ordinance.

SECTION II 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 third and final reading, the health, safety, and welfare of the citizens requiring it.

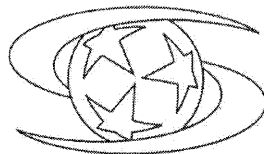
ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
ERIC S. STUCKEY
 City Administrator/Recorder

By: _____
DR. KEN MOORE
 Mayor

PLANNING COMMISSION RECOMMENDED DEFERRAL:	<u>7/22/10</u>
PLANNING COMMISSION RECOMMENDED DEFERRAL:	<u>6/23/10</u>
PLANNING COMMISSION RECOMMENDED APPROVAL:	<u>8/25/11</u>
PASSED FIRST READING:	_____
PUBLIC HEARING HELD:	_____
PASSED SECOND READING:	_____
PASSED THIRD READING:	_____



STATE OF TENNESSEE
DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT

LOCAL PLANNING ASSISTANCE OFFICE
MIDDLE TENNESSEE REGION
446 METROPLEX DRIVE, SUITE 128
NASHVILLE, TENNESSEE 37211
TELEPHONE: 615.741.1534 — FAX: 615.532.1896
HTTP://WWW.TNECD.GOV

September 29, 2010

The Honorable John Schroer
Mayor, City of Franklin
109 Third Avenue South
Franklin, Tennessee 37064

RE: National Flood Insurance Program – Franklin, Tennessee Information Exchange Visit

Dear Mayor Schroer:

On September 28, 2010 I conducted a National Flood Insurance Program Information Exchange Visit (IEV) with Director of Building and Neighborhood Services Gary Luffman, Zoning and Development Coordinator Tom Marsh and Current Planning Supervisor Micah Wood. The purpose of the IEV was to review locally adopted floodplain management regulations, their administration and enforcement, and to provide any identified assistance as necessary to enhance compliance with the National Flood Insurance Program (NFIP). The City of Franklin staffers were very helpful in facilitating this visit. Many thanks for their preparedness, cordiality and valued cooperation.

As a result of the IEV, Franklin was found not to be in complete compliance with the provisions of the National Flood Insurance Program. The City was found to be exceptional in its administration of the provisions of the NFIP, i.e., permit issuance, record keeping, inspection, having the latest Flood Insurance Rate Maps as well as an understanding of the NFIP. However the adopted floodplain regulations pertinent to the administration and enforcement of the NFIP were found to be inadequate due the absence of many provisions that insure complete compliance with the NFIP. I am recommending that the most recent model floodplain zoning ordinance developed by our agency and approved by the Federal Emergency Management Agency be adopted by the City. This would enhance continued compliance with the provisions of the NFIP and insure continued eligibility to participate. I am enclosing a copy of the completed IEV form for Franklin, a copy of the Minimum Land Management Criteria Evaluation Sheet and a copy of the model floodplain zoning ordinance. Please contact me if an electronic version of the zoning ordinance is desired.

Thank you for your cooperation and the City's support of the local Floodplain Management Program. Please call should you have any questions or if I can be of further assistance.

Sincerely,

Art Brown
Principal Community Planner

AB/

Enclosures

cc: Gary Luffman, Director of Building and Neighborhood Services
Tom Marsh, Zoning and Development Coordinator
Micah Wood, Current Planning Supervisor
Stanley Harrison, Director of Special Projects



MEMORANDUM

September 1, 2011

TO: Board of Mayor and Aldermen

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

SUBJECT: Ordinance 2010-48, Zoning Text Amendment to add Section 5.8.5 to the *COF Zoning Ordinance*

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information regarding amendments to add Section 5.8.5 to Chapter 5 of the *Franklin Zoning Ordinance* to include the state model Floodplain Regulations.

Background

This Zoning Ordinance Text amendment is generated to add Section 5.8.5 to Chapter 5 of the Zoning Ordinance in order to incorporate the state model Floodplain Regulations. These regulations are based on the State Model Floodplain Protection Zoning Ordinance, as established by the State of Tennessee Local Planning Assistance Office, which was the State Coordinating Office for the Federal Emergency Management Agency (FEMA). This amendment is brought forward in conjunction with Ordinances 2011-27 and 2010-50, which are companion text amendments to this ordinance. This amendment includes five areas of Floodplain Management: (1) Statutory Authorization, (2) General Provisions, (3) Administration, (4) Provisions for Flood Hazard Reduction, and (5) Appeals to the Board of Zoning Appeals. This amendment will centralize and consolidate all the Floodplain Management Regulations into one Section of the FZO.

This proposed text amendment contains standards and regulations from the State of Tennessee Model Floodplain Ordinance. These are the recommended set of requirements for all local governments that participate in the National Flood Insurance Program (NFIP) within the state. Both FEMA and the State of Tennessee monitor local communities to ensure compliance NFIP standards. Failure to include these NFIP requirements could impact the City's standing in the NFIP. The memorandum from the September 2010 FEMA Review of the City's Floodplain protection standards is attached to this report. Please note that, while the memo from Art Brown, of the now defunct Local Planning Assistance Office, is dated September 29, 2010, staff did not receive the memo until July 13, 2011.

This text amendment was recommended unanimously (6-0) by the Planning Commission at the August 25, 2011 FMPC meeting.

Financial Impact

Not applicable to this item.

Options

Not applicable to this item.

Recommendation

Approval of the text amendment is recommended.