

BY-LAWS

CITY OF FRANKLIN STORMWATER APPEALS BOARD

I. PURPOSE

The purpose of these by-laws is to provide for the orderly disposition of the business of the Stormwater Appeals Board (hereafter known as the Board). The Board is empowered with the authority to hear appeals of any order, decision, or ruling of the City Engineer, Stormwater Management Coordinator, or ~~his/her~~ their designees (hereafter known as Staff), ~~pursuant to the City of Franklin Stormwater Management Ordinance and to~~ issue decisions thereon that it judges will be in harmony with the general purpose and intent of the City of Franklin Stormwater Management Ordinance (hereinafter Ordinance) ~~said Ordinance, and to take any and all actions authorized by the said Stormwater Management Ordinance.~~ The Board's decisions are subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the ~~City of Franklin Stormwater Management Ordinance~~ Ordinance (hereinafter Ordinance).

II. AUTHORITY

These by-laws are adopted pursuant to the authority vested in Chapter 39 of the City of Franklin Stormwater Management Ordinance, Title 2346 of the Franklin Municipal Code, and Tennessee Code Annotated Section 68-221-1106, ~~Tennessee Code Annotated.~~

III. MEMBERS

APPOINTMENT

The Stormwater Appeals Board of The City of Franklin, established heretofore by the City of Franklin Board of Mayor and Aldermen in accordance with ~~the Tennessee Code Annotated~~ state law, is hereby reestablished and confirmed as a Board of seven (7) members. Their terms of office, succession, removal, filling of vacancies, and their powers and duties, shall be as provided in the ~~Regulations, City of Franklin Municipal Code and these by-laws.~~ One (1) member, but not more than one (1) member of the Board, may be a member of the City of Franklin Board of Mayor and Aldermen.

CONDUCT

- A. Site Visits. Board Members, at their own discretion, may visit sites for the evaluation of ~~the appeal~~ any matter that is to be heard by the Board. The site visits shall not be in the company of other Board Members unless notice of the visit is advertised to the public as required by the Tennessee

Open Meetings Act. Any such visits shall be disclosed at the public hearing, as well as any particular information that was obtained during the visit.

- B. Ex Parte Communication. At no time shall two or more Board Members ~~meet to~~ discuss any issues to be heard before the Board without first complying with Tennessee Code Annotated, Section 8-44-101, *et. seq.* Nothing in this section shall be construed as to require a chance meeting of two or more Board Members to be considered a public meeting as long as the Board Members do not use the meeting to decide or deliberate any issues pending before the Board.
- C. Direct Economic Conflict of Interest. Any Board Member who personally has, or has an immediate family member who has any economic stake in, any item that is to be heard before the Board must make known the conflict and excuse him or herself from discussion or voting on the item. At no time may a Board Member derive or attempt to derive any unjustified enrichment from his office through the solicitation or acceptance of any bribe, gift or other economic benefit, which the Board Member believes or should believe was intended to influence his or her vote or other action to be taken in his capacity. Board Members shall not accept any gift or other economic benefit granted because of any vote or other action in his official capacity already taken by him.
- D. Indirect Conflict of Interest. Any Board Member who has an indirect interest in any item that is to be heard by the Board may vote on the matter if the member informs the body immediately before the matter is heard that he has a conflict of interest but that he declares that he will vote his conscience to fulfill his obligation to the citizens that the body represents. Indirect Conflict shall mean any contract in which the Board Member may have an interest but will not derive a direct benefit from the action.

IV. OFFICERS AND THEIR DUTIES

1. OFFICERS

Officers of the Board shall consist of a Chair, a Vice Chair, and a Secretary. The officers shall be elected from among the appointed members of the Board at the first meeting of each year. The procedures for election of officers are as follows:

- A. The election meeting shall be presided over by the current Chair, or in his/her absence, the Vice Chair. If neither the Chair nor Vice Chair is present, the Secretary shall call for an election to appoint a temporary chair.

- B. Nominations shall be made by members of the Board.
- C. The candidate for each office receiving a majority vote of the entire membership of the Board shall be declared elected.
- D. The Chair, Vice Chair and Secretary shall be elected for a ~~two~~ (2+) year term, and shall be eligible to succeed themselves.
- E. Vacancies in office shall be filled for an unexpired term at the next regularly scheduled meeting of the Board.

2. DUTIES

- A. The Chair shall preside at all meetings and hearings of the Board and have duties normally conferred by the parliamentary usage on such officers. The Chair shall have the privilege of discussing all matters before the Board and to vote thereon.
- B. The Vice Chair shall preside at any meeting or hearing not attended by the Chair and shall assume all of his/her privileges and duties.
- C. The Secretary shall ensure that a full record is kept of all proceedings of the Board, including minutes and votes in the official minutes.
- D. The staff of the office of the City Engineer shall work with the Chair in the preparation of the agenda for regular and special meetings, provide notice of meetings to Board members, arrange proper legal notice of hearings, attend to correspondence of the Board members, and such other duties as are deemed appropriate.

V. MEETINGS

- 1. Regular meetings shall be held on the third (3rd) Tuesday of each month in the Franklin City Hall, as needed, but no less than once every two years in order to comply with Section IV(1D)(D) of this document these by-laws once per quarter. Due to holiday schedules and other unforeseen events, it may be necessary to reschedule a ~~regular~~ meeting. In such case, when called for by the Chair or a majority of members, the meeting may be rescheduled.
- 2. Special meetings may be called by the Chair, when he/she deems it expedient, or when it is so requested by a majority of the Board membership. The notice of such meeting shall be given no less than ten (10) days prior to the meeting and

shall specify the purpose of such a meeting and no other business may be considered.

3. The presence of four (4) voting members of the Board shall constitute a quorum, and a quorum must be present to hear any appeal. Once a quorum is established it will not be removed upon recusal of a member or if a member leaves for any reason. A concurring vote of a majority of the voting members present shall be necessary to deny or grant any appeal.
4. Every meeting of the Board shall be open to the public pursuant to the Tennessee Open Meetings Act, Tennessee Code Annotated Section 8-44-101, *et. seq.*
5. The Board is hereby authorized to hear and decide appeals of any order, decision or ruling of the City Engineer issued pursuant to the Ordinance. The Board is hereby authorized to consider any application for waiver from the requirements of the Ordinance as provided herein. In no event shall the Board issue a decision that in any way violates any federal, state, or local laws. [BS1]
6. Application for Appeal to the Board.
 - A. The Board is authorized to hear and decide applications for appeal of any order, decision or ruling of the City issued pursuant to the Ordinance.
 - B. Application Requirements for Appeals.
 1. The appeal to the Board shall be filed with the City Engineer within thirty (30) days after the decision or ruling of the City Engineer is served in any manner authorized by law.
 2. All applications shall be filed with the City Engineer's office on official forms. The deadline for filing a complete application is 5:00 p.m., on the third (3rd) Tuesday of the month prior to the scheduled meeting the following month. [BS2]
 3. At a minimum, a complete application shall include:
 - a. the application form;
 - b. the filing fee;
 - c. information on the specific relief sought and justification;
 - d. plans, drawings, plats or surveys showing conditions of the site if the Ordinance is applied as written; and
 - e. separate plans, drawings, plats or surveys showing conditions of the site if the Appeal is granted as requested.
 - f. Additionally, the applicant ~~may~~ should provide calculations or other useful information, which must also _____ be _____

_____ filed with the application in order for it to be considered _____
_____ by the Board.

4. For an appeal of a Notice of Violation or Cease and Desist Order where a civil penalty has also been imposed, in addition to the requirements above, the applicant shall pay the full amount of the civil penalty to the City to be placed into an escrow fund pending the outcome of the appeal. If the Board reduces or removes the civil penalty in accordance with its authority herein, then that portion of the civil penalty shall be returned to the applicant within sixty (60) days following the final decision of the Board.
5. When applications are filed, they shall be examined by the City Engineer, or his/her designee, for completeness and accuracy to determine whether all of the necessary information and data have been provided. Where information is lacking or inadequate, the applicant shall be notified as to the nature and extent of the deficiency, and the appeal shall be retained as an intent to file for thirty (30) days, after which such appeal shall be considered abandoned by the applicant. ~~Until~~ deficiencies are remedied, the appeal shall be considered insufficient for review and action by the Board.

C. Upon receipt of an appeal, the Board shall hold a public hearing. ~~at the regularly scheduled meeting.~~ Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a newspaper of general circulation. Ten (10) days notice by United States mail shall also be provided to the appellant, such notice to be sent to the address provided by the appellant on the Application for Appeal.

D. Following the hearing on an application for appeal, the Board may defer for more information, affirm, reverse, modify or remand for more information, the order, decision or ruling of the City Engineer or Storm-water Management Coordinator, or ~~his/her~~their designee. In no event

shall the
state or

Board issue a decision that in any way violates any federal, local laws. The decision of the Board shall be final.

VI. HEARING PROCEDURE

1. General

A. Hearings. The Board shall fix a reasonable time for the hearing of an application for appeal or waiver; shall give at least ten (10) days notice of the time and place of the hearing; shall be advertised in a newspaper of general circulation in the City and specific notification by letter, or email

if appellant has no ~~shall~~ objection, shall be made to the parties of interest. Parties in interest are defined, for purposes of this section, as the applicant, his consultant of record, and any ~~Home Owners~~Homeowners Association (HOA) affected by request of the applicant.

B. The application for appeal or waiver must be ~~re~~presented at the meeting by _____ either:

1. The owner(s) of the property in question, as identified in the application or according to the most recent deed recorded, ~~his~~their agent or their attorney;
2. Someone with Power of Attorney to represent the owner(s). The Power of Attorney will be an original document, unless recorded, and the document will have signatures of all owners notarized;
3. Principal with full contractual rights. A lease holder may ~~re~~present the appeal, but staff shall send notice by certified mail to the owner of record.

C. If an application is deferred by the Board, such appeal may be rescheduled for hearing without penalty, at ~~the next scheduled meeting of the Board a~~day and time convenient to the applicant. In the event the decision on the appeal is deferred, re-notification of the date of continuation shall be accomplished as outlined in Section VI(-1)-(A)- above.

D. Repeated Applications. If an application is disapproved by the Board, thereafter the Board shall not be required to consider another application for substantially the same proposal, on the same premises, until one (1) year after the date of disapproval. The Board may vote to consider a repeated application.

2. Order of ~~Business Presentation and Public Hearing Session~~

A. ~~A. Call the meeting to order.~~

B. Citizen Comments. ~~(Open to citizens to be heard on any issue or concern, including those related to items on the agenda. The Chair may restrict the period for public comment, including the length of the public comment period, the number of individuals who can speak and the length of time each individual may speak. Comments related to agenda items shall be considered during the public comment period of that agenda item. When time allows, the standard individual public comment time is two minutes.~~

As provided by the law, the Stormwater Appeals Board shall make no decisions or consideration of action of citizen comments for items not on the agenda, except to refer the matter to the City Engineer for administrative consideration, or to schedule the matter for consideration at a later date.)

C. Approve the minutes of the prior meetings.

D. Announcements.

E. Order of presentation of agenda items.

1. Staff presentation of the item, but only if the applicant or appellant is present.

a. A brief explanation of why the application is before the Board, including presentation of a Staff Report, if one is prepared;

b. The sections of the appropriate Ordinance under which the appeal arises, which shall be judicially noticed by the Board. Unless the parties object, the relevant sections will not necessarily be read; and,

c. A presentation of maps, photographs, plans, studies, findings, and other appropriate materials.

d. All exhibits presented to the Board for consideration must be submitted as evidence and made a part of the official record unless the Board otherwise provides.

2. Presentation by the applicant or appellant.

a. The applicant's name and type of interest in the property;

b. A statement of why the applicant believes the relief sought should be granted; and

c. Any witnesses in support of the application.

3. The Stormwater Appeals Board shall allow Public Comments on all items on the agenda. Public Comments on these items may be opened and closed by the Chairri, without a vote of the Board.

4. Prior to speaking during Public Comments or a Public Hearing, individuals should complete a Public Comment Card stating which item or other concern they are speaking to.

5. Comments shall be limited to two (2) minutes per individual ~~via~~. At the discretion of the Chairri, and under limited circumstances, the time may be extended for due cause.

6. Individuals wishing to speak shall come to the podium at the front of the room, face the Board, identify themselves by name and home address, and make comments related to the agenda item or other concern.
7. The Chair may limit those pPublic comments that are irrelevant or repetitive in nature.
8. Close the Public Hhearing: Motion, second, and vote by the Board Members required. This act ends all discussion-except from the Members unless the Chair recognizes individuals for further testimony. After discussion by the Board and upon proper motion, a motion for an application for appeal or waiver shall be granted or denied if it receives the majority vote. -When an application does not receive such majority vote for approval or denial, or fails for lack of motion, the application shall be considered denied. ~~(No motion on an administrative appeal means that the decision of the Staff, or that department whose decision is being appealed, is upheld.)~~
9. Questions and clarification by the Board Members. Cross examination of any party by another party shall generally not be permitted. All such comments shall be addressed to the Board.
10. Motion and second by the Board Members.
11. Discussion on the motion.
12. Vote of the Board Members.

F. Minutes

- a. The Board shall speak only through its minutes, which shall be prepared by the recording secretary or designee, who shall; prepare or cause to be prepared a verbatim record of the proceedings from which verbatim minutes of the meeting shall be created^[BS3]. ~~and prepare the minutes from the verbatim record of the meeting.~~
- b. The minutes shall be signed by the Chair.
- c. The verbatim record shall also remain on file for general reference. The minutes shall be delivered to the Board Members for examination before the next ~~regular~~ meeting.

G. Any other business.

H. Adjoin

Each application shall be introduced by the staff and shall include:

1. — A brief explanation of why the application is before the Board, including presentation of a Staff Report, if one is prepared;

2. — The sections of the appropriate Ordinance under which the appeal arises, which shall be judicially noticed by the Board. Unless the parties object, the relevant sections will not necessarily be read; and,

3. — A presentation of maps, photographs, plans, studies, findings and other appropriate materials.

B. — After the staff introduction, the applicant shall present his/her case and shall provide:

1. — The applicant's name and type of interest in the property;

2. — A statement of why the applicant believes the relief sought should be granted; and

3. — Any witnesses in support of the application.

C. — After the applicant presents his/her case, the Public Hearing Session shall be opened. The Public Hearing Session of each meeting shall consist of a public hearing of each appeal which is docketed for consideration on that day.

D. — Anyone appearing in support of or in opposition to the appeal shall present his/her case immediately following the close of the applicant's case during the Public Hearing Session and shall include:

1. — The public member's name and relationship of public member's property to the property subject of the appeal; and

2. — A statement of why the public member believes the relief sought should or should not be granted.

E. — After each individual appeal is heard, the Public Hearing Session on that appeal shall be closed, and the Board will move on that appeal before proceeding to the next appeal.

F. — Any member of the Board may directly question the Staff, the applicant, public members who spoke during the Public Hearing Session, or witnesses appearing before the Board at any time during the testimony.

~~G. All exhibits presented to the Board for consideration must be submitted as evidence and made a part of the official record unless the Board otherwise provides.~~

~~H. Cross examination of any party by another party shall generally not be permitted. All such comments shall be addressed to the Board.~~

~~I. Upon the conclusion of all the testimony and proof, the public hearing shall be closed and no further evidence admitted except as the Board may permit on special motion or request for good cause.~~

~~J. The Chair is authorized to place time limits on the presentation of testimony and proof in any and all cases.~~

~~K. The Board shall then consider the applications based upon the evidence and testimony provided. No further testimony will be heard, and all questions and discussion shall be by members of the Board.~~

~~L. After discussion by the Board and upon proper motion, a motion for an application for appeal or waiver shall be granted or denied if it receives the majority vote. When an application does not receive such majority vote for approval or denial or fails for lack of motion, the application shall be considered denied. (No motion on an administrative appeal means that the decision of the Staff, or that department whose decision is being appealed is upheld.)~~

VII. POST HEARING

Court Review. Any person(s) aggrieved by any decision of the Board may seek review pursuant ~~to Tennessee Code Annotated~~ to applicable state or federal law.

VIII. PARLIAMENTARY PROCEDURE

Whenever a parliamentary matter arises that is not covered in these ~~B~~by-~~L~~laws, the current edition of Robert's Rules of Order shall apply.

IX. AMENDMENTS

The ~~B~~by-~~L~~laws of this Board may be amended at regular or special called meetings, but no amendment shall be adopted unless at least five (5) days notice has been given all members of the Board. A favorable vote of a majority of the entire membership of seven (7) members shall be required to effect a change in these ~~B~~by-~~L~~laws.

Adopted by the City of Franklin Stormwater Appeals Board on this

02-01-106-17-2024 draft

the ____ day of _____, 20__.

Roger Lindsey - Chair
City of Franklin Stormwater Appeals Board