

**ORDINANCE 2005-8**

**AN ORDINANCE ADDING DESIGN REVIEW PROVISIONS TO CHAPTER 2, TITLE 14 OF THE BELLE MEADE CODE**

WHEREAS:

1. The Commissioners of the City of Belle Meade have found, as the city has grown and new residences have been constructed, that those structures which are visually offensive or inappropriate by reason of poor qualities of exterior design, monotonous or striking visual discord in relation to their sites or surroundings mar the appearances of their areas, impair the use, enjoyment and desirability, and reduce property values, of surrounding properties and are detrimental to the character of their neighborhoods, prevent the most appropriate development and utilization of land and therefore adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the entire community.

2. The Commissioners desire, through the adoption of this Ordinance, to preserve and promote the character, and appearances and attractiveness of those residential areas that are the economic mainstay of the community, by providing procedures for architectural review of structures henceforth erected, reconstructed, or altered in the City, and thereby to encourage good qualities of exterior building design and to relate such design to the sites and appearances of surrounding structures, to permit originality and resourcefulness in building design and appearances which are appropriate to the neighborhoods and to prevent such design and appearances which are unnecessarily offensive to visual sensibilities.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF BELLE MEADE, as follows:

ITEM 1

Chapter 2, Title 14 of the Belle Meade Code is amended by adding new Sections 14-210 through 14-226 and renumbering existing Sections 14-210 through 14-217 to 14-226 through 14-233 as follows:

**14-210. Residential Design Committee Created.** There is hereby created a Residential Design Committee (the “Residential Design Committee”) to be composed of five (5) members to be appointed by the Commissioners of the City for terms of three (3) years each with the initial members of the Committee to be appointed for staggered terms of one (1), two (2) and three (3) years each and with all Members of the Committee to be eligible for reappointment. Members of the Committee shall be residents of the City of Belle Meade and shall serve without compensation. They shall be selected in recognition of their civic interest and sound judgment to judge the effects of a proposed structure upon the desirability, property values and development of the surrounding areas. The Committee shall, with the approval of the Commissioners, adopt rules and regulations to govern their procedures and shall also elect from their number a Chair, a Vice Chair and a Secretary to perform such duties and to serve for such terms as are fixed in the Committee Rules and Regulations. If the membership of the Committee does not include a licensed architect, who is willing to advise the Committee on technical matters related to

architectural design, the rules and regulations may provide for the employment of an licensed architect of the State of Tennessee to advise the Committee in the performance of its duties.

The Mayor, with the concurrence of the Board of Commissioners, may appoint three (3) or more alternate members of the Residential Design Committee to act in the place and stead of a regular Committee member, in the event such member is temporarily unable to act owing to absence from the city, illness, interest in a pending case before the Committee or other cause. In such case the Chair of the Committee, or, in his or her absence, the Vice Chair, shall continue to preside over the meeting or other activities of the Committee, notwithstanding the fact that the chair, or the vice chair, as the case may be, may have found it necessary to recuse himself or herself from consideration of and voting upon any matters which may come before the Committee while an alternate member of the Committee may be serving on the Committee in his or her place and stead.

**14-211. Building Permit Applications And Requests for Design Review To Be Referred To The Residential Design Committee** The City Building Official shall refer each application for a Residential Building Permit (the "Application") to the Residential Design Committee, provided the Application is for one or more of the following types of construction:

- 1) Construction of a new residential structure, dwelling or accessory building larger than 100 square feet.
- 2) Reconstruction of a principal residential structure on a Lot where the existing structure has been, or will be, demolished.
- 3) Construction of an addition to an existing structure which is in the front yard or a renovation in which the front elevation of an existing residential structure will be modified, increased, or decreased by fifty percent (50%) or more as measured by changes in the total surface area of such front elevation.
- 4) A renovation in which the combined elevations on all sides of an existing residential structure will be modified, increased or decreased by twenty-five percent (25%) or more as measured by changes in the total surface area of such combined elevations.
- 5) The combined elevations of an existing residential structure, and/or any accompanying accessory structure, are proposed to be modified, increased, or decreased in such manner to change substantially the exterior character and appearance of the structure in the joint opinion of the City Building Official and the Chairman of the Residential Design Committee.

**14-212. Form of Application For Design Review** To be received, the application must be accompanied by the following (collectively the “Plans”):

a) A plot plan drawn on a scale of one inch equals twenty (20) feet, reflecting the following information:

(i) A topographical survey of the Owner’s Lot showing the dimensions of the Lot and Lot area, the location of any utilities crossing the lot and any existing and/or proposed new building construction, paving or other improvements to be located upon the Lot, the contours of the land drawn at two-foot (2’) intervals and the average natural grade of the land adjoining any existing and/or proposed structure;

(ii) The relationship of the proposed Improvements to each abutting property line;

(iii) Floor plans of the proposed structure, first floor, garage and basement, if any, (including the designation of any exterior walls to be removed) and elevation drawings of the front, sides and rear of any new structure, or proposed addition, included within the Improvement, drawn on a scale of ¼ inch per foot, together with the overall height of any new buildings to be constructed, measured from the average natural grade at the front elevation of all Improvements, together with all exterior building materials;

(iv) Any detached, accessory structures, swimming pools, walls and/or fences existing or proposed to be constructed on the site, together with all mechanical, swimming pool equipment and/or generators included in the project and located within the building envelope;

(v) A proposed landscaping plan of the entire Lot showing the materials and components to be employed, and the location and size of all walls, fences, driveways;

(vi) Elevations of the front, rear and each side of the proposed structure, with average natural grade, finished grade and finished floor elevations, and

(b) Such other information as may be required by the Residential Design Committee

**14-213. Optional Early Review of Plans** In the alternative, a property owner may submit preliminary sketches of his or her plans for the informal joint opinion of the Chairman of the Residential Design Committee and the City Building Official concerning the likelihood of his or her plans being approved should they be completed and an Application for Final Approval be submitted. This opinion will be advisory and will not be binding on the Committee if it is subsequently asked to give Final Approval to the completed Plans.

**14-214. Preliminary Approval of Plans.** Upon receipt of an Application, the Chair of the Residential Design Committee, or his designee, will circulate copies of the Application, and its supporting materials, to the members of the Committee, who shall be

allowed fifteen (15) business days within which to review the same and to communicate their opinions concerning the proposed construction to the Chair of the Committee. The abutting property owners, including those owners of property across the street from the subject property, will be notified of the filing of such preliminary plans and given the opportunity to examine such plans in the office of the City Building Official together with the opportunity to communicate any comments concerning the same to the Chair of the Residential Design Committee. If, solely on the basis of an examination of the Building Permit Application and its supporting materials, and any comments from neighbors of the property, a majority of the members of the Committee conclude that each of the following conditions has been met:

- 1) The proposed new residential or accessory structure, addition or replacement will not be out of harmony with the existing development in the immediate neighborhood, will not be visually offensive or inappropriate by reason of poor quality of exterior design, would not have monotonous similarity or visual discord in relation to other sites and surroundings in the immediate area and would not impair the use, enjoyment and desirability or reduce the values of other properties in the area. and is so designed and located that the public health, safety, and welfare will be protected;
- 2) The proposed construction will not adversely impact contiguous properties, including those located across street frontages or other properties in the immediate area;
- 3) The proposed addition or new residential structure will be constructed under such conditions and safeguards as may be required by the Residential Design Committee to protect the character of the community,

the design of the proposed residence, and/or accessory structure, shall be deemed to have been approved and the Chair of the Residential Design Committee will notify the City Building Official of this fact and, provided the proposed construction complies with all provisions of the Belle Meade Zoning Code, the City Building Official may cause a Building Permit to be issued to the affected property owner.

**14-215. Disapproval of Preliminary Plans** If, after examination of the Preliminary Plans and due consideration of any comments from neighbors of the subject property, the Residential Design Committee finds that all of the conditions specified in §14-214 have not been satisfied it shall not give preliminary approval to the proposed construction and the Chair of the Committee shall direct that the Application be placed on the agenda for the next Public Hearing of the Committee. The property owner and each of his or her abutting neighbors, including those on the opposite side of the street, shall be given notice of this Hearing and the opportunity to present such evidence as they deem material as to whether or not the design of the proposed structure complies with each of the conditions specified in §14-214 of this Ordinance. If a majority of the members of the Committee, based upon the evidence presented at the Public Hearing vote in favor of the Final Approval of the Application and, provided the plans for the proposed construction comply with all other provisions of the Belle Meade Zoning Code, the property owner shall be entitled to the issuance of a Building Permit.

**14-216. Disapproval of Plans After Public Hearing and Appeal for Variances and/or Special Exceptions** If the Committee finds and states that the structure for which a permit was requested would, if erected or altered as indicated, provoke one or more of the harmful effects set forth in the preamble to this Ordinance and, if the Committee has afforded the applicant an opportunity to confer upon suggested changes in the plans which it recommends, but which the applicant is unwilling to make, the Committee shall disapprove the application for a Building Permit, and the applicant shall be notified that the application has been denied.

If the plans for the proposed construction, after receiving Preliminary or Final Approval of the design from the Residential Design Committee, do not comply with all other provisions of the Belle Meade Zoning Code, it shall be the duty of the City Building Official to deny the application for a Building Permit. The property owner may appeal this action to the Board of Zoning Appeals to seek a variance or Special Exception to cure any violation in the Belle Meade Zoning Code. If the Property Owner elects to seek this relief from the Board of Zoning Appeals, the Board shall hear and decide the Appeal in the normal course at its next regular meeting, except that the action of the Residential Design Committee in approving the design for the proposed construction shall not be subject to review. If the appeal is successful, the City Building Official shall issue a Building Permit to the property owner permitting the construction or reconstruction of the proposed residential structure, and/or building addition, as approved by the Residential Design Committee. If the appeal to the Board of Zoning Appeals is not successful and the Board does not grant a variance or Special Exception, the Application shall be denied. If, in the course of the consideration of the appeal by the Board of Zoning Appeals, there are some changes in the plans which the Board believes are necessary in order to grant the relief sought by the property owner, which changes are inconsistent with the design of the proposed improvement as approved by the Residential Design Committee, this conflict shall be resolved in a conference between the Chair of the Board of Zoning Appeals and the Chair of the Residential Design Committee.

**14-217. Residential Design Committee May Make Suggestions** In its consideration of whether to grant Preliminary or Final approval of a proposed set of plans, the Residential Design Committee may make suggestions to the property owner of changes in the proposed plans which a majority of members of the Committee believe may make the plans more likely to meet the conditions specified §14-212 of the Belle Meade Zoning Code and if these suggestions are accepted, the property owner shall have the plans modified to reflect these suggestions and the Application shall be deemed to have been amended to reflect the same. If the Committee's suggestions are not accepted, the plans shall not be modified and the Committee shall consider and vote upon the proposed plans as originally submitted.

**14-218. Construction to Conform To The Approved Plans** Upon approval of the Plans by the Residential Design Committee, the approval of any required variances and/or special exceptions by the Board of Zoning Appeals and the issuance of a Building Permit by the City Building Official, the property owner may proceed with construction of the desired improvements; provided that no changes in the exterior elevations as approved by the Residential Design Committee shall be permitted excepting minor changes deemed immaterial by the joint action of the City Building Official and the Chair of the Residential Design Committee.

**14-219. IMPOSITION OF CONDITIONS** The Residential Design Committee and/or the City Building Official, as the case may be, shall have the authority to impose such

conditions and safeguards as it, or they, deem necessary to protect and enhance the health, safety, and welfare of the surrounding area, and to ensure that the proposed structure for which design review approval is sought, fully meets the criteria and purposes as set forth in this Ordinance.

**14-220.        EXPIRATION OF PERMIT** The approval by the Residential Design Committee will expire at the expiration of eighteen months from the date of its final issuance, unless a building permit has been issued and substantial construction has commenced in reliance upon the Residential Design Committee approval; provided, nevertheless that this time may be extended by the City Building Official with the concurrence of the Chair of the Residential Design Committee for reasonable cause.

**14-221.        PERFORMANCE BONDS** Whenever a Residential Design Permit is granted upon any condition or limitation, the person seeking the Residential Design Permit may be required by the Residential Design Committee to furnish security in the form of money or surety bond in an amount sufficient to ensure compliance with the conditions and limitations upon which such Residential Design Permit is granted. Every such bond shall be in a form satisfactory to the City Attorney, shall be payable to the City, and shall be conditioned upon compliance with the conditions and limitations upon which the Residential Design Permit is granted.

**14-222.        RE-APPLICATIONS.** At least one (1) year shall have elapsed since the effective date of disapproval of the application or revocation of a Residential Design Permit before a new application seeking substantially the same Residential Design Permit may be filed for any of the same property.

**14-223.        COVENANT** At the discretion of the City Building Official, to accomplish the purposes of this Ordinance, the Residential Design Permit may be issued in the form of a covenant running with the land to be signed by the affected property owner and recorded with the County Register of Deeds.

**14-224.        APPEALS** Any applicant whose application for a Residential Design Permit is denied by the Residential Design Committee may appeal the decision of the Committee to the Board of Commissioners of the City of Belle Meade by giving notice in writing to the City Building Official of his or her election to appeal within thirty (30) days following the effective date of the decision of the Residential Design Committee, after which the Board of Commissioners shall schedule a time for hearing the appeal as promptly as its schedule permits. The hearing shall be on the basis of the record of the hearing before the Residential Design Committee, but with a presumption as to the correctness of the decision of the Residential Design Committee.

**14-225.**        **EFFECTIVE DATE** This Ordinance shall take effect at the expiration of fifteen (15) days after its adoption.

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George Crook, Mayor

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Dorothy Wheeler, City Recorder

Passed First Reading

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Passed Second Reading

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