

Williamson County Fire Marshal Board of Appeals

The Williamson County Board of Appeals for fire code enforcement:

Limitations on authority. An application for appeal shall be based on a claim that the intent of the International Fire Code 2015 or future versions thereof as adopted by Williamson County, or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall not have authority to waive requirements of this code.

Scope. A board of appeals shall be established within the jurisdiction for the purpose of hearing applications for modification of the requirements of the International Fire Code pursuant to the provisions of Section 108 of the 2015 International Fire Code or future versions thereof as adopted by Williamson County. The board shall be established and operated in accordance with this section and shall be authorized to hear evidence from appellants and the fire code official pertaining to the application and intent of this code for the purpose of issuing orders pursuant to these provisions.

Membership.

The membership of the board shall consist of five voting members having the qualifications established by this section. Members shall be nominated by the fire code official or the chief administrative officer of the jurisdiction, subject to confirmation by a majority vote of the governing body. Members shall serve without remuneration or compensation and shall be removed from office prior to the end of their appointed terms only for cause.

Qualifications.

The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems, and are not employees of the jurisdiction. Below are the fields they should represent.

1. A design professional from a registered engineering or Architecture in Texas.

a. The architectural or engineering design professional serves on the board to give a balanced perspective to board deliberations. His or her role should be to evaluate the general design features of the appeal to determine whether they satisfy the intent of the code.

2. Fire Protection engineering professional

a. This board member is expected to evaluate appeals to determine whether they represent good, logical solutions to fire safety questions that satisfy code requirements and are consistent with current fire protection engineering principles. Note that this position does not specifically require professional registration in the state but may be

filled by any technical person qualified in fire protection technology, including experienced fire protection system installation contractors and system designers.

3. Industrial Safety professional.

a. The key words in this section are “chemical process safety” or “industrial safety.” This board member should contribute specialized knowledge of this field to board deliberations. His or her concerns should be more with industrial processes and inventories than with design or safety features, although his or her knowledge of the processes and the materials involved in them should bear on both. Note that this position also does not necessarily require professional registration in the state but may be filled by any technical person qualified in matters of chemical or industrial safety. This member’s input would be especially valuable in appeals involving the application and enforcement of the hazardous material provisions of the code.

4. General Contractor

a. The experienced general contractor adds to the board’s expertise in determining the practicality of an appeal. This member many times may be a counterbalance to the opinion of the design professional. That is, the design may satisfy the definition of good engineering practice but not be practical or economical to construct or be compatible with an existing structure in the case of building modifications or additions.

5. General Industry or business representative.

a. This board member, as stated in the code text, is expected to represent a point of view not represented by the other four board members. This member could, for example, be nominated by the jurisdiction’s Chamber of Commerce or Industrial Development Board.

Terms of office.

Members shall be appointed for terms of 4 years. No member shall be reappointed to serve more than two consecutive full terms.

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The initial appointments are staggered.

Of the members first appointed, two shall be appointed for a term of 1 year, two for a term of 2 years, one for a term of 3 years.

Therefore, the initial (shorter) term will not disqualify an additional 2 full terms.

Meetings.

The board only meets if there is an appeal filed beyond the initial meeting when first formed. The board may also conduct executive sessions when needed. This board shall comply with the Open Meetings Act.

Steps to Appeal

Four (4) levels of appeal are available for an equivalent life safety and/or fire protection alternative method or modification to a Fire Code requirement. Each step must be followed before advancing to the next level. The Appellant shall try to remedy differences regarding Fire Code regulations at the lowest level possible before advancing to the next level.

Appeals will not be heard unless this process is followed. The levels in their order of appeal are:

- Level 1 - Fire Marshal
- Level 2 – Senior Director of Emergency Services
- Level 3 – Fire Code Appeals Board
- Level 4 – Judicial System

Level 1 – Fire Marshal

The Applicant should explore resolution of the compliance issues with the Fire Marshal by presenting an equivalent life safety and/or fire protection alternative method or modification to the disputed requirement of the Fire Code.

Level 2 – Senior Director of Emergency Services

If the Appellant and the Fire Marshal fail to come to an agreement regarding an equivalent life safety and/or fire protection alternative method or modification to the requirements of the Fire Code, then the Appellant can move to this level. This level involves a written request for review.

Level 3 – Fire Code Appeals Board

If the Applicant fails to find relief at the Level 2 appeal process, then the Appellant can move to this step. The time limits set forth below apply unless different time limits are mutually agreed to by the Applicant, the Fire Marshal, and the Fire Code Appeals Board (FCAB) Chair (e.g., for reasons of urgency) or the FCAB Vice-Chair if the FCAB Chair is unavailable for any reason.

A review by the FCAB is intended to give Applicants the chance to present their views on Fire Code compliance situations to people outside of Williamson County Fire Marshal Office employment, yet who are knowledgeable about Fire Code issues. The Appeals Board will consist of the members defined above.

Only one request for review to the FCAB may be made for any one Fire Code compliance dispute. Any stay of Fire Code enforcement pending the FCAB decision will be at the sole discretion of the Senior Director of Emergency Services. Situations involving emergency Fire Code enforcement are not subject to delay by the FCAB review process.

(1) *Written request for review:* The Applicant will submit the written request for FCAB review not more than 30 days after the Fire Marshal has notified the Applicant of the Level 2 decision on the Applicant's compliance dispute.

(2) *Notifying FCAB of a request for review:* The Fire Marshal, will make a reasonable effort to notify the FCAB Chair, or Vice-Chair if the Chair is unavailable, within one (1) business day (i.e. Monday through Friday, with Saturdays, Sundays, and holidays excluded) of receiving an Applicant's written request for a review by the FCAB. The Fire Marshal shall provide a copy of the Applicant's written request to the FCAB Chair, or Vice-Chair as needed, at this time, by fax or other reasonable means.

(3) *Scope of review:* The FCAB Chair will determine if the Applicant's request is within the scope of Fire Code matters that the FCAB is permitted to consider. In making this determination, the FCAB Chair (or Vice-Chair) will consult with both the Applicant and the Fire Marshal.

(4) *Restriction on parties' contacts with the FCAB:* Outside the FCAB meeting(s) and any site visit(s), neither the Applicant nor the Fire Marshal will communicate with members of the FCAB about the compliance dispute except if questioned by the FCAB Chair (or Vice-Chair).

(5) *Scheduling the meeting:* The FCAB will meet to review the Applicant's compliance dispute within not less than five (5) days and not more than 30 days after receipt of the request to appeal. The Fire Marshal's Office will contact the FCAB Chair (or Vice-Chair), the members of the FCAB, the Fire Marshal, and the Applicant to schedule a time for the FCAB's meeting(s). Written notice of the date and time of the appeal hearing shall be posted not less than 10 days prior to the date of the hearing.

(6) *Written statements and exhibits:* The applicant and the Fire Marshal will each submit through the "Fire Code Appeal" form a concise written statement of the issue(s), facts, and relevant Williamson County Fire Marshal Fire Code section(s) involved, to the FCAB Chair (or Vice-Chair) at least ten (10) business days before the date of the FCAB meeting to consider the compliance dispute. These statements should include any relevant exhibits such as plans, as well as a list of any expert witnesses. The Applicant and Fire Marshal must submit one copy of their respective statements and attachments for each FCAB member, with an additional copy for the other party. The FCAB should receive these copies at least three (3) business days before the FCAB meeting.

(7) *The meeting:* The Applicant will make their presentation first, followed by the Fire Marshal. The Applicant and the Fire Marshal will each be limited to 30 minutes for oral presentation, including questions from the FCAB members, unless the FCAB Chair determines at the beginning of the meeting that more time is warranted. In any event, each party will be provided equal time to make its presentation to the FCAB. Each party's oral presentation should address the factual background, the issue(s) and the Williamson County Fire Code section(s) involved. Each party may include design professionals or other persons in its presentation to the FCAB. An Appellant shall be entitled to present evidence in support of the appeal and to cross-examine opposing witnesses. The Fire Marshal shall be entitled to present evidence in support of such decision or action and to cross-examine witnesses.

(8) *Site visits:* The FCAB may visit the site(s) involved in the compliance dispute, at the request of either the Fire Marshal or the Applicant, or on the FCAB's own initiative. The Applicant shall make the site available to the FCAB for a site visit. No such site visit will be made without representation of both the Fire Marshal and the Applicant present.

Level 4 – Judicial System

If the Applicant fails to find relief at the Level 3 appeal process, then the Appellant can move to this step.

Additional Information

As it may be revised, this document sets forth the procedures for appeals of Fire Code compliance matters. General inquiries about the appeals process should be directed to the Fire Marshal at 512-943-3679.