

## **ARTICLE II. BOARDS, COMMISSIONS AND COMMITTEES<sup>1</sup>**

### **Sec. 2-31. Appointments; terms; removal; exceptions.**

- (a) All appointments to boards, ~~and commissions, and committees~~ of the city will expire on October 1 of the year in which they would ordinarily expire. The terms shall be for three years except youth members whose term shall be one year. These appointment dates will apply to all boards, ~~and commissions, and committee~~ created by the city council.
- (b) Prior to all appointments, the city secretary shall report, in writing to the city council, the following information:
  - (1) The number of times each board has met since the beginning of that appointment year.
  - (2) The attendance record of all board members on each board, and further report any vacancies which have not been filled during the preceding appointment year.
- (c) The city council may, for cause, remove a board member at any time.
- (d) The term of each ~~board~~ member shall not exceed three two consecutive full terms and a member must have remained off of that particular board, ~~or~~ commission, or committee for one full term before the member can be reappointed. Planning and Zoning commission members terms shall not exceed three consecutive full terms. Youth members terms have no limit except that they must remain qualified members.

( e ) Number of members for each board, commission or committee shall be 9 voting members.

(Code 1983, § 2-21; Ord. No. C-216, § 1, 1-26-1978; Ord. No. C-295, § 1, 9-8-1983; Ord. No. CSO#1051-07-2019, § 1, 7-15-2019)

Cross reference(s)—Building codes and standards board, § 10-75 et seq.

### **Sec. 2-32. Chairpersons; vice-chairpersons.**

By August 31 each year, each board, commission or committee must nominate from among its members a member to serve as chair and another member to serve as vice-chair. The city council shall ratify the chair and vice-chair prior to October 1 each year. The city council must continue to use the qualification for ratification of the chair and vice-chair in the enabling ordinance that created the board or commission. All chairpersons are appointed for a duration of one year and must be reappointed annually, but if not reappointed will continue to serve until a successor is appointed.

(Code 1983, § 2-22; Ord. No. C-216, § 2, 1-26-1978; Ord. No. C-295, § 1, 9-8-1983; Ord. No. CSO#1051-07-2019, § 2, 7-15-2019)

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<sup>1</sup>Charter reference(s)—Board of adjustment § 9(b); parks board created, § 16.

Cross reference(s)—Animal shelter advisory committee, § 6-281 et seq.; building codes and standards board, § 10-75 et seq.; appeals board for fire prevention and protection, § 38-131 et seq.; library board, § 46-31 et seq.; planning and zoning commission, § 62-31 et seq.

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**Sec. 2-33. Qualifications of members.**

- (a) Each board or commission member shall have resided within the corporate limits of the city for a period of one year preceding the effective date of his appointment; and shall not, at the time of appointment or during the term, be in arrears in the payment of any taxes or other liability due the city. An exception to the residency requirements may be made for the board established by section 10-75 of this Code only if there are not eligible individuals living within the city limits who are willing to serve.
- (b) Additional board or commission member qualifications may be specified in the enabling ordinance creating such board or commission (but may not be in conflict with this section) or additional qualifications may be set by the city council at the time of appointment and all appointees will be presumed to be qualified once appointed.
- (c) Any board or commission member ceasing to possess any of the qualifications specified herein or any of the additional qualifications as set by an enabling ordinance or the city council, shall immediately forfeit his office.

(Code 1983, § 2-23; Ord. No. C-216, § 3, 1-26-1978; Ord. No. C-295, § 1, 9-8-1983; Ord. No. C-337, § 1, 8-28-1986; Ord. No. C-374, § 1, 1-28-1988; Ord. No. C-470, § 1, 3-9-1995)

**Sec. 2-34. Absence rule.**

- (a) When a member of any city board or commission is absent for three regular consecutive meetings, unless prevented by sickness, without first having obtained a leave of absence at a regular meeting, the member shall be deemed to have vacated the member's position. The city secretary shall notify the city council of such absences within ten days of the third consecutive unexcused absence.
- (b) If any board or commission member shall fail to attend at least 75 percent of the called meetings during the 12-month period between October 1 through September 30, such board or commission member shall be deemed to have vacated their position on that board or commission (the 75 percent rule shall only apply to boards or commissions which meet at least once a month on a called basis).
- (c) At the next city council meeting after notification by the city secretary as specified in subsections (a) and (b) above, the city council shall declare the member removed from the rolls of said board or commission and begin procedures to fill such vacancy. If such vacancy occurs within three months of October 1, the city council may, if it deems appropriate, fill the vacancy at the annual appointment time.

(Code 1983, § 2-24; Ord. No. C-295, § 1, 9-8-1983; Ord. No. C-318, § 1, 4-11-1985; Ord. No. CSO#1051-07-2019, § 3, 7-15-2019)

**Sec. 2-35. Scope of responsibilities.**

- (a) Each board and commission shall review data and circumstances pertaining to their respective boards and commissions and formulate and recommend to the city council, for its adoption, policies and regulations consistent with the overall city plan and ordinances.
- (b) Each board and commission shall give full consideration to the movement of people and goods, the health, recreation, safety and general welfare of the citizens of the city.
- (c) Each board and commission, at the direction of the city council, shall study, hold public hearings and submit reports on any topics within their purview that the city council deems appropriate.

- (d) Members of each board and commission shall comply with all statutory time limits, public notices, and the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq.

(Code 1983, § 2-25; Ord. No. C-295, § 1, 9-8-1983)

State law reference(s)—Open meetings, V.T.C.A., Government Code § 551.001 et seq.

#### Sec. 2-36. Advisory committee on people with disabilities.

- (a) *Creation.* There is hereby created an advisory committee on people with disabilities.
- (b) *Purpose.* The committee is established to encourage, assist, and enable persons with disabilities to participate in the social and economic life of the city, achieve maximum personal independence, and use and enjoy fully all public facilities available within the community.
- (c) *Number of members; terms; ~~appointment.~~* The committee membership shall be in compliance with~~shall Chapter 2, Article II, Section 2-31 (e) for number of members consist of seven members who shall be residents of the city and Section 2-33 (a) for qualifications.~~ Of the ~~seven~~ committee members, four shall be people with disabilities. Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d).~~two year, staggered terms, and be appointed by city council.~~
- (d) *Duties.* The committee shall:
- (1) Serve as an advisory body to the city council regarding problems affecting disabled persons in the city;
  - (2) Recommend to the city council measures aimed at improving city facilities to accommodate disabled persons;
  - (3) Recommend to the city council measures aimed at improving the ability of various city departments and contractors at providing services for disabled persons; and
  - (4) Perform additional duties and functions as required by the city council.

(Ord. No. CSO#760-02-2018 , § 1, 1-22-2018)

#### Secs. 2-37—2-70. Reserved.

##### Sec. 2-37. Park Board

- a) *Creation.* The Park Board creation was established in the City Charter and removed in 2013.
- b) *Purpose.* The Board was created to recommend to the city council improvements and activities for the parks of the city.
- c) *Number of members; terms.* The committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications. Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d)

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## Sec. 6-16. Animal shelter advisory committee.

- (a) *Creation.* There is hereby created, pursuant to the Texas Health and Safety Code, § 823.005, an animal shelter advisory committee.
- (b) *Purpose.* The purpose of the committee shall be to assist animal shelters located within the city limits regarding compliance with Chapter 823 of the Health and Safety Code. Additionally, upon request of the city council, the committee may: (i) provide recommendations to the city regarding its compliance with the Texas Rabies Control Act and (ii) recommend ways to improve the efficiency and cost effectiveness of the city's animal control program.
- (c) ~~*Number of members; Terms.* The committee shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). shall consist of seven members appointed by a majority vote of the city council. Committee members shall serve two-year terms except as provided below. Appointments shall be as follows:~~
  - ~~(1) — Places 1, 3, 5, and 7. Terms expire on October first, each odd-numbered year.~~
  - ~~(2) — Places 2, 4, and 6. Terms expire on October first, each even-numbered year.~~
- (d) *Members.* The composition of the committee shall include at least one licensed veterinarian, at least one municipal official, at least one person whose duties include the daily operation of an animal shelter, and at least one representative from an animal welfare organization. The same person shall not be appointed to fulfill more than one of these requirements. It shall not be required for the representative of the animal welfare organization to reside within the city limits of Burleson or for the agency (s)he represents to be chartered in the City of Burleson. It shall not be required for the licensed veterinarian to reside within the city limits of Burleson if his/her primary veterinary practice is located with the city limits of Burleson.
- (e) *Vacancies.* Members of the committee shall be subject to removal at any time by the city council. Any vacancy in the membership of the committee shall be filled by the city council for the unexpired term of the member whose place has, by removal or otherwise, become vacant. Vacancies shall be filled within 60 days after the city council removes the member or within 60 days after the city council receives notice of the member's resignation.
- (f) *Meetings.* The committee shall meet a minimum of three times per calendar year, as outlined in Texas Health and Safety Code, § 823.005.
- (g) *Quorum.* A quorum of the committee shall consist of a majority of the members, excluding any vacancies. The presence of a quorum of the committee shall be required prior to a meeting being called to order.
- (h) *Voting.* Approval of all items before the committee shall require a majority vote of those in attendance.
- (i) *Rules.* The committee may adopt rules, subject to city council approval, for conduct of its meetings.

(Ord. No. B-749-06, § 1(3-16), 4-13-2006)

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## Sec. 10-75. Building codes and standards board created.

A Building Codes and Standards Board referred to in this article as "the board," is hereby created to accomplish purposes and perform functions established in this article.

(Ord. No. B-721, § 1(5-13), 9-23-2004)

## Sec. 10-76. Appointment and terms.

- (a) *Membership.* The board membership shall be ~~in compliance with Chapter 2, Article II, Section 2-31 (e) composed of seven members and two alternate members appointed by the city council. Regular members shall be appointed to places numbered 1 through 7 and alternate members shall be appointed to places numbered 8 and 9. The city council shall appoint a chair from among the regular members.~~ The building official shall be an ex officio member of and shall act as secretary to the board, but shall have no vote on any matter before the board. ~~Appointed members of the board shall hold office at the pleasure of the city council.~~
- (b) *Terms.* ~~Upon initial appointment pursuant to this ordinance, members in the odd-numbered places shall be appointed to serve terms expiring on June 30, 2005, and members appointed to the even-numbered places shall serve terms expiring on June 30, 2006. Thereafter, t~~The terms of members shall be in compliance Chapter 2, Article II, Section 2-31 (d) office of the members shall be two years beginning on July 1 of the year of appointment. The terms of the odd-numbered places shall expire in the odd-numbered years, and the terms of the even-numbered places shall expire in the even-numbered years. Board members may be appointed to succeed themselves. Vacancies shall be filled by the city council for the unexpired term. Newly appointed members shall be installed at the first regular board meeting after their appointment.
- (c) *Alternate members.* ~~The two alternate members shall serve in the absence of one or more regular members. Alternate members must meet the same qualifications as regular board members. An alternate member has voting privileges only when sitting in place of an absent member.~~

(Ord. No. B-721, § 1(5-14), 9-23-2004)

## Sec. 10-77. Qualifications of members.

It is the intent of the city council that the board members shall, by reason of diversity of their individual areas of expertise, constitute a board which is broadly representative of various fields of building construction and building standards.

- (1) The board shall, at a minimum, consist of:
  - a. Two licensed electricians, at least one of which shall be a master electrician; and
  - b. Two licensed plumbers, at least one of which shall be a master plumber; and
  - c. One building contractor; and
  - d. One person holding a license or certification from the Texas Commission on Fire Protection; and
  - e. One licensed heat and air conditioning contractor.
- (2) Members, except for the building official, may not be employees of the City of Burleson. Members will serve without compensation and must be:
  - a. Residents of the City; or

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- b. Own or be employed by a business located in the City; and
  - c. Hold a license or registration under this chapter.

(Ord. No. B-721, § 1(5-15), 9-23-2004)

### **Sec. 10-78. Organization.**

The board shall hold an organizational meeting in October of each year ~~and shall elect a vice chairman from among its members~~. The board shall meet when required to carry out the duties established by this division. The board shall adopt its own rules and procedures and shall keep a record of its proceedings consistent with the provisions of this division and the requirements of law. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its decisions and other official actions, all which shall be filed in the office of the city secretary and kept as public records.

(Ord. No. B-721, § 1(5-16), 9-23-2004)

### **Sec. 10-79. Duties and power.**

- (a) The board is hereby charged with the duty and invested with the authority to:
  - (1) Inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the state and the city;
  - (2) Hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the technical provisions of the following codes adopted by the City of Burleson:
    - a. The International Building Code;
    - b. The International Plumbing Code;
    - c. The International Mechanical Code;
    - d. The National Electrical Code;
    - e. The Uniform Fire Code;
    - f. The International Property Maintenance Code;
    - g. The International Residential Code;
    - h. The International Fuel Gas Code; and
    - i. The International Energy Conservation Code.
- (b) The board shall have no authority relative to interpretation of the administrative provisions of the codes listed nor may the board waive requirements of any of the codes listed.
- (c) The board shall hear and decide appeals of orders, decisions or determinations made by the director, building official, code official, or fire marshal related to alleged violations of the city's dangerous and substandard building regulations in article XIII, dangerous and substandard buildings, herein.

(Ord. No. B-721, § 1(5-17), 9-23-2004; Ord. No. CSO#112-01-2015 , § 1, 1-5-2015)

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**Sec. 10-80. Meetings and quorums.**

A quorum for the conduct of business shall consist of four members of the board. When fulfilling its duties, the board shall not hear or decide upon any appeal unless there is present at least one board member with the appropriate certification and/or license to provide the board with the technical knowledge and expertise necessary to fully and adequately consider the appeal. Each member is entitled to one vote and action of the board shall require a majority of those members present. The members of the board shall regularly attend meetings of the board and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties. The members shall comply with all time limits and public notice requirements and all meetings of the board shall be held in compliance with the Texas Open Meetings Act.

(Ord. No. B-721, § 1(5-18), 9-23-2004)

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## Sec. 18-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Board* means the ~~five~~ members appointed by the city council under and subject to the provisions of chapter 2 of this Code.

*Cemetery* means a cemetery within the city limits and under the jurisdiction of the city.

*Interment* means the entombment or burial of the remains of a deceased person.

*Memorial* means any marker, monument, headstone, or structure upon or in any lot or niche, place thereupon or partially therein for identification or in memory of the interred.

*Owner* means the owner of record of a space, or designated representative or successor in interest.

*Space* means the area normally designated for a single interment.

(Code 1983, § 3.5-2; Ord. No. B-499, § I, 4-11-1991)

Cross reference(s)—Definitions generally, § 1-3.

## Sec. 18-3. Cemetery advisory board; created and established.

There is hereby created and established a cemetery advisory board. The committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications. Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). ~~The terms and qualifications for board members shall be in compliance with article II of chapter 2 of this Code.~~ The board shall be charged with the responsibility of recommending policies, rules, and regulations for cemeteries in the city limits under the jurisdiction of the city.

(Code 1983, § 3.5-3; Ord. No. B-499, § I, 4-11-1991)



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## Sec. 44-54. Definitions.

As applied in this article, the following words and terms shall be used:

*Assessment.* The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this article.

*Building permit.* Written permission issued by the city for the construction, repair, alteration or addition to a structure.

*Capital construction cost of service.* Costs of constructing capital improvements or facility expansions, including and limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees), and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the city.

*Capital improvements advisory committee (advisory committee).* Advisory committee, appointed by the city council, consisting of a membership in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-31 (d) for terms. of at least five members which are not employees of the city. ~~Not less than 40 percent of which shall be representatives of the real estate, development, or building industries, and, if impact fees are to be applied within the extraterritorial jurisdiction of the city, including one member representing the extraterritorial jurisdiction; or consisting of the planning and zoning commission, including one regular or ad hoc member who is not an employee of the city and which is representative of the real estate, development, or building industry, and, if impact fees are to be applied within the extraterritorial jurisdiction of the city, one representative of the extraterritorial jurisdiction area; which committee is appointed to regularly review and update the capital improvements program in accordance with the requirements of Chapter 395 of the Texas Local Government Code, and its successors.~~

*Capital improvements program (CIP).* Plan which identifies water and wastewater capital improvements or facility expansions pursuant to which impact fees may be assessed.

*City.* City of Burleson.

*City council (council).* Governing body of the City of Burleson.

*City manager.* Chief executive officer of the city, appointed by the council, or the city manager's designee.

*Comprehensive plan.* The comprehensive long-range plan, adopted by the city council, which is intended to guide the growth and development of the city which includes analysis, recommendations and proposals for the city regarding such topics as population, economy, housing, transportation, community facilities and land use.

*Conceptual service area.* Area within the corporate boundaries and within the extraterritorial jurisdiction of the city as defined by Chapter 42 (Extraterritorial Jurisdiction of Municipalities) and Chapter 43 (Municipal Annexation) of the Local Government Code, to be served by the water or wastewater capital improvements or facilities expansions specified in the capital improvements program applicable to the conceptual service area. The conceptual service area represents the general geographic basis for planning the utility capital improvement programs, used to formulate the fees. The service area is conceptual in nature and does not necessarily represent a definitive commitment for service by the city; the conceptual service area boundary also does not necessarily represent limits to service potential or fee assessment. The city's conceptual service area is shown on exhibit "A", attached hereto and made a part hereof by reference.

*Credit.* The amount of the reduction of an impact fee for fees, payments or charges for the same type of capital improvements for which the fee has been assessed.

*Duplex.* A structure on a single lot designed to accommodate two dwelling units, as authorized under the city's zoning regulations.

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*Dwelling unit.* A structure or portion of an overall structure in which a typical household or person or unrelated persons would reside together. A single dwelling unit would include a single-family detached house or individual units of attached housing, i.e., one unit within a duplex, triplex, fourplex, or larger apartment building.

*Effective impact fee.* Amount of impact fee collected per service unit, which may be equal to or less than the maximum impact fees as set forth in exhibit "C", attached hereto and made a part hereof by reference.

*Existing development.* All development within the conceptual service area which had a water or wastewater tap on the city's water or sewer system, as of November 15, 2005, the date of the city's adoption of the initial impact fee ordinance.

*Facility expansion.* The expansion of the capacity of an existing facility which serves the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization, or expansion of an existing facility to serve existing development.

*Finance director.* Finance director of the City of Burleson.

*Final subdivision plat (final plat).* The map, drawing or chart on which is provided a subdivider's plan of a subdivision, and which has received final approval by the planning and zoning commission and city council and which is recorded with the office of the county clerk.

*Growth-related costs.* Capital construction costs of service related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions or from new capital facilities. Growth-related costs do not include:

- (1) Construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;
- (2) Repair, operation or maintenance of existing or new capital improvements or facility expansions;
- (3) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
- (4) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
- (5) Administrative and operating costs of the city; and
- (6) Principal payments and interest or other finance charges on bonds or other indebtedness, except for such payments for growth-related facilities contained in the capital improvements program.

*Impact fee.* Charge or assessment to be imposed by the city upon new development to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to new development. The term includes amortized charges, lump-sum charges, impact fees, contributions in aid of construction, and any other fee that functions as described by this definition. Impact fees do not include dedication of rights-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities, or streets, sidewalks, or curbs if the dedication or construction is required by other valid ordinances of the City Code and is necessitated by and attributable to the new development; or lot or acreage fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or other pro rata fees for reimbursement of water or sewer mains or lines extended by the city.

*Irrigation meter.* Water meter used only for providing landscape irrigation water demand.

*Land use assumptions.* Description of the conceptual service area and projections of changes in land uses, densities, intensities, and population therein over at least a ten-year period, adopted by the city, as may be amended from time to time, upon which the capital improvement plan is based.

*Living unit equivalent (LUE).* Basis for establishing equivalency among and within various customer classes, based upon the relationship of the continuous duty flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a five-eighths-inch by three-quarters-inch diameter simple water meter, using American Water Works Association C700-C703 standards. LUEs for water meters are shown below.

LINE EQUIVALENCIES FOR VARIOUS TYPES AND SIZES OF WATER METERS

Meter Type	Meter Size	Continuous Duty Maximum Rate (gpm)	Ratio To $\frac{5}{8}$ " $\times$ $\frac{3}{4}$ " Meter
Simple	$\frac{5}{8}$ " $\times$ $\frac{3}{4}$ "	10	1.000
Simple	$\frac{3}{4}$ "	15	1.500
Simple	1"	25	2.500
Simple	1½"	50	5.000
Simple	2"	80	8.000
Compound	2"	80	8.000
Turbine	2"	100	10.000
Compound	3"	160	16.000
Turbine	3"	240	24.000
Compound	4"	250	25.000
Turbine	4"	420	42.000
Compound	6"	500	50.000
Turbine	6"	920	92.000
Compound	8"	800	80.000
Turbine	8"	1600	160.000
Compound	10"	1150	115.000
Turbine	10"	2500	250.000
Turbine	12"	3300	330.000
SOURCE: AWWA Standards C700, C701, C702, C703.			

*Multifamily development.* A single structure containing three or more dwelling units.

*New development.* Subdivision of land; or the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units. New development excludes the sale of water taps resulting from the conversion of an individual well to the city's water utility and the sale of wastewater taps resulting from the conversion of an individual septic or other individual waste disposal system to the city's wastewater utility.

*Offset.* The amount of the reduction of an impact fee designed to fairly reflect the value of system-related facilities, pursuant to rules herein established or administrative guidelines, provided and funded by a developer pursuant to the city's subdivision regulations or requirements.

*Residential.* A lot developed for use and occupancy as a single-family residence or a duplex.

*Service unit.* Standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions expressed in living units equivalent.

*Service unit equivalent (SUE).* See living unit equivalent (LUE). For purposes of this article, a service unit equivalent (SUE) is equivalent and interchangeable with living unit equivalent (LUE).

*Single-family residence.* Single-family dwelling unit, as authorized under the city's zoning regulations.

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*Site-related facility.* Improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or wastewater facilities to serve the new development, and which is not included in the capital improvements plan, and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.

*System-related facility.* A capital improvement or facility expansion which is designated in the capital improvements plan and which is not a site-related facility. A system-related facility may include a capital improvement which is located off site, within or on the perimeter of the development site.

*Tap purchase.* The filing with the city of a written application for a water or wastewater tap and the acceptance of applicable fees by the city. The term "tap purchase" shall not be applicable to a master water meter or master wastewater connection purchased from the city by a wholesale customer such as a water district, political subdivision of the State of Texas, or other wholesale utility customer; nor shall it be applicable to a meter purchased for and exclusively dedicated to fire protection.

*Triplex.* A structure on a single lot designed to accommodate three dwelling units, as authorized under the city's zoning regulations.

*Wastewater facility.* Improvement for providing wastewater service, including, but not limited to, land or easements, treatment facilities, lift stations, or interceptor mains. Wastewater facility excludes wastewater lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. Wastewater facilities also exclude dedication of rights-of-way or easements or construction or dedication of on-site wastewater collection facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

*Wastewater facility expansion.* Expansion of the capacity of any existing wastewater improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing wastewater facility to serve existing development.

*Wastewater improvements plan (wastewater CIP).* Portion of the CIP, as may be amended from time to time, which identifies the wastewater facilities or wastewater facility expansions and their associated growth-related costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, which are to be financed in whole or in part through the imposition of wastewater impact fees pursuant to this article.

*Water facility.* Improvement for providing water service, including, but not limited to, land or easements, water supply facilities, treatment facilities, pumping facilities, storage facilities, or transmission mains. Water facility excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. Water facilities also exclude dedication of rights-of-way or easements or construction or dedication of on-site water distribution facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

*Water facility expansion.* Expansion of the capacity of any existing water improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing water facility to serve existing development.

*Water improvements plan (water CIP).* Portion of the CIP, as may be amended from time to time, which identifies the water facilities or water facility expansions and their associated growth-related costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, which are to be financed in whole or in part through the imposition of water impact fees pursuant to this article.

*Wholesale customer.* Water or wastewater customer of the city's utilities which purchases utility service at wholesale rates for resale to their retail customers.

( Ord. No. C-590(D0314), § 1(1.04) , 3-17-2014)



## ***ARTICLE II. LIBRARY BOARD<sup>1</sup>***

### **Sec. 46-31. Created and established; number of members; compensation.**

There is hereby created and established a library board for the city, ~~the committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications. consisting of seven members who shall be residents of the city~~ and all of whom will serve without compensation.

(Code 1983, § 8-1; Ord. No. C-249, § 1, 1-10-1980)

### **Sec. 46-32. Appointment; terms.**

All members of the library board shall be appointed by the city council ~~on the terms, and each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). provisions, and conditions of sections 2-31—2-35. The board shall serve staggered terms of two years.~~

(Code 1983, § 8-2; Ord. No. C-249, § 2, 1-10-1980)

### **Sec. 46-33. Member participation.**

Membership on the board shall be accompanied by active participation in the activities of the board, and any member who is absent for three consecutive meetings of the library board without valid excuse as determined by the library board, may have such position declared vacant by the city council.

(Code 1983, § 8-3; Ord. No. C-249, § 3, 1-10-1980)

### **Sec. 46-34. Recommending policy.**

The library board shall make recommendations to the city council and city manager concerning operating policy of the library; long range capital improvement, planning and policy; the purchase of materials including, but not limited to, books, publications, films, and exhibits; and the display and exhibition of objects of art and other items having cultural, historical, and artistic value to the community. The library board shall encourage the participation of the citizens of the city in the growth and development of the community library and facilitate the part of the public library in the growth of the city.

(Code 1983, § 8-4; Ord. No. C-249, § 4, 1-10-1980)

### **Secs. 46-35—46-70. Reserved.**

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<sup>1</sup>Cross reference(s)—Boards, commissions and committees, § 2-31 et seq.

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## **Sec. 62-32. Membership; appointment; attending meetings; compensation; removal for absence.**

- (a) The planning and zoning commission ~~membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications shall be composed of eight members identified as places one through eight.~~
- (b) The city council will consider for appointment to the commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings.
- (c) Place eight shall be an ex officio, non-voting place on the commission and be designated for appointment of a student who is a resident of the city and who, at the time of appointment, is 15 to 17 years of age and enrolled in an accredited school recognized by the state commissioner of education or a home school participant. In the event that a qualified student is not identified for appointment, place eight shall remain vacant until a qualified student is identified to be appointed.
- (d) ~~Save and except for the student member provided in subsection (c) herein, all other members must be registered voters of the city.~~
- (e) It is the intent of the city council that members shall, by reason of diversity of their individual interests and experience, constitute a commission which is broadly representative of the community.
- (f) The members of the commission shall regularly attend meetings and public hearings of the commission and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.
- (g) Absences from commission meetings shall be treated in accordance with the provisions of section 2-34.

(Code 1983, § 14-1(b); Ord. No. C-277, §§ 1—4, 6, 1-27-1982; Ord. No. C-277(A0312) , § 1, 3-19-2012; Ord. No. CSO#1826-08-2021 , § 1, 8-16-2021)

## **Sec. 62-33. Terms of office.**

~~Each member of the commission shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). The terms of four of the members shall expire on October 1 of each odd-numbered year, and the terms of the other four members shall expire on October 1 of each even-numbered year. The members of the commission shall be identified by place numbers one through eight. The odd-numbered places shall expire in the odd-numbered years; the even-numbered places shall expire in the even-numbered years. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no member shall be appointed for a term in excess of two years. Newly appointed members shall be installed at the first regular commission meeting after their appointment.~~

(Code 1983, § 14-1(c); Ord. No. C-277, §§ 1—4, 6, 1-27-1982; Ord. No. C-277(A0312) , § 2, 3-19-2012)

## **Sec. 62-34. Organization.**

The city council shall appoint a chairperson of the planning and zoning commission in October of each year. The commission shall hold an organizational meeting in October and shall elect a vice-chairperson from among its members, to be ratified by the city council.

(Code 1983, § 14-2(a); Ord. No. C-277, §§ 4, 6—8, 1-27-1982)

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## Sec. 62-35. Meetings.

- (a) The planning and zoning commission shall meet regularly and shall designate the time and place of its meetings. The commission shall adopt its own rules of procedure and keep a record of its proceedings consistent with the provisions of this chapter and the requirements of law. A quorum for the conduct of business shall consist of four members of the commission, but the place eight student member provided in subsection 62-32(c) shall not count towards a quorum.
- (b) Planning and zoning commission actions shall be by a motion which may be made by any member of the commission except for the place eight student member provided in subsection 62-32(c). The place eight student member provided in subsection 62-32(c) shall not vote on any motion.

(Code 1983, § 14-2(b), (c); Ord. No. C-277, §§ 4, 6—8, 1-27-1982; Ord. No. C-277(A0312) , § 3, 3-19-2012; Ord. No. CSO#924-11-2018 , § 1, 11-12-2018; Ord. No. CSO#1826-08-2021 , § 2, 8-16-2021)

## Sec. 62-36. Disqualification from voting.

- (a) *Generally.* Members shall disqualify themselves from voting whenever it appears that they have a personal or monetary interest in the matter before the planning and zoning commission or that they will be directly affected by the decision of the commission, it being understood that decisions of the commission by their very nature will indirectly affect all residents of the community and that this provision does not apply to members who, though directly affected, are affected only to the extent that they are members of the community at large. A member may disqualify such member's self from voting whenever any applicant, or applicant's agent, has sought to influence the vote of the member on such applicant's application, other than in the public hearing.
- (b) *Conflict of interest regarding subdivision plats; penalty.*
  - (1) In this section, the term "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.
  - (2) A person has a substantial interest in a subdivided tract if the person:
    - a. Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00 or more;
    - b. Acts as a developer of the tract;
    - c. Owns ten percent or more of the voting stock or shares of or owns either ten percent or more or \$5,000.00 or more of the fair market value of a business entity that:
      - 1. Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00 or more; or
      - 2. Acts as a developer of the tract; or
      - 3. Receives in a calendar year funds from a business entity described by subsection (b)(2)c that exceed ten percent of the person's gross income for the previous year.
  - (3) A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under V.T.C.A., Government Code ch. 573, to another person who, under subsection (b)(2) of this section, has a substantial interest in the tract.
  - (4) If a member of the municipal authority responsible for approving plats has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for



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the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the municipal secretary or clerk.

- (5) A member of the municipal authority responsible for approving plats commits an offense if the member violates subsection (b)(4) of this section. An offense under this subsection is a class A misdemeanor.
- (6) The finding by a court of a violation of this section does not render voidable an action of the municipal authority responsible for approving plats unless the measure would not have passed the municipal authority without the vote of the member who violated this section.

(Code 1983, § 14-2(d); Ord. No. C-277, §§ 4, 6—8, 1-27-1982)

## **Sec. 62-37. Duties and powers.**

The planning and zoning commission is hereby charged with the duty and invested with the authority to:

- (1) Inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the state and of the city.
- (2) Formulate and recommend to the city council for its adoption a city plan for the orderly growth and development of the city and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.
- (3) Formulate a zoning plan as may be deemed best to carry out the goals of the city plan; hold public hearings and make recommendations to the city council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in V.T.C.A., Local Government Code § 211.001 et seq. All powers granted under said act are specifically adopted and made a part hereof.
- (4) Exercise all the powers of a commission as to approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats set out in V.T.C.A., Local Government Code chs. 42, 43 and 212.
- (5) Study and recommend on the location, extension and planning of public rights-of-way, parks or other public places, and on the vacating or closing of same.
- (6) Study and recommend on the general design and location of public buildings, bridges, viaducts, street fixtures and other structures and appurtenances. Study and recommend on the design or alteration and on the location or relocation of works of art which are, or may become, the property of the city.
- (7) Initiate, in the name of the city, for consideration at public hearings all proposals:
  - a. For the opening, vacating or closing of public rights-of-way, parks, or other public places;
  - b. For the original zoning of annexed areas; and
  - c. For the change of zoning district boundaries on an area-wide basis.

No fee shall be required for the filing of any such proposal in the name of the city.

- (8) Formulate and recommend to the city council for its adoption, policies and regulations consistent with the adopted city plan governing the location and operation of utilities, public facilities and services owned or under the control of the city.
- (9) Submit in each October a progress report to the city council summarizing its activities, major accomplishments for the past year, and a proposed work program for the coming year. The report shall contain for the year the attendance record of all members and the identity of commission officers.
- (10) Prepare and submit as a recommendation to the city council, a five-year capital improvements plan.

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- (11) Prepare and recommend to the city council a city annexation policy and update the same periodically.
  - (12) Members of the commission shall comply with all statutory time limits, public notices, and the Texas Open Meetings Act.
  - (13) The commission, at the direction of the city council, shall study, hold public hearings and submit reports on any topics pertaining to planning and zoning that the council deems appropriate.
  - (14) The commission shall conduct an ongoing assessment program pertaining to the planning and zoning ordinances of the city, recommending to the city council all necessary changes and updating of said ordinances.

(Code 1983, § 14-3; Ord. No. C-277, § 5, 1-27-1982)

State law reference(s)—Open Meetings, V.T.C.A., Government Code § 551.001 et seq.

PART II - CODE OF ORDINANCES  
Chapter 86 - LANDSCAPING, TREES AND VEGETATION  
ARTICLE II. - TREES AND SHRUBBERY  
DIVISION 2. TREE BOARD

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***DIVISION 2. TREE BOARD***

**Sec. 86-51. Creation and establishment.**

There is hereby created and established a tree board for the city which shall consist of ~~seven members~~, all of ~~whom shall also be at the~~ members of the parks board.

(Ord. No. B-726(A0310), § 1, 3-15-2010)

**Sec. 86-52. Term of office.**

Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d)

~~Each member of the tree board shall serve for a period of two years, staggered terms, to be appointed by the city council.~~

(Ord. No. B-726(A0310), § 1, 3-15-2010)

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**Sec. 86-53. Duties and responsibilities.**

- (a) The responsibilities of the tree board shall be to study, investigate, counsel, develop and/or update annually a written plan for the care, preservation, pruning, planting and removal and disposition of trees, shrubs and any other woody plants in parks, along streets and in other public areas.
- (b) The tree board, when requested by the city council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(Ord. No. B-726(A0310), § 1, 3-15-2010)

**Sec. 86-54. Interference.**

It shall be unlawful for any person to prevent, delay or interfere with the tree board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees or park trees as authorized in this article.

(Ord. No. B-726(A0310), § 1, 3-15-2010)

**Sec. 86-55. Review by city council.**

The city council shall have the right to review the decision of the tree board. Any person may appeal a ruling or order of the tree board to the city council who may hear the matter and make a final decision.

(Ord. No. B-726(A0310), § 1, 3-15-2010)

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**Secs. 86-56—86-80. Reserved.**

## *DIVISION 5. BURLESON OLD TOWN DEVELOPMENT STANDARDS REVIEW COMMITTEE*

### **Sec. 4-90. Creation.**

An Old Town Development Standards Review Committee referred to in this article as the "Old Town DSRC" or "the committee," is hereby created to accomplish purposes and perform functions established in this article.

( Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014 )

### **Sec. 4-91. Appointment and terms.**

- A. *Membership.* ~~The committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members. The committee shall be composed of five regular members and two alternate members appointed by the City Council. Regular members shall be appointed to places numbered 1 through 5 and the alternate members shall be appointed to places numbered 6 and 7. The City Council shall appoint a chair from among the regular members.~~ The director of planning or that person's duly authorized representative shall be an ex officio member of and shall act as secretary to the committee, but shall have no vote on any matter before the committee. Appointed members of the committee shall hold office at the pleasure of the City Council.
- B. *Terms.* ~~Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). Upon initial appointment pursuant to this ordinance, members in the odd numbered places shall be appointed to serve terms expiring on October 30, 2005, and members appointed to the even numbered places shall serve terms expiring on October 30, 2006. Thereafter, the terms of office of the members shall be two years beginning on November 1, of the year of appointment. The terms of the odd numbered places shall expire in the odd numbered years, and the terms of the even numbered places shall expire in the even numbered years. Committee members may be appointed to succeed themselves. Vacancies shall be filled by the City Council for the unexpired term. Newly appointed members shall be installed at the first regular committee meeting after their appointment.~~
- C. *Alternate members.* ~~The alternate members shall serve in the absence of one or more regular members. Alternate members must meet the same qualifications as regular committee members. An alternate member has voting privileges only when sitting in place of an absent member and may be seated in place of any member.~~

( Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014 )

### **Sec. 4-92. Qualification of members.**

- A. It is the intent of the City Council that the committee members shall be persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and development of Old Town, and availability to prepare for and attend meetings. It is the intent of the City Council that members by reason of diversity of their individual occupations and/or areas of expertise shall constitute a committee which is broadly representative of the community.

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1. Members, except for the director of planning, may not be employees of the city.
  2. All members will serve without compensation and must be:
    - (a) Residents of the city; or
    - (b) Own a business located in the city.
  3. The Committee shall also be composed of two members with the following credentials:
    - (a) One member that resides in the Burleson Old Town Overlay District, owns a business located within the overlay district, or be a property owner within the overlay district;
    - (b) One member that is seated president of the Burleson Heritage Foundation.

( Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014 )

#### **Sec. 4-93. Organization.**

- A. The committee shall hold an organizational meeting following the initial appointment of the committee, and thereafter in November of each year and shall elect a vice-chairman from among its members, to be ratified by the City Council. The committee shall meet when required to carry out the duties established by the ordinance from which this article is derived. The committee shall adopt its own rules and procedures and shall keep a record of its proceedings consistent with the provisions of the ordinance from which this article is derived and the requirements of law. The committee shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its decisions and other official actions, all which shall be filed in the office of the city secretary and kept as public records.

( Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014 )

#### **Sec. 4-94. Duties and powers.**

- A. The committee is hereby charged with the duty and invested with the authority to:
  1. Perform the functions set out in this article, and review and comment on all proposed buildings and development plans in Burleson Old Town Overlay District;
  2. At its discretion, recommend waiver or modifications of any provision of the Burleson Old Town Design Standards, providing the recommended waiver or modification does not adversely affect the surrounding streetscape and overall community, and that such recommended waiver or modification is based on outstanding design merit or otherwise advances the design goals of the community;
  3. Forward review comments including any recommended waiver or modification to the city planning department as specified in the administrative procedures of the Burleson Old Town Design Standards;
  4. Approve material and design requirements and specifications specifically set out in sections [4-61(d)(5)(6)(7), 4-61(e)(3), 4-63(a)(5), 4-63(e)(1), and 4-63(g)(6)] of this article.
- B. The committee shall have no authority relative to interpretation of the provisions of the city's codes and development regulations.
- C. Except as specifically provided in subsection (a)(4) of this section, comment and recommendation by the committee does not constitute approval by any authority and does not constitute permission to begin construction.

( Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014 )

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**Sec. 4-95. Meetings and quorums.**

- A. A quorum for the conduct of business shall consist of four members of the committee. Each member is entitled to one vote and action of the committee shall require a majority of those members present. The members of the committee shall regularly attend meetings of the committee. The members shall comply with all time limits and public notice requirements and all meetings of the committee shall be held in compliance with the Texas Open Meetings Act.

( Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014 )

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## Section 11. Board of adjustment.<sup>1</sup>

**11-100. Organization.** There is hereby created a board of adjustment. ~~The board membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members, Section 2-33 (a) for qualifications and Section 2-31 (d) for terms, consisting of five members, each to be appointed for a term of two years and removable for cause by the city council upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant. The city council may appoint four alternate members who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager, as the case may be.~~ All cases to be heard by the board of adjustment must be heard by a minimum number of the ~~four~~ five members. ~~The alternate members, shall serve for the same terms and shall be subject to removal the same as regular members. Vacancies in the positions of alternate members shall be filled in the same manner as for regular members.~~

**11-105. Procedure.** The board of adjustment shall adopt rules to govern its proceedings not inconsistent with this ordinance or state statutes. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses, and shall have the same subpoena powers as the municipal court. The board of adjustment shall keep minutes of its proceedings, showing the vote, abstention, or absence of each member upon each question, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city secretary and shall be public record.

### 11-110. Appeals to the board of adjustment.

- (a) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative official as designated under section 13-100. Such appeal shall be taken within ten business days as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment, a notice of appeal specifying the grounds for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record of the action appealed.
- (b) An appeal stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the board of adjustment that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such a case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and on due cause shown.
- (c) The board of adjustment shall fix a reasonable time for the hearing of an appeal, give public notice of the hearing as well as notify real property owners within 200 feet of the subject property. At the hearing, any party may appear in person or by agent or attorney. The board shall render a decision within a reasonable amount of time after the hearing.

### 11-115. Powers of the board.

- (a) The board of adjustment has the following powers:
  - (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance as amended.
  - (2) To hear and decide variances and special exceptions to the terms and of this ordinance as required under the ordinance.

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<sup>1</sup>Charter reference(s)—Board of adjustment, § 9(b).



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- (3) To authorize, upon appeal in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
  - (4) Permit the reconstruction, extension or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by the building, and the addition of off-street parking or off-street loading to a nonconforming use.
- (b) In exercising its powers the board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
  - (c) The board may permit such variance or modifications of the height, yard, area, coverage and parking regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape or slope that it cannot be appropriately developed without such modification. In exercising its power to grant a variance in accordance with this ordinance, the board of adjustment shall make findings and show in its minutes that:
    - (1) There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions, and location that do not apply generally to other property in the same area and the same zoning district.
    - (2) That a variance is necessary to permit the applicant the same rights in the use of his property that are presently enjoyed, under the ordinance, by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made.
    - (3) That the granting of the variance on the specific property will not adversely affect the land use pattern as outlined by the land use plan and will not adversely affect any other feature of the comprehensive plan of the city.
    - (4) That the variance, if granted, will not be materially detrimental to the public welfare or the use, enjoyment, or value of property in the vicinity.
  - (d) The board may require the discontinuance of nonconforming uses of land or buildings under any plan whereby the full value of the buildings and facilities can be amortized within definite period of time, taking into consideration the general character of the neighborhood and the necessity of all property to conform to the regulations of this ordinance. All actions to discontinue a nonconforming use of land or structure shall be taken with due regard to the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of the property. The board shall, from time to time, on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation or maintenance of any nonconforming use within the city.

**11-120. Vote required for board decisions.** The concurring vote of ~~four~~five members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variance to the ordinance.

**11-125. Appeal from board decisions.**

- (a) Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment may present to a court of record, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petitions shall be presented to the court within ten days after the filing of the decision in the office of the board.

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- (b) Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

**11-130. Fee.** There shall be a fee assessed, as set by the city council for each request for a variance to this ordinance.