

## **BUILDING AND STANDARDS COMMISSION**

### **Authority shared with city council.**

The city council may act as the building and standards commission and exercise all authority granted to the building and standards commission under this division including, without limitation, holding public hearings regarding alleged violations of the city's building and technical codes.

### **Membership; vacancies; rules; meetings.**

- (a) Regular member panels. The building and standards commission shall consist of one or more five-member panels to be appointed for terms of two years. As near as practical, members shall be qualified in one or more of the fields of fire prevention, building construction, sanitation, health, and public safety.
- (b) Alternate members. The city council may appoint eight or more alternate members to serve in the absence of one or more regular members when requested to do so by the city manager. The alternate members serve for the same term and are subject to removal in the same manner as regular members. A vacancy is filled in the manner as a vacancy is filled among the regular members.
- (c) Removal; filling vacancies. The city council may remove a commission member for cause on a written charge. Before a decision regarding removal is made, the city council must hold a public hearing on the matter if requested by the commission member subject to the removal action. A vacancy shall be filled for the unexpired term.
- (d) Rules of order; appointment of officers. A majority of the entire commission shall establish rules of order and the appointment of at least a chairperson, vice-chairperson, and secretary and duties thereof. The rules of order shall be in compliance with the provisions of this division.
- (e) Meetings; oaths; authority to compel attendance of witnesses. Meetings of the commission shall be held at the call of the chairperson and at other times as determined by the commission. All meetings held by the commission shall be open to the public. Each chairperson of a panel, or in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.
- (f) Minutes and other records. The commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. The commission shall keep records of its examinations and other official

actions. The minutes and records shall be filed immediately in the office of the commission as public records.

**Powers and duties generally.**

The commission is authorized to hold public hearings to determine compliance with, or alleged violations of, city building and technical codes, including minimum property maintenance requirements. The commission shall also hear appeals from persons aggrieved by orders or decisions of city officials made in enforcement of this chapter. The commission may further make recommendations to the city council as to any needed modifications, amendments, and changes in this chapter, and shall carry out such other duties as may be required from time to time by the city council or state law.

**Hearing authority and procedure.**

- (a) Minimum number of members in review panel. All cases heard by the commission may be heard by any panel, but at least four members of any panel must hear a case.
- (b) Concurring vote of four members required. The concurring vote of four members of the commission is necessary to take any action under this article and any other ordinance under its jurisdiction adopted by the city.
- (c) Code enforcement official must appear at hearing. The code enforcement official shall present all cases initiated by the city to be heard by the commission.
- (d) Evidence, testimony and defense. There shall be provided ample opportunity at the public hearing for the presentation of evidence or testimony by respondents, persons opposing charges, and the code enforcement official relating to alleged violations of this chapter.
- (e) Time and method of giving notice of hearing. Notice of all proceedings before the commission must be given:
  - (1) By certified mail, return receipt requested, to the record owners of the property affected, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from any applicable instruments on file in the office of the county clerk;
  - (2) To all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property, or as close to the front door as practical; and

(3) By publication in a newspaper of general circulation within the city on one occasion.

The notice shall be mailed, published, and posted on or before the tenth day before the date of the hearing before the commission and must state the date, time, and place of the hearing.

(f) Filing copy of notice in official real property records. The commission may file notice of a proceeding before a commission panel in the official public records of real property in the county in which the affected property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file at the office of the county clerk, a legal description of the affected property, and a description of the proceeding. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in property who acquire such interest after the filing of the notice and constitutes notice of the proceeding on any subsequent recipient of any interest who acquires such interest after the filing of the notice.

(g) Final determination by commission. The commission may:

(1) Declare a structure or premises substandard, dangerous, or otherwise in violation of this chapter.

(2) Order an unsafe condition be abated, vacated, secured, repaired, removed or demolished within a fixed period.

(3) Order, in appropriate cases, the immediate abatement, vacation, securing, repairing, removal, or demolition of the unsafe condition, the entry onto private property to secure such abatement if it is determined that conditions exist on the property that constitutes a violation of this article or any other ordinance within its jurisdiction, and order action to be taken as necessary to remedy, alleviate, or remove any unsafe structure found to exist.

(4) Issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the city, to enforce and carry out the lawful orders or directives of the panel.

(5) Determine the amount and duration of the civil penalty the city may recover as provided in this article.

(h) Notice of final determination. The commission shall:

(1) Promptly send by first class mail, certified return receipt requested, a copy of any final decision and order to all persons to whom notice is required to be sent under this section; and

(2) Publish an abbreviated copy of the order one time in a newspaper of general circulation in the city, within ten calendar days after the date of the mailing of the copy as required in this section, including street address or the legal description of the property, the date of hearing, a brief statement indicating the results of the order, and instructions stating where a complete copy of the order may be obtained. A copy shall be filed in the office of the city secretary.

(i) Effect of final determination; civil penalties. A determination made under this article is binding and constitutes prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the city for final judgment in accordance with the established penalty. To enforce any civil penalty under this article, the city secretary must file with the district clerk of the county in which the city is located a certified copy of the order of the commission panel establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty. If no appeals are taken from the decision of the commission panel within the required period, the decision of the commission panel is, in all things, final and binding.

(j) Rehearing and reconsideration; stay of proceedings. Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision or order of a commission panel may request a single rehearing of the case by a second, existing, duly appointed commission panel, or if no such panel exists, the same may request reconsideration from the first panel. The request must be in writing, addressed to the commission, specifying the grounds for the request, and received by the commission or postmarked on or before the tenth day after the mailing of the notice required under this article. The rehearing or reconsideration panel shall consider the grounds for the request for rehearing or reconsideration and may approve or deny the request. Only the approval of the request for rehearing or reconsideration stays all other proceedings.

(k) Appeal. After a final decision of the commission under this article, any owner, lienholder, or mortgagee of record remaining jointly or severally aggrieved by the final decision of the commission may appeal the decision to a court of competent jurisdiction in accordance with state law.

**Parties against whom judgment is issued; standing to challenge judgment.**

An abstract of judgment shall be issued against all parties found to be owners of the subject property or in possession of that property. A lienholder does not have standing to

bring a proceeding under this article on the ground that the lienholder was not notified of the proceedings before the commission panel or was unaware of the condition of the property, unless the lienholder had first appeared before the commission panel and entered an appearance in opposition to the proceedings.

**Alternative authority for city to proceed in municipal court.**

This article does not affect the ability of the city to proceed under the jurisdiction of the municipal court.

(a) It shall be unlawful for any peddler or solicitor to go from house-to-house or place-to-place selling or offering for sale any wares, goods, merchandise, services, magazines, newspapers or subscriptions to magazines or newspapers, photographs, or food without first applying for and obtaining a permit from the city. It shall also be unlawful for a peddler or solicitor to sell or solicit without first displaying the permit to each prospective customer and displaying such permit upon request to any peace officer or code enforcement officer. This section shall not apply to persons who on a regular basis make deliveries and as part of their deliveries take orders and leave pamphlets with others in the neighborhood (i.e., Schwans, Ozarka Water).

(b) It shall be unlawful for any itinerant vendor or transient vendor to sell, offer, or exhibit for sale or exhibit for the purpose of taking orders any goods, wares, or merchandise without first applying for and obtaining a permit from the city. Itinerant and transient vendors must display such permit in a prominent place for the public and any peace officer or code enforcement officer to see.

(c) It shall be unlawful for itinerant or transient vendors to sell, offer, or exhibit for sale or exhibit for the purpose of taking orders for any goods, wares, or merchandise in any public or railroad right-of-way, on any sidewalk or easement or in any city park, or on any privately-owned property without written consent of the property owner or his authorized agent.

(d) It shall be unlawful for any person to shout, cry out, blow a horn, ring a bell or use any sound device, including a loud speaking radio or sound amplifying system upon any public or railroad right-of-way, park, or street within the city or its extraterritorial jurisdiction or on private property at such a volume that it can be clearly heard on any public or railroad right-of-way, park or other public place for the purpose of attracting attention to goods, wares, or merchandise which the person is selling, with the exception that persons selling ice cream or snow cones from a vehicle or bicycle may play music or ring a bell.

(e) ~~It shall be unlawful for any person to have a garage sale without first applying for and obtaining a permit from the city; this shall apply to nonprofit organizations as well. Permits must be displayed in a prominent place for the public and any police officer or code enforcement officer to see. It shall be unlawful for a person to use any signs other than the set of three signs issued by the city. These signs may be placed at either end of the block in which the person resides, with the written permission of property owner, and one in the person's yard. These signs are exempt from chapter 36.~~

(Ord. No. G-1-06, § 2, 2-13-2006; Ord. No. G-9-06, § 1, 9-11-2006)



All permits covered by this article shall continue in full force from the date specified on the permit. Each garage sale shall not exceed four (4) consecutive days.

Sec.35-7.-Number of permits limited.

The city shall issue one (1) permit for each garage sale. Permits may be issued to a residence no more than Four(4) times per calendar year. Subsequent garage sale permits may not be issued sooner than sixty (60) days after the first.

Sec.35-8.-Transfer of permit.

No permit covered by this article shall be transferable, nor shall a permit holder allow his name to be used by any other party for the purposes of operating a garage sale.

Sec.35-9.-Hours.

An applicant having a valid permit may operate a garage sale between the hours of 7:00 a.m. and 6:00 p.m.

Sec.35-10.-Sale of food items prohibited.

Food items shall not be sold under authority of a garage sale permit.

Sec. 35-11.-Signs.

(a) No signs shall be exhibited more than one (1) day prior to the sale, and shall be removed upon expiration of the garage sale permit. The person or persons exercising ownership or leasehold rights over property on which a garage sale is held or advertised to be held shall be presumed to have placed and exhibited the sign advertising the garage sale that identifies the person's address or location at which the garage sale is to be held. This presumption may be rebutted by evidence to the contrary.

(b) One garage sale sign with the permit number affixed on its face shall be displayed on the applicant's property visible no more than four (4) feet from the curbline or nearest edge of the paved portion of the nearest street or right-of-way.

(c) Garage sale signs may not be posted on city property, or on private property without the express permission of the property owner. Garage sale signs shall not be mounted upon or attached to any utility pole, traffic sign or street sign or other public device or structure. Signs must be securely staked or otherwise secured. Garage sale signs may not be placed in the right-of-way of any highway, street, alley or railroad. Signs may not project over such rights-of-way.

(d) A garage sale operator shall remove all signs within 24 hours after expiration of the garage sale permit. Violators of this section are subject to a fine not to exceed fifty dollars (\$50.00) for each day past the deadline for removing signs.

(e) Signs giving notice of or advertising garage sales shall not exceed four square feet (2' x 2') in face area. They may not be illuminated.

Sec. 35-12.-Exception for churches and charitable or nonprofit organizations.

Any church or charitable or nonprofit organization may hold a maximum of six (6) garage sales per year, provided:

(1) The church or organization does not hold more than one (1) garage sale per month.

(2) The sale must be conducted on the church's or organization's property.

(3) A member of the church or organization, authorized to represent it, must register with the city. No fee will be charged for registration.

(4) None of the net earnings of a garage sale shall inure to a shareholder or other individual



## ARTICLE XII. - LITTER

### Footnotes:

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State Law reference— Health and safety code, title 5. Sanitation and environmental quality, subtitle B. Solid waste, toxic chemicals, sewage, litter, and water, chapter 365, Litter.

### Sec. 20-511. - Definitions.

Containers. City-approved metal or heavy plastic receptacles or city-owned dumpsters used for the storage or disposal of solid wastes, and pedestrian litter containers provided on public sidewalks and elsewhere for the disposal of litter by pedestrians.

Litter. Any solid waste, trash, debris, rubbish, refuse, garbage or junk not placed in a container includes but is not limited to yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots and recreation facilities owned by private individuals, firms, corporations, institutions and organizations.

Public property. Includes but is not limited to streets, street medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, alleys, lanes, public rights-of-way, public parking lots, school grounds, parks, publicly owned recreation facilities and municipal bodies of water and waterways.

#### Refuse

Nonhazardous solid waste, refuse includes putrescible garbage and dry rubbish.

The term shall refer to residential and commercial refuse and bulk waste, commercial debris and stable matter generated at a residential or community unit unless context otherwise requires.

#### Trash

All wastes consisting of both combustible and noncombustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, ashes, wood, glass, bedding, crockery, feathers, coffee grounds, paper boxes, tree trimmings, and similar items that are stored, stacked or piled in an amount or to an extent that it can be recognized from an adjacent street or property owned by another, or causes a health or fire hazard.

Construction materials

Any materials which could be used for the construction of any building, structures, foundations, fences or driveways, including rock, brick, broken concrete, lumber, dirt, plaster, sand or gravel that is stored, stacked or piled in any amount or to the extent that it can be recognized from an adjacent street or property owned by others.

Sec. 20-512. - Littering, dumping prohibited.

(a) It shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amounts on any public or private property within the corporate limits of the city except in containers.

(b) Persons placing litter in public receptacles shall do so in such a manner as to prevent the litter from being carried or deposited by the elements.

(C) Any person who causes or permits the dumping of trash, refuse, litter or construction materials on the right-of-way of any public highway, street, easement or thoroughfare, or upon any public park, private property, or on any premises, or in any container, without legal permission; or who causes, maintains or permits the accumulation of waste which creates an unsanitary condition or permits or encourages the accumulation or breeding of vectors, is guilty of an infraction

Sec. 20-513. - Litter from motor vehicle.

It shall be unlawful for any person, while a driver or passenger in or upon a motor vehicle, to throw or deposit litter, garbage, rubbish, or refuse or the like onto public or private property.

Sec. 20-514. -Penalty

Penalty

A person who violates any provision of this Code pertaining to fire safety or public health and sanitation, including dumping of refuse, shall be punished upon conviction thereof by a fine not to exceed two thousand dollars (\$2,000.00).

A person who violates any other provision of this Code shall be punished upon conviction thereof by a fine not to exceed five hundred dollars (\$500.00).

A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Such penalties shall apply to all violations of provisions of this Code which occur after the effective date of this section regardless of any contrary penalty provision contained in the various ordinances when originally approved and adopted.

Texas Code Of Criminal Procedure

Art. 4.14. JURISDICTION OF MUNICIPAL COURT. (a) A municipal court, including a municipal court of record, shall have exclusive original jurisdiction within the territorial limits of the municipality in all criminal cases that: (1) arise under the ordinances of the municipality; and (2) are punishable by a fine not to exceed: (A) \$2,000 in all cases arising under municipal ordinances that govern fire safety, zoning, or public health and sanitation, other than the dumping of refuse; (B) \$4,000 in cases arising under municipal ordinances that govern the dumping of refuse; or (C) \$500 in all other cases arising under a municipal ordinance.