



NOTICE OF MEETING OF THE FIRE BOARD OF APPEALS OF THE CITY OF BURNET, TEXAS

This notice is posted pursuant to the Texas Local Government Code, Chapter §551 – Open Meetings.

Notice is hereby given that the **Regular Meeting of the Fire Board of Appeals** of the City of Burnet, Texas will be held on Wednesday, **November 13, 2024**, at **1:00 p.m.** at the City of Burnet Fire Department located at 2002 South Water Street, Burnet, Texas 78611 at which time the following subjects will be discussed, to-wit:

1. CALL TO ORDER:

2. ROLL CALL:

- 3. CONSENT AGENDA ITEMS:** All the following items on the Consent Agenda are considered to be self-explanatory by the Board and will be enacted with one motion. There will be no separate discussion of these items unless a Board member, staff member or citizen requests removal of the item from the consent agenda for the purpose of discussion. For removal of an item, a request must be made to the Board when the Consent Agenda is opened for Board action.

3.1) None

4. ACTION ITEMS:

- 4.1) Consideration and action: Appointment of an acting Chair and Vice-Chairperson.
4.2) Consideration and action: Appoint rules of procedures.
4.3) Consideration and action: Approve Appeal Application forms.

5. STAFF REPORTS:

6. REQUESTS FOR FUTURE AGENDA ITEMS:

ADJOURN

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Planning and Zoning Commission of the City of Burnet, is a true and correct copy of said notice and that I posted a true and correct copy of said notice on the bulletin board, in the City Hall of said City, Burnet, Texas, a place convenient and readily accessible to the general public at all times, and said notice was posted on November 7, 2024 at or before 5 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this the 7th day of November 2024

Maria Gonzales, City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City of Burnet Community Center is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the Development Services Department at (512) 715-3209, FAX (512) 756-8560 or e-mail at citysecretary@cityofburnet.com for information or assistance.



Fire Department

ITEM 4.1

Agenda Item Brief

Meeting Date: November 13, 2024

Agenda Item: The Fire Board of Appeals of the City of Burnet will elect a Chairperson and Vice-Chairperson from among its members.

Background: Duties of the Chairperson and Vice-Chairperson are as follow:

- Chair:
 - Serve as the Fire Board of Appeals presiding officer.
 - Conduct Fire Board of Appeals regular meetings.
 - Sign minutes, and other official documents pertaining to actions of the Board of Appeals.
- Vice-Chair:
 - Serve as presiding officer during the absence of the Chair.

Information: Candidates are selected by the nomination and second of fellow board members. All members are eligible to stand for the positions.

Recommendation: Nominate and elect a Fire Board of Appeals Chair and Vice-Chairperson.



Fire Department

ITEM 4.2

Agenda Item Brief

Meeting Date: November 13, 2024

Agenda Item: The Fire Board of Appeals of the City of Burnet will review and approve the Rules of Procedures.

Information: In accordance with Section A101.4 of the 2021 International Fire Code, the Board shall establish policies and procedures necessary to carry out its duties consistent with the provisions of the Fire Code.

Recommendation: Review and approve the attached Rules of Procedures.

Board of Appeals
(Fire Code)
Rules of Procedure.

Introduction: The Fire Code Board of Appeals is established pursuant to Section 111.1 of the International Fire Code 2021 Edition as amended by Section 46-26 City Code, which was adopted by Ordinance No. 2024-001, as same may be amended from time to time.

Rules: These rules are approved by Board Resolution No. FBA 2024-001; and are as follows:

- 1) *Preface.* The Board of Appeals is appointed by the Fire Chief to fulfill the duties prescribed in section 46-26 City Code and section 111.2 International Fire Code 2021 edition.
- 2) *Purpose and scope.* These rules of procedure shall govern the operations of the board in conducting the business authorized by state statute and the city code.
- 3) *Terms.* In these rules the terms italicized (*italicized*) below shall mean as follows:
Applicant shall mean a party who files an application for appeal of a matter within the jurisdiction of the board.

Board means the Fire Code Board of Appeals.

Fire Chief means the City of Burnet Fire Chief or his or her designee.

Fire Marshal means the City of Burnet Fire Marshal or his or her designee.

Party means a person, or corporate entity who is a permit applicant who feels aggrieved by a Fire Marshal decision falling within the jurisdiction of the board. A party, who is a corporate entity may be represented by a person provide that person provides proof of his or her authority to act as agent for said corporate entity.

Permit applicant means a party who applied for a permit that was reviewed by the fire marshal and is related to a matter for which the board has appellate jurisdiction.

- 4) *Open Meetings.* Board meetings shall be open to the public and notice of meetings shall be published in accordance with the requirements of the Texas Open Meetings Act.
- 5) *Rules of order.* Meetings shall be conducted pursuant to the provisions of these rules and where these rules are silent Robert's Rules of Order 12th Edition. The authority to interpret the rules of order shall vest with the chairperson, subject to appeal by any member. Should a member's appeal of the chairperson's interpretation be denied, the member may request the interpretation be presented to the Board, who will vote on the matter. Should a majority of the members present vote in favor of the appeal, the chairperson's interpretation shall be overturned; otherwise, the chairperson's determination shall stand.
- 6) *Election of officers.*
 - a. The officers of the Board shall be a chairperson and vice chairperson. There is no limit on the number of terms an officer may serve. Officers shall serve for a term of one year.
 - b. Officer's terms shall run from June 1 to May 31. An officer may hold over until an election is held.
 - c. Officers shall be elected at the first meeting after the first day of _____. The chairperson shall ask for nominations for each office and close the

nominations after all members have had an opportunity make a nomination. If there is only one nominee for an office the nominee shall be appointed unless an objection is raised, and the objection is supported by a majority of the members. If there are multiple nominees for an office the vote shall be by written ballot; and by runoff ballot in the case of a tie between two or more nominees.

- 7) *Conflicts*. In the event of a conflict between these rules and an enabling ordinance or statute the enabling ordinance or statute shall prevail.
- 8) *Meetings*. Meetings are held at the call of the Fire Chief, chairperson, or acting chairperson, and at other times as determined by a majority of the Board.
- 9) *Records*. The Board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The Board shall keep records of its examinations and other official actions.
- 10) *Office of the Board*. The Board's office shall be the office of the city secretary, and minutes and records of the Board shall be filed in the office of the city secretary.
- 11) *Witnesses*. The chairperson, or acting chairperson, may administer oaths and compel the attendance of witnesses.
- 12) *Evidence*. On all appeals the burden of proof is on the applicant; and the standard is preponderance of the evidence.
- 13) *Jurisdiction*. The Board's jurisdiction is limited to the following:
 - (i) an appeal of the fire marshal's interpretation of the fire code;
 - (ii) an appeal asserting a provision of the code that the fire marshal has determined to be applicable does not apply;
 - (iii) an appeal asserting an alternate material is as good as or better than the material required by the fire code; or
 - (iv) an appeal asserting an alternate form of construction is as good as or better than the material required by the fire code.
- 14) *Standing*. Standing to bring an appeal is limited to a permit applicant who feels aggrieved by a decision of the fire marshal on a matter relating to the permit application and within the jurisdiction of the board.
- 15) *Voting*. The concurring vote of a majority of the members of Board present is required to make a finding in favor of an applicant on an appeal.
- 16) *Application forms and fees*. An application for an appeal shall be submitted to the city secretary on a form approved by the board and must specify the grounds for the appeal. The application shall include the appropriate fee as set out in the city's fee schedule. Submission may be made to the city secretary by hand delivery, USPS mail, or commercially recognized courier such as UPS, FEDEX, or DHL. An application shall not be considered filed until the date the city secretary's office receives the substantially completed application form and appropriate fee.
- 17) *Time limit to submit an appeal*. An appeal must be made within 30 days of the date of the fire marshal's decision for which a permit applicant feels aggrieved. Failure to timely file an application with the city secretary shall result in the submission being time barred from consideration.
- 18) *Format for Appeal/Variance Hearing*.

- a. **Presentation:** The applicant shall present its argument; the city representative shall respond; and applicant shall have the right to rebut the response.
- b. **Time:** Argument for each side shall be limited to 30 minutes. Applicant shall allocate their 30 minutes between argument and rebuttal as they see fit.
- c. **Witnesses:** The board (by majority vote) may call witnesses as it deems appropriate to assist in its disposition of the case.
- d. **Questions:** At the conclusion of each presentation members of the board shall have an opportunity to ask questions. There shall be no time limit for members' questions.
- e. **Extension:** By majority vote, the Board may allocate additional time may for presentation; provided such additional time is equally extended.

19) *Deliberation, Voting and Findings.*

- a. **Board Deliberation.** At the close of the hearing of witnesses the chairperson may call for deliberation of the board on the question. During deliberation a board member may call upon any witness for further questioning.
- b. **Disposition.**
 - i. The Board shall decide an appeal at the conclusion of the hearing or at the next meeting for which notice can be given.
 - ii. The Board may dismiss or postpone an appeal if it is found the matter was improperly filed. Should the appeal be postponed the applicant shall be directed to cure the filing defect.
 - iii. When considering an appeal requesting either a reversal or modification of a code interpretation (or that a code provision does not apply) the board shall make written findings as to the following:
 - A. Was the code interpretation, or application, erroneous?
 - B. If the answer to the question above is the affirmative, the Board shall state the grounds for such finding and state the Board's determination as to what the correct code interpretation should have been or why the code provision is inapplicable as the case may be.
 - iv. To authorize an alternative building material or construction method the Board must make written findings as to the basis of their determination that the alternative building material or construction method conforms to the spirit and intent of the Code.

Conclusion. These rules are to be used to assist with the administration of board meetings in a fair, impartial and efficient manner. In the event a situation arises that is not addressed by these rules the chairperson, in the manner provided in section (5) above may decide how best resolve the situation. If it is found necessary; the chairperson shall consult with the city attorney; and should it be found the situation is subject to recurrence the chairperson shall direct that these rules be present to city council and the board for amendment.



Fire Department

ITEM 4.3

Agenda Item Brief

Meeting Date: November 13, 2024

Agenda Item: The Fire Board of Appeals of the City of Burnet will review and approve the appeal application form.

Information: Any person shall have the right to appeal a decision of the fire code official to the board. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed on a form obtained from the fire code official within 20 days after the notice was served.

Recommendation: Review and approve the attached appeal application form.



FIRE CODES APPEALS APPLICATION

Please type or print:

Appellant:	
Company:	
Contractor Registration Number (If applicable):	
Address:	
Telephone number:	
Email:	

Reason for Appeal (check appropriate category):

- To determine proper interpretation of code. If this box is checked applicant shall complete Addendum A to this application.
- To determine if provisions of this code fully apply. If this box is checked applicant shall complete Addendum B to this application.
- To determine suitability of alternant form of construction. If this box is checked applicant shall complete Addendum C to this application.

Notice: The board does not have authority to waive the requirements of this code or interpret the administration of this code. Int. Fire Code Section 111.2

Signature: _____

Date: _____

Enclose check for \$500.00 made payable to the City of Burnet and twelve (12) copies of all supporting information (e.g., letters, design drawings no larger than 11x17, reports, etc.) required to support the appeal. A copy of the decision that is being appealed should also be included.

-----Official Use Only Below This Line-----

Date received:	Receipt number:	Received by:
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ADDENDUM A
Appeal of Interpretation.

Int. Fire Code Section 111.2 provides that an applicant's appeal may be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted. If this is the basis for your appeal, please provide information as follows:

(1) State the code section or rule you claim to have been misinterpreted:

(2) State your understanding of the fire marshal's interpretation:

(3) State your understanding as to the true intent of the code section or rule:

Please note that the burden of proof is on the applicant. Moreover, your appeal will be limited to the information you provide in this application and at the hearing the Board shall not consider information that is not made part of this application. Therefore, at the hearing, you should limit the focus of your argument to matters supporting information you provided with this application; answering questions raised by the board; and responding to assertions of fire department's representative. You are encouraged to supplement this addendum by attaching additional pages or documents supporting your arguments related to items number (1), (2) and (3) above.

ADDENDUM B
Appeal of Application.

Int. Fire Code Section 111.2 provides that an applicant's appeal be based on a claim that a provision of the code does not fully apply. If this is the basis for your appeal, please provide information as follows:

(1) State the code section you claim does not fully apply:

(2) State your understanding as to why the fire marshal has applied that section of the code:

(3) State your understanding as to why the code section does not apply:

Please note that the burden of proof is on the applicant. Moreover, your appeal will be limited to the information you provide in this application and at the hearing the Board shall not consider information that is not made part of this application. Therefore, at the hearing, you should limit the focus of your argument to matters supporting information you provided with this application; answering questions raised by the board; and responding to assertions of fire department's representative. You are encouraged to supplement this addendum by attaching additional pages or documents supporting your arguments related to items number (1), (2) and (3) above.

ADDENDUM C
Suitability of Alternate Form of Construction.

Int. Fire Code Section 111.2 provides that an applicant's appeal may be based on a claim that alternate form of construction may be equal to or better than the form of construction required by the code. If this is the basis for your appeal, please provide information as follows:

(1) Describe the form of construction required by the code and the code section requiring said materials:

(2) Describe the alternate form of construction you propose:

(3) State your understanding as to why the form of construction described in section (2) is equal to or better than the form of construction described in section (1):

Please note that the burden of proof is on the applicant. Moreover, your appeal will be limited to the information you provide in this application and at the hearing the Board shall not consider information that is not made part of this application. Therefore, at the hearing, you should limit the focus of your argument to matters supporting information you provided with this application; answering questions raised by the board; and responding to assertions of fire department's representative. You are encouraged to supplement this addendum by attaching additional pages or documents supporting your arguments related to items number (1), (2) and (3) above.