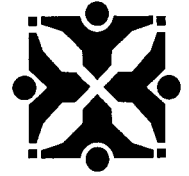


City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B144-14

Department Source: Community Development - BSD

To: City Council

From: City Manager & Staff

Council Meeting Date: June 2, 2014

Re: Three miscellaneous amendments to Chapter 6 (Building Code): I-1 and I-2 occupancies with 10 or fewer persons; frost-protected shallow foundations; and a time limit for appeals

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance

Supporting documentation includes: Excerpts from Minutes

Executive Summary

Attached for Council consideration is an ordinance that makes three changes to the City Building Code, Chapter 6. 1) The proposed amendment to the International Building Code (IBC) would allow certain occupancy classifications (I-1 and I-2) with fewer than ten persons receiving care to be regulated by the International Residential Code (IRC). 2) The proposed amendment to the IRC allows the construction of single and two-family dwellings with frost-protected shallow foundations as written in the code. 3) The Building Construction Codes Commission (BCCC) proposes limiting the time for appeals to ninety (90) days after a proper notice or denial has been issued. This is in response to staff's request as some appeals are filed six months or more past the initial notice.

Discussion

At its October 28, 2013 meeting the BCCC voted unanimously to amend the International Building Code (IBC) to bring I-1 and I-2 occupancies into conformity to I-4 and E occupancies and to amend the International Residential Code (IRC) to allow frost-protected shallow foundations in one- and two-family dwelling construction. A copy of the approved meeting minutes are attached.

I-1 occupancies are places where supervised residents reside on a 24 hour basis and receive custodial care. Examples include group homes, alcohol and drug centers, assisted living facilities, and halfway houses. I-2 occupancies are places where people incapable of self preservation receive medical care on a 24 hour basis. Examples include foster care facilities, hospitals, and nursing homes.

The code currently allows where there are five or fewer persons receiving care to be regulated by the IRC. In the previously enacted code amendments, day care facilities with 10 or fewer persons was amended to be regulated by the IRC. These small facilities are frequently in single family homes and if the IBC applied, many would require fire sprinklers. The State Fire Marshal currently regulates many of these facilities. For consistency in regulation and due to the minimal risk to health and safety it is recommended that these small I-1 and I-2 occupancies be regulated under the IRC.

The frost-protected shallow foundations were amended out of the code due to the insulation on the

City of Columbia

701 East Broadway, Columbia, Missouri 65201



exterior of the foundation and the potential for termite damage to the home. Due to the adoption of the slab insulation requirement in Chapter 11 which requires insulation on the interior or exterior, the provision of the code allowing frost-protected shallow foundations should be an allowed construction practice.

At the December BCCC meeting, staff asked that the Commission consider a deadline for appeals. There have been several cases where appeals have been filed that were not timely. By setting a time limit for appeals the Code will help resolve issues in a more timely manner. The Commission also recommends that further City action be stayed once an appeal is filed. This would be similar to how appeals are handled by the Board of Adjustment. The Commission unanimously approved a motion to recommend a 90 day limit on appeals.

Fiscal Impact

Short-Term Impact: None.

Long-Term Impact: None.

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Not Applicable

Strategic Plan Impact: Not Applicable

Comprehensive Plan Impact: Not Applicable


Suggested Council Action

Adoption of the amendments.


Legislative History

BCCC meeting dated December 23, 2013. Commission voted 9-0 to recommend a 90 day time frame for appeals.

BCCC meeting dated October 28, 2013. Commission voted 8-0 to amend IBC 308.3.1 and IBC 308.4.1 as discussed above.



Department Approved



City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 144-14

AN ORDINANCE

amending Chapter 6 of the City Code as it relates to occupancy classifications, frost-protected shallow foundations and limiting the time for filing an appeal for building construction code violations; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 6 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 6-17. Amendments.

The code adopted by this article is hereby amended by substituting the following sections in lieu of those sections with corresponding numbers in the code, or, where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

...

113.2 Application for appeals: The owner of a building or structure or any person directly affected by a decision of the building official or fire marshal may appeal to the building construction codes commission from a decision of the official refusing to grant a modification, variance or waiver to the provisions of the Building, Electrical, Plumbing, Mechanical, Fire Prevention, One- and Two-Family Dwelling or Property Maintenance codes covering the manner of construction or materials to be used in the construction, erection, alteration, or repair of a building or structure. Application for appeal may be made when it is claimed that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, an equally good or better form of construction can be used, or undue hardship is created by strict compliance with the letter of the code but has no significant effect on the health, safety and welfare of the public or any individual. An application for appeal shall be filed within forty-five (45) days of the date of the denial letter issued by the building official or fire marshal. A fee of one hundred twenty dollars (\$120.00) must be submitted with the application. The

fee shall be refunded to the applicant if the applicant appears at the commission meeting at which the appeal is scheduled to be heard. Appeals must be heard by the commission within ninety (90) days of the date of the denial letter issued by the building official or fire marshal.

. . .

305.2.3 Ten (10) or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having ten (10) or fewer unrelated children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

308.3.1 Ten (10) or fewer persons receiving care. A facility such as the above within a dwelling unit and having ten (10) or fewer unrelated persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

308.3.2: Change to read “Eleven (11) to sixteen (16) persons” receiving care.

308.4.1 Ten (10) or fewer persons receiving care. A facility such as the above within a dwelling unit and having ten (10) or fewer unrelated persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

308.6.4 Ten (10) or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having ten (10) or fewer unrelated persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

. . .

Sec. 6-66. Amendments.

The code adopted by this article is hereby amended by substituting the following sections in lieu of those sections with corresponding numbers in the code, or, where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

. . .

Figure R403.1(1) Concrete and Masonry foundation details: A monolithic slab with integral footing shall have the following: a #4 reinforcement bar spaced a minimum of forty-eight (48) inches on centers to provide connection of footing to slab. The vertical rods shall extend to within four (4) inches of the bottom of the footing and be turned to provide a horizontal leg that extends a minimum of twelve (12) inches into the slab.

~~R403.3 Frost-protected shallow foundations: Delete in its entirety.~~

R404.1 Concrete and masonry foundation walls: Add additional paragraph: Drawings showing options labeled as drawing 1.1, 1.2, 1.3, 1.4, 2.1, 2.2, 3.1 and 3.2 are intended to be alternative methods to comply with lateral support of foundation walls and subsections for connection of foundation to floor; and option labeled as drawing 4 is intended to be in compliance with subsections for reinforcement in walls and connection of foundation walls to floor.

. . .

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2014.

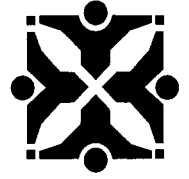
ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor



SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Excerpts from Minutes

MINUTES
BUILDING CONSTRUCTION CODES COMMISSION
December 23, 2013

MEMBERS PRESENT

Mr. Fred Malicoat
Mr. Jay Creasy
Mr. Kas Carlson
Mr. Brian Connell
Mr. David Weber
Mr. John Page
Mr. Richard Shanker
Mr. Matt Young
Mr. Mike Rose

ALTERNATE MEMBERS PRESENT

Mr. Greg Linneman
Mr. Shaun Tompkins
Mr. Christopher Howe

I.) CALL TO ORDER

MR. MALICOAT: Okay. It's 4:30. Let's call the Building Construction Codes Commission to order.

II.) APPROVAL OF MINUTES

MR. MALICOAT: First thing, we'll look at the minutes. Everybody have a chance to read the minutes and approve them? I'll entertain a motion.

MR. PAGE: Motion to approve the minutes.

MR. MALICOAT: Okay. We have a motion by John Page to approve the minutes. Is there a second?

MR. ROSE: Second. I'll second it.

MR. MALICOAT: Mike Rose, second. All those in favor, aye. Opposed?

(Unanimous voice vote for approval.)

MR. MALICOAT: Okay. Minutes approved. Like to welcome two new members here we have: Shaun Tompkins and Greg Linneman.

MR. CONNELL: Welcome.

MR. LINNEMAN: Thank you. No applause?

MR. PAGE: It pays really well.

MR. LINNEMAN: It does.

MR. CONNELL: It's tradition that you guys buy.

MR. LINNEMAN: Oh, is that how that works.

MR. MALICOAT: Okay. Phil.

MR. TEEPLE: For the new members, this is recorded by a court reporter, so it's very important to take turns talking so that they can accurately record the meeting.

MR. MALICOAT: Good plan. All right.

III.) PUBLIC HEARINGS

Case 13-015 Michael McClung 1601 Range Line Street

Michael McClung is requesting a variance to the 2012 International Building Code, Section 3303.4 which states in part "where a structure has been demolished, or removed, the vacant lot shall be filled, leveled, and graded to provide proper drainage with no ponding of water..."

MR. MALICOAT: Let's get on with our first case. No. 13-017, Michael McClung, 1601 Range Line Street. Michael McClung is requesting a to the 2012 International Building Code, Section 3303.4 which states in part "where a structure has been demolished or removed, the vacant lot should be filled, leveled, and graded to provide proper drainage with no ponding of water."

Okay. Mr. McClung and Staff, could I get you to be sworn in please.

(Witnesses sworn.)

MR. MALICOAT: All right. Mr. McClung, you want to state your case for us please.

MR. McCLUNG: I stated it fairly well in the letter. I don't know if there's any questions or if you want me to read -- go over the entire letter.

MR. MALICOAT: Okay. Everybody have the letter? Do you have a specific question? Do we need him to read it or do we have it all in mind? Any explanation required?

MR. CONNELL: I have a question.

MR. MALICOAT: Okay. Brian.

MR. CONNELL: Mike, can you describe for us the condition of the site today?

MR. McCLUNG: The condition of the site today is a parking lot with a leveled building or a slab in the center of that parking lot and everything else around that parking lot is just mowed grass.

MR. CONNELL: So is it your opinion that there are no hazards present?

MR. McCLUNG: I don't believe there are any hazards on the site, no.

MR. CREASY: Nothing protruding from the slab that --

MR. McCLUNG: The slab -- they had sheared the slab clean. I mean, we don't intend to use the slab again, so they had ran a rubber vehicle and sheared everything clean.

MR. PAGE: What do you mean sheared everything clean?

MR. McCLUNG: Well, any plumbing that was -- you know, everything was sheared off.

MR. SHANKER: Staff?

MR. MALICOAT: Rick?

MR. SHANKER: What's up?

MR. TEEPLE: Per the building code amendments, and this was amended to the best I can tell whenever the 2009 codes were adopted, they more clearly defined what a vacant lot was, and this is per the IBC. And it says, Where a structure has been demolished or removed the vacant lot shall be filled,

leveled, and graded to provide proper drainage with no ponding of water. Commercial lots: Paved auto driveways and parking areas may remain provided they are in acceptable condition. Building excavations may be filled with clean fill or crushed. Parking on these areas is not permitted. Residential lots: Existing excavations are to be filled and graded to a mowable condition with all building materials, trash, and debris removed. Adequate fill is to be placed for potential settling. The complete structure shall be removed, which includes all slabs and foundations 18 inches below the predemolition finished grade, leaving the lot in a natural buildable condition without hazards, without ponding, and mowable. All accessory buildings are to be removed at the time of demolition of the primary structure. All lots without sufficient vegetative cover to prevent erosion from the site shall have erosion control measures installed at the final inspection. Essentially this goes into a lot more detail than the standard code --

MR. SHANKER: But what's the problem is what I want to get to.

MR. TEEPLE: The problem is, we have been very consistent in the past of requiring whenever a building is demolished, commercial or residential, the slab and the footings to a depth of 18 inches are removed completely. What we have asked Mr. McClung, he's demolished the building, and we have asked -- he did not remove the slab and the footings. So that's what we're asking at this time.

MR. SHANKER: So you not want a variance to keep the slab and the footings?

MR. McCLUNG: When I went into the City, I asked if the slab needed to be removed, because when I read the ordinance, it was questionable either way. The gentleman said he misunderstood me and said -- I had asked, Can I leave the slab in the parking lot. He said he misunderstood that the slab was the parking lot is what he thought I was talking about. We went ahead and did all the work and then on final inspection, they said you have to take the slab as well. So there was misunderstanding there, but then when I reread the code, it still, the removal of the foundation is after residential lots, not after commercial lots. And it's, in our opinion, fairly clear on that. But, yes, if that's disagreed with, then we're asking for a variance. It's not visible from the street, it's not creating a hazard of any sort, and I think it's fairly obvious for another person purchasing the property that there's a slab in the middle. We're not going to surprise anybody that there's a foundation left there.

MR. SHANKER: Can I follow up, Fred?

MR. MALICOAT: Sure.

MR. SHANKER: Is that foundation footing good for another building where it sits?

MR. TEEPLE: In general what we have -- what I talked to Mr. McClung about is that if he wants, we would allow him six months, if he wanted to come with plans to build a new building on that slab. In general it is very difficult to reuse an existing slab when you think about the plumbing issues, the foundation and structural issues. To me it's not practical to reuse a slab there.

MR. SHANKER: Thank you. And one more. What was the -- I didn't get the program for today. What item did you check in terms of why you should be granted a variance?

MR. PAGE: Three and four.

MR. SHANKER: Pardon me?

MR. PAGE: The only one he didn't check was --

MR. SHANKER: You can't do all three I don't think. You can only do one. Isn't that correct?

MR. MALICOAT: Correct.

MR. SHANKER: You didn't know that.

MR. McCLUNG: I didn't know that. And I guess the first thing I was asking for was the interpretation of the actual code. And the second thing I was asking for was a variance if your interpretation was --

MR. SHANKER: Right. But here where you have three checked, you can only -- and you didn't know this; it should be on here. You can only, for some unknown reason, check one of them.

MR. McCLUNG: Gotcha.

MR. SHANKER: So on what basis do you want the variance? And you can think about it for a minute. If you don't have it, we'll pass it down to you.

MR. McCLUNG: I guess the -- my safe assumption would be to say an undue hardship because I believe that that qualifies that it's not affecting anybody in a negative manner. And making me follow the strict letter of the code, I'm paraphrasing from what I read, making me follow the strict letter of the code it's going to cost 20-plus thousand dollars to no benefit, but to create a grass spot in the middle of this parking lot.

MR. MALICOAT: Dave.

MR. WEBER: I don't know if you all remember when we went through the code cycle when John said where this came up. I think there had been a number of examples. I remember us working with the city to tweak that language and get it the way we wanted for the purpose, that I recall and I -- there may be somebody that remembers differently, was that the definition of how you demolish a building and leave the site was pretty shaky. Because there was a number of buildings that I understood the reason why it got brought up in the first place was that they stuck out of the ground and looked bad. To me I think that there's two real issues is is that the aesthetics and the safety. I think obviously the safety isn't an issue here. There's only one reason why you want to have 18 inches without totally removed is for looks. And so I don't know what this looks like or what the intent is, but what we don't want is a municipality that looks like halfway tore up buildings because you're not finishing the job. Conversely if it looks like a slab on the ground like a sidewalk, I don't think that's a big aesthetic issue. So that's what we're talking about, right?

MR. MALICOAT: John.

MR. PAGE: What are we -- is that the IBC? What the IBC code is?

MR. TEEPLE: Yes.

MR. PAGE: We're at 18 inches. I mean, you'd have to take it down lower than 18. Where does this 18 inches come from?

MR. WEBER: We worked with the City on that language because they wanted it to look good after a building was raised and not look shabby after a building was raised. And that's the verbiage we settled on. So in effect we're pretty much removing it, for all intents and purposes.

MR. PAGE: And then this particular permit was issued on July 16th of this year. And we're coming up on 180 days middle of next month.

MR. TEEPLE: Yeah. Whenever I talked to Mr. McClung I believe that was around the end of October or November. So we were looking at give him until I think March or April to --

MR. PAGE: So you've already extended the deadline then with this 180 days?

MR. TEEPLE: Essentially, yes.

MR. MALICOAT: Jay.

MR. CREASY: On this particular site is this where the Everett's building used to be?

MR. McCLUNG: Correct.

MR. CREASY: So you've got the slab of the building and then you've got a concrete parking lot that goes all the way around it?

MR. McCLUNG: The parking lot goes all the way around it and a good distance all the way around it. Our intent was we were not going to tear down the building if we were going to have to remove all the foundation; that was just going to create a problem. But the building was vacant for a few years and we were worried about its aesthetics moving forward. So we were trying to remove the aesthetics. That's why I went down and I asked the question before we pulled the permit. There was a misunderstanding. I can understand the misunderstanding, but then I think the code of language is still questionable at that point. But yes, it is a slab in the middle of a parking lot, and it's again, not visible from the road. It's at grade so it doesn't stick out.

MR. WEBER: It's at grade.

MR. MALICOAT: Rick.

MR. SHANKER: So have you been out dollar?

MR. TEEPLE: I have not.

MR. SHANKER: Let's just assume it's at grade so there's no trip hazard. And if somebody gets hurt up there, it's his problem.

MR. PAGE: I don't think it can be at grade. Did you grade the dirt up clear to the slab there?

MR. McCLUNG: It's a parking lot.

MR. PAGE: Isn't there a fire guard around it, sidewalks, a curb?

(Multiple people speaking simultaneously.)

MR. McCLUNG: There's some stuff around. I mean, it's not at perfect grade, but I don't think it's a -- you know, it is a flat slab I guess.

MR. PAGE: Rick, it's going to have to stick up some so you can get your slope away from it unless they, you know, roll up the dirt to it.

MR. MALICOAT: Brian.

MR. CONNELL: I'm going to make a motion to grant the appeal.

MR. MALICOAT: Okay. We have a motion to grant. Is there a second?

MR. CARLSON: Second.

MR. MALICOAT: Second by Kas. All right. Any further discussion?

MR. PAGE: In granting this appeal should there be some type of time frame attached to when he needs to submit this or does this go on forever or what are we doing here?

MR. MALICOAT: Rick.

MR. SHANKER: Your motion is forever I reckon.

MR. CONNELL: It is. We're in discussion, correct?

MR. MALICOAT: Right.

MR. CONNELL: And the reason for that is, maybe I should add conditions to it, but if, in fact, it's a level slab with no projections that would cause a hazard to safety that you impale yourself on and if, in fact, it's not a breeding ground for mosquitos, I don't know why it can't be an indefinite situation.

MR. PAGE: One other question. Are there any foundation bolts or anything --

MR. McCLUNG: Like I said, they took the skid loader and just sheared everything.

MR. MALICOAT: Matt.

MR. YOUNG: I do have a little bit of concern about, I mean, you have plumbing stacks and everything sheared off, that's still a hole, a four-inch pipe. A child can definitely get a foot down in the pipe. I think you'd probably want to cap all that stuff off for sure, pour concrete in it.

MR. MALICOAT: You want to amend?

MR. HOWE: And the sewer gas, the sewers. May be some gas coming out.

MR. McCLUNG: There's no gas; it's not connected.

MR. MALICOAT: Brian, you want to amend your motion?

MR. CONNELL: Mr. Chair, I'd like to amend my motion to include, my motion to include capping or otherwise plugging any open pipes.

MR. MALICOAT: Kas, you still want to second that?

MR. CARLSON: Yes.

MR. MALICOAT: Okay. Any further discussion?

MR. SHANKER: Just one more question. Has anyone looked at this in your department?

MR. TEEPLE: Darrell was out there to do the demolition inspection.

MR. PAGE: I'm still not convinced in my mind there shouldn't be some kind of time frame attached to it. Just a thought.

MR. WEBER: I do recall specifically that that's the reason why that verbiage got put in above and beyond what the normal code is. Because there were numerous sites that had shabby looking basically slabs that stuck out of the ground. And to me if this is two or four inches above there and there's curbs and there's a parking lot, it doesn't really fit into that, probably, issue anyway, so.

MR. TEEPLE: Could --

MR. MALICOAT: Phil?

MR. TEEPLE: Could I just ask for the record since this an appeal based on hardship, what the hardship is that is found by the Board?

MR. SHANKER: It's financial obviously. May I ask another? Is there -- is this what would happen if anything ever happens to the burned out building on -- across from the cancer hospital? Will that have to also be dug up and -- is that how that's going to be treated also?

MR. TEEPLE: Correct.

MR. SHANKER: I see. I thought that was the final product we were looking at. So that's not the case?

MR. TEEPLE: (Shook head.)

MR. SHANKER: I just have to say that I'd like to have Darrell come in or somebody that could tell us exactly what it is. I don't think it's fair for the applicant or us to judge. Matt brought up a good point. And I don't know if your point is pro or against it, but if there are protrusions you could trip on there, that's your liability. You don't want that. And kind of like maybe we need an extension or we need to table it or something or vote on it and see what happens. I don't know.

MR. WEBER: I do think pictures would help. I mean, I could see why the City would not want a bunch of partially demolished sites sitting around. It looks like -- it kinds of looks like Detroit.

MR. SHANKER: Well, or Sturgeon or Columbia. Maybe a gate up even so no one can get up there. Obviously you can't see it from the street, but maybe a gate up to protect the public so nobody can drive up there, cause you further headaches too. But maybe pictures, I don't know. I just don't know whether to go forward or against it.

MR. MALICOAT: John.

MR. PAGE: I don't -- cannot vote for it without some kind of time frame. I just can't see letting it go on and on and on. I mean, it's already been almost six months. That's just my opinion.

MR. TEEPLE: Well, I would be agreeable to a tabling so we could get some picture of the site and have Darrell at the next meeting.

MR. MALICOAT: Okay.

MR. SHANKER: And does that suit you? I mean you'd rather have a variance.

MR. McCLUNG: Well, yeah. I guess the liability issue, I mean owning a reasonable amount of property, I have liability on anything, so I guess the liability point I don't fully comprehend of the -- I don't know that it's -- but it's my liability and I understand that. I think the suggestion is well-taken and we'll probably go up there and do that immediately. But as far as the liability issue, I think is, you know, ours to address on any property, as far as a gate or any of that.

MR. PAGE: But if we grant you an ordinance, we're condoning it. So, yeah, liability's on you, but it's still --

MR. SHANKER: We're not liable, John.

MR. PAGE: We're not liable, but it's still on your conscience if we done this. And I just -- I still think it ought to have a timetable.

MR. HOWE: Is the property on the market?

MR. McCLUNG: Yes.

MR. HOWE: And this is not just the Everett's parking lot, but it's that whole trailer park behind there?

MR. McCLUNG: It's no longer a trailer park.

MR. HOWE: Right. Well, former. Former.

MR. McCLUNG: Yeah. But it's 14 acres.

MR. HOWE: Fourteen?

MR. McCLUNG: Yes.

MR. SHANKER: Unless you want to remove your proposal, I suggest we call the question and act on that and go from there. There is something on the floor.

MR. MALICOAT: We have a motion.

MR. CONNELL: And a second.

MR. MALICOAT: And a second. So we can vote on it and then choose -- I guess the applicant could say, I'd like to table this until the next time and come back with further information, pictures, and so forth and have the inspector's report maybe. Brian.

MR. CONNELL: I haven't done a head count. Do we have enough?

MR. WEBER: Yeah, that was my question. Are we going by the new rules now or the old rules?

MR. TEEPLE: The new rules. So we pick one person I think not to vote.

MR. TOMPKINS: I think I would be a good one because I've never heard any of this before.

MR. WEBER: If everybody's here in their slot, that -- wasn't that the rule, is that they fill in the slot first and then if they don't -- if we don't have slot, anybody can join in the reindeer games?

MR. TEEPLE: I think -- Greg, is your --

MR. SHANKER: We don't need --

MR. TEEPLE: -- alternate --

MR. SHANKER: -- everybody to vote.

(Multiple people speaking simultaneously.)

MR. McCLUNG: It's my choice to table or vote and if there's a vote, then I can't come back with pictures? Is that --

MR. CARLSON: If we vote and the vote is no, then you don't get to -- I mean, you've got to --

MR. HOWE: There's no second appeal.

MR. CARLSON: No second appeal.

MR. McCLUNG: Risky vote.

MR. SHANKER: What does he have to have to pass, seven? How many are there? There's nine, so he has to have six to win.

MR. MALICOAT: Six consenting votes.

MR. SHANKER: You have to have six out of nine.

MR. McCLUNG: Well, if we table, what -- what date?

MR. MALICOAT: Be the January meeting which is the fourth Monday. And you would have your pictures and things in ten days prior to that.

MR. McCLUNG: What if -- I'm out of town that week. Is it possible to table it another 30 days?

MR. MALICOAT: You can table it until the February meeting which would be the fourth Monday, probably the 26th or 8th or somewhere.

MR. SHANKER: Hopefully you'll sell it by then.

MR. McCLUNG: All right. I mean, I guess we can table it.

MR. MALICOAT: Until the February meeting?

MR. McCLUNG: If that's what the board -- I mean, I understand it's my choice, but it seems like a strong suggestion, so I'll -- I'll table it.

MR. MALICOAT: Okay. We'll vote on it. We'll see you in February.

IV.) OLD BUSINESS

MR. TEEPLE: One thing I'd like to bring up is time limits on appeals. For example the Board of Adjustment has a, I think it's a 90-day time limit from whenever somebody receives a decision from City staff that they can bring an appeal before the Board of Adjustment. This commission does not have that sort of time limit and I think it might be, from Staff's position, I think it would be useful to have that.

MR. MALICOAT: John.

MR. PAGE: I can remember meeting up on this not too long ago. Leigh Britt had something that was six or seven months olds and I asked her the question. I don't know if you remember that.

MR. TEEPLE: I do.

MR. PAGE: I said, Don't we -- shouldn't we have some kind of time frame for this? I mean, why let something drag on for six or seven months. She said she didn't seem too worried about it. And we kind of dropped it, but Phil brings this point up again, so maybe we should.

MR. MALICOAT: Yeah. We just --

MR. SHANKER: I guess I don't know, what difference does it make?

MR. McCLUNG: Thanks.

MR. SHANKER: Thank you.

MR. TEEPLE: Well, for example we could issue an order and just say something has to be done or some item corrected. And let's say that person doesn't, you know, take action, comply with that. I mean, it could be a year before, you know, that situation comes to a head, goes to court, whatever. They could still come back to this board and appeal it. I think that's one of the issues that we see. We also see things that just drag out that should, if they really want to appeal, they really think they've got a hardship or codes aren't being interpreted properly, it ought to be taken care of in a timely fashion.

MR. PAGE: The only time it seems to me that it's taken care of in a timely fashion is if it's holding up a closing, getting occupancy permit, or some urgency. Otherwise, there's no sense of urgency and they're going to put it off as long as they can, until they have to do something unless there's sense of urgency. We may have to create that by having a time limit.

MR. CARLSON: Their sense of urgency would be Phil or the City taking them to court or putting a halt and desist on them saying no more.

MR. ROSE: Which has happened.

MR. CARLSON: You can still halt it, but it kind of extends what's going to happen in the end.

MR. ROSE: That's actually a question I was going to ask. How long's this guy got.

MR. TEEPLE: Technically per -- this commission's ordinances, so there is no time limit on appeals. He could appeal it months from now.

MR. WEBER: Well, if we do use a time or settle on a time limit, when does the ticker start? Because this has been going on for six months and we just heard about it.

MR. TEEPLE: Yeah. And the ticker would start whenever Darrell issues him the correction that this does not meet city ordinance.

MR. SHANKER: A year. If that's -- if that will help you guys, a year.

MR. WEBER: What are the repercussions then? What can we do besides involve the City Attorney?

MR. HOWE: Then they forfeit their right to appeal or -- and then it goes back to the City? I mean, if they don't appeal, what's the procedure?

MR. TEEPLE: Basically what typically happens in other cities is they've got 30 or 60 days to appeal. Once they run out of that time limit on the appeal here, then they'd have to go to like a circuit court. They would still have a form of appeal, but even, you know, circuit court would say, If you didn't exhaust your administrative process by going through, by appealing it to this board, unless they had really good reason, the circuit court throw that out.

MR. HOWE: Under current City of Columbia ordinance if they either don't appeal or lose the appeal, what currently happens?

MR. TEEPLE: Under current city ordinance, our next step if they do not appeal and we need to have something corrected, then it goes over across the street to the municipal court and then it goes through that process which is a very lengthy process which they really ought to, if they're in the middle of that process, we don't want them to be in the middle of this process at the same time.

MR. HOWE: No, right. I understand that. What I'm trying to understand, if we put a time line on the appeals process, we don't really need any other -- there's already regulations in place once we say, After X number of days or months, whatever, you forfeit your right to appeal.

MR. TEEPLE: Correct.

MR. WEBER: I think we should probably make sure we don't lose the ability to extend that time limit as a body, right? Wouldn't you think? Like for example, the lady with the fire --

MR. HOWE: Oh, yeah.

MR. WEBER: -- alarms and how we extended that.

MR. HOWE: I would agree with that.

MR. CARLSON: Right now we're just talking about this time limit on them getting turned down and coming to us for the appeal which actually starts your ticker, doesn't it, Phil, when you would take steps possibly to take them to court, correct?

MR. TEEPLE: Correct.

MR. CARLSON: We're not saying that we couldn't redo their appeal again, right? Extend it out farther? We're just putting a time limit on them to bring it to us.

MR. HOWE: Sure. That would be someone from, I don't think that's the case today, but saying, Oh, I'm going to be out of town for the next six months so can we appeal this in October of '14.

MR. CARLSON: All we're talking about is them coming, bringing it to us.

MR. MALICOAT: Rick.

MR. SHANKER: The things that are important to an individual, a parking lot, he doesn't care about. And I'm not pointing fingers at him or Temple Stephens lot. They don't care. So a year, if they can't get it in a year, they got problems. That's why I came up with a year. It's just, if you feel comfortable and you get time, if somebody wants ten days or something, something more or less than a year, let's get it out there and move on. But I don't even know if we could vote on it. How would we be the ones that are making that --

MR. TEEPLE: Well, you're the board and you can set those kind of rules. I think we would need to probably amend the city ordinance.

MR. SHANKER: Then approval by the council?

MR. TEEPLE: Yes.

MR. MALICOAT: We would just recommend --

MR. WEBER: Seems like --

(Multiple people speaking simultaneously.)

MR. TEEPLE: I think the Board of Adjustment is 90 days if I'm correct.

MR. SHANKER: That's them.

MR. CARLSON: I think a year is stretching it out too much.

MR. SHANKER: That's fine. Let's --

MR. CARLSON: I like the 90-day rule.

MR. SHANKER: I think it's too short.

MR. CARLSON: They want to come down, they got 90 days to act on an appeal.

MR. SHANKER: I think it's too short. People could be out of town, could be --

MR. WEBER: We have to leave discretion. I mean, if it's not a big deal to the City, can't -- shouldn't the discretion be when the ticker starts? I don't know. I mean, it seems like there could be a lot of really minor issues that could blow out of proportion with that type of ticker.

MR. SHANKER: Would you settle for nine months? Six months?

MR. CARLSON: What are you suggesting, Dave?

MR. WEBER: I'm just saying is there a big problem? Just because this guy said he wasn't here next month --

MR. SHANKER: I don't think there's a problem quite honestly, but he thinks it's important for them to have it as a tool, that's why offering 12 months.

MR. WEBER: What do you think, Phil?

MR. McCLUNG: Well, I've seen quite a few cases like the fire extinguisher cases, you know, where they come at the last minute and you've got other people who have said, Well, we're going to appeal these things, and maybe most of them have not actually ended up doing anything. But there's these possibilities out there that we want justice to be both quick and correct. So I think -- also, the other thing we see is if there is a delay, the less fresh those things are in our minds. So I would like to see, to me, 90 days, six months, anytime in that time frame seems pretty reasonable.

MR. MALICOAT: Rick?

MR. SHANKER: I'd like to make a motion that we grant his request for six months.

MR. WEBER: I second it.

MR. MALICOAT: Any discussion? John.

MR. PAGE: Question though: Can you change when the ticker starts? Do you have that -- I mean is that -- if there's something that's really minor and the ticker starts and then you find out, I don't know --

MR. TEEPLE: The last thing I want to do is have people come to this board or go to municipal court. It's -- if it's something minor, it's not even going to come here. I mean, that's -- the things that you guys deal with are usually fairly substantial in nature. Somebody needs a sprinkler in a building, install fire alarms, demolish, you know, spend \$20,000 demolishing a slab.

MR. SHANKER: Well, I know that when they do an inspection, that's the date of -- that's when it starts. When you get the rough-in finished, complete, that's when it should start. Because that's your documentation unless there's more documentation that says, Well, we'll reinspect --

MR. PAGE: It's going to be set in stone.

MR. CREASY: Can't it start when they get notice of the violation?

MR. SHANKER: When they get the inspection.

MR. CREASY: Does that mean they get it then, immediately?

MR. TEEPLE: There was one example that went to the Board of Adjustment where we did a framing inspection and put a note on the inspection that we didn't think it met the ordinance. Was that proper notification of the violation, I didn't think so. So, and I found out about it like three months later. So I sent him letter saying, Here's a formal letter saying this is the violation and this is what you need to do to appeal. Sometimes our notifications don't say per IBC Section such and such this is your violation. And I think that's also adequate for proper notice to someone, you know, to know what specific provision of the code they violated, not just, Your rafter span is too short. That's not specific enough.

MR. SHANKER: Is this the McNabb thing where the setback wasn't right?

MR. TEEPLE: No.

MR. SHANKER: Well, one came up with the Board of Adjustment where the inspector came out, said, Everything looks good, your footing, it really needs to be 60 foot back. It was a comment that he made; he didn't write it down. And then final inspection came and, Your building has to be 60 foot back, so that's how it came up with the Board.

MR. TEEPLE: Well, that is a good example of one that --

MR. SHANKER: But that was, with all due respect, your guys' fault for not saying, You've got to take care of this now. Because the building, they just brushed it off. But getting back to when it goes into effect, it should be the date of the inspection where it's cited. Easy for you, easy for the courts.

MR. CREASY: I think six months is too long of a period though. For one, if there's a problem, you get six months down the line, a whole lot can change within that six months. And then somebody can come back and say, Well, now I've got this; now --

MR. WEBER: Now it's a hardship.

MR. CREASY: Yeah. Now it is a hardship.

MR. WEBER: It's the owner's responsibility to comply with the code.

MR. CREASY: I mean, they're just coming to -- for an appeal. It doesn't mean anything has to be done that day.

MR. SHANKER: That's fine. Let's go to 60 days.

MR. WEBER: We're going to basically tell people to ask for forgiveness.

MR. CREASY: Well, and I think that could be part of it.

MR. SHANKER: Did I already suggest six months?

MR. WEBER: You did, yes.

MR. SHANKER: I'd like to call the question on six months.

MR. MALICOAT: Okay. Vote on six months?

MR. SHANKER: Don't we have to vote on calling the question first?

MR. MALICOAT: Call the question. Call the question. All those in favor?

MR. HOWE: How are we voting?

MR. LINNEMAN: Am I voting on this one?

(Vote was taken by a show of hands.)

MR. MALICOAT: Opposed?

(Show of hands.)

MR. MALICOAT: I got more hands to call the question so we're going to vote on the six months, okay? All those in favor of having it six months for the notice.

(Vote was taken by a show of hands.)

MR. MALICOAT: Five. Opposed?

(Show of hands.)

MR. MALICOAT: Six. Five, four, six again.

MR. SHANKER: We got six months out of the way. Next?

MR. MALICOAT: Now, next proposal?

MR. CONNELL: Six months to when?

MR. SHANKER: To appeal. So once the staff notifies you of a violation, you have six months to appeal.

MR. TEEPLE: To appeal to our office.

MR. SHANKER: That doesn't mean that he can't take action other than -- that does not mean he can't go to court. That doesn't give them the leeway --

MR. HOWE: You can't do anything when you're trying to get a variance. Because you could still go to court.

MR. CARLSON: Depends on the severity of the action.

MR. TEEPLE: The Board of Adjustment stays any proceedings whenever an appeal is filed with the Board of Adjustment. Unless there was substantial hazard to public health, safety, or welfare, we would stay any sort of you --

MR. SHANKER: For the time period granted to you if there's one granted?

MR. HOWE: Would this be until they get their paperwork in, file the appeal, ten days or more before a meeting?

MR. MALICOAT: I'd say file any paperwork, wouldn't you?

MR. TEEPLE: The day that we received it. It would have to be within 90 days or whatever number of days.

MR. HOWE: So it's not sitting in that chair necessarily.

MR. CARLSON: It's not sitting in front of us.

MR. MALICOAT: Rick.

MR. SHANKER: Motion for three months?

MR. ROSE: Second.

MR. SHANKER: Call the question.

MR. MALICOAT: Okay.

MR. SHANKER: Whittle it down.

MR. MALICOAT: Any other discussion for three months?

MR. CREASY: Can we put actual days as opposed to months?

MR. SHANKER: Ninety days. I'll amend it to 90 days.

MR. MALICOAT: Okay. Mike, you still second that?

MR. ROSE: I still second it.

MR. CONNELL: Have discussion?

MR. MALICOAT: Yes.

MR. CONNELL: Okay. Got a question. Phil's office notifies someone of a violation, and we're talking about a time frame for them to file or not their appeal with this commission. Why do we need to

give them 90 days? What -- I mean, I work in this business just like everybody else in this room. I'm not sure I understand why we need 90 days to prepare a case for anything I can think of.

MR. WEBER: Well, basically owners are blowing it off. That's why.

MR. CONNELL: I'm going the other way. Why that much? Why that long?

MR. SHANKER: That's what he's saying too.

MR. WEBER: It's a two-edged sword. I mean --

MR. CARLSON: Right now there is no time limit on it so they can do whatever they want to.

MR. ROSE: It's basically, to me, it's putting them in a place where they have to make a decision one way or the other. And then after the 90 days, then they're where they're at.

MR. CONNELL: Then they're in violation.

MR. ROSE: Yeah, then they're in violation. But it's their choice.

MR. SHANKER: Some people, A, don't know there's an appeal process. Need to get lawyers and you need to get documentation. Or let's not do anything; I don't care. Either not pass something or 30 days, 10 days.

MR. HOWE: I don't think it should be any less than 90 days for several of the reasons you just said. You know, some people are unfamiliar with the process and need to find out if they need a lawyer. If it's a more complicated thing, it might need to go to an engineering firm, an architect and say, Hey, do I have a case. I mean, is there something, you know, I'm missing here?

MR. PAGE: If we do 90 days and it's not working, we can change it.

MR. MALICOAT: Change it again.

MR. SHANKER: If they bring a lawyer, it's ten days.

MR. PAGE: Well, it's not that we can't change it if it's not working.

MR. SHANKER: If it makes him happy --

MR. MALICOAT: Okay. Let's vote on 90 days. All in favor of 90 days, raise your right hand.

(Unanimous show of hand vote for approval.)

MR. MALICOAT: Unanimous. Thank you. Opposed?

MR. SHANKER: One more thing.

MR. MALICOAT: Yes, sir.

MR. SHANKER: I'd like to vote on really quick. These forms come in, everybody checks everything in the box. Do you think your department could change those forms so it says, Check one only please.

MR. TEEPLE: Absolutely.

MR. SHANKER: Because it's confusing to the applicant. I can see why they'd check them all.

V.) ADJOURN

MR. CARLSON: I'd like to make a motion to adjourn.

MR. ROSE: I second that. We don't need to vote on that.

MR. MALICOAT: Okay.

(The meeting was adjourned at 5:10 p.m.)

(Off the record.)

Building Construction Codes Commission
October 28, 2013

Member Present:

Doug Muzzy
John Page Jr.
David Weber
Matt Young
Rob Jackson
Fred Malicoat
Brian Connell
Jay Creasy

Members Absent:

Richard Shanker

Mr. Malicoat called the meeting to order at 4:34 p.m.

Mr. Malicoat stated he wanted to make a change to the order of the agenda and move the radon discussion to last. He asked if there were any objections to the change, there were none

Mr. Malicoat asked if there was a motion to approve the minutes. Mr. Page stated that his statement from the last meeting was misquoted and should read "But they never revealed that she smoked two packs of cigarettes for ~~four~~ forty years."

Mr. Weber made a motion to approve the minutes as amended. Mr. Jackson seconded the motion. Unanimous voice vote for approval was given.

Mr. Malicoat turned the floor over to Mr. Don Stohldrier to discuss frost protected shallow foundations. Mr. Stohldrier spoke about wanting to use frost protected footings on new homes he was building and that this was already in the code but got amended out this code cycle.

Mr. Page and Mr. Weber said that the reason it was amended out was due to nobody doing it and the termite concern. Mr. Teeple said that there was also some confusion as to the figures and how to implement it. To construct it per the code a 4" drainage layer under the footings is needed and must be drained to daylight. The exterior of the footing has to be formed and insulated. Due to a separate requirement of the energy code, horizontal insulation must also be installed and protected from crushing by either plywood or asphalt or concrete pavement.

Mr. Page made a motion to remove the amendment deleting IRC R403.3 Frost-protected shallow foundations. Mr. Weber seconded it. Motion passed unanimously 8-0.

Mr. Malicoat turned the floor over to Mr. Joe Gruender. Mr. Gruender stated he was working with Boys and Girls Town on a group home and asked Mr. Teeple to explain the code issue. Mr. Teeple stated this was not an appeal, but related to the recent code amendments. During IBC discussions amendments were made for group E and I-4 occupancies with less than 10 people receiving care. Groups I-1 and I-2 which have similar language which allows for 5 people and under to be administered by the IRC. Mr. Connell stated that he remembered discussing this and that there was no action taken but the same rule should apply to all of the situations. Mr. Connell read the list of I-1 and I-4 occupancies. Mr. Teeple read the list of I-2 occupancies and noted that there is a difference in that people are typically sleeping overnight in I-1 and I-2 occupancies. In the Boys and Girls Town group home situation, if the code is applied as currently adopted, the house will probably require fire alarms and sprinklers. Mr. Gruender stated that the group home is also under the purview of the State Fire Marshal's office.

Mr. Connell made a motion to amend IBC 308.3.1 and IBC 308.4.1 to allow for ten or fewer persons receiving care. Mr. Weber seconded the motion. Motion passed 8-0.

Mr. Malicoat opened the floor to discuss radon issues. Mr. Malicoat read the letter from the Missouri Department of Health and Human Services. Mr. Malicoat also stated that he had received a letter from a professor at the University of Missouri adamantly stating that radon remediation should not be required. The commission noted that radon is an existing environmental hazard in every home. The commission discussed the statistical significance and source of the data. The data said that only 25% of homes were above the remediation level but the average level was 3.9 pCi/L. Mr. Malicoat noted that EPA had determined the radon level requiring treatment. The commission noted that several builders already install passive systems. They discussed the need for better education and testing by builders and home buyers and discussed requiring the building department to issue information on radon with building permits and putting information on the City's website. They did not think mandating each new home have a passive system was justified due to only 25% of homes being above the action level. Also discussed was the possibility of a false sense of security by having a passive system in a home with high levels of radon would not provide the necessary remediation of an active system. There is no requirement for commercial construction or multifamily construction in which people spend a lot of time to have radon remediation. The commission recommended that Mr. Malicoat draft a letter stating the position of the BCCC to present to council.

Mr. Malicoat stated there was no other business to discuss and adjourned the meeting at 5:39 p.m.