

**Renter Assistance:
An Alternative Approach
(and support documents)**

Stuart Harry Hersh

RENTER ASSISTANCE: AN ALTERNATIVE APPROACH

The past is never dead. It's not even past. – William Faulkner

I had the most valuable of human gifts, that of retrospective falsification: remembering the good and not the bad. – Mario Puzo

My name is Stuart Harry Hersh, and like most in Austin I rent. I worked for the Building Inspection Department and its successor departments from 1977 to 1999, running permit and/or code enforcement inspection from 1985 to 1998. My testimony is based on that experience.

On April 21, 1977, the City Council passed an ordinance creating a rental registration program in Austin (Ordinance 770421 –B) as part of its Housing Code. The people who asked City Council members to sponsor and approve resolutions and possible code amendments have told the City Council that Austin lacks a rental registration program. But that was not true. The rental registration is still in place and expanding. I explained this in the last rental registration stakeholder process in 2009 and 2010. I am here to explain this again.

On June 6, 2013, the City Council of Austin, Texas approved two separate resolutions that created a stakeholder process to implement a Rental Registration program in Austin. These resolutions had a similar goal to a resolution which the City Council approved on July 3, 2009: to create a rental registration program for the first time to improve compliance with our community's property maintenance standards. In addition, the City Council has also approved resolutions and received reports on how to assist tenants who may be required to vacate their housing due to dangerous conditions, demolition, and/or approved rezoning of the property where they live.

But Austin does not have to create a rental registration program similar to those found in other communities across Texas and across the country. A careful examination of available information reveals that Austin has had a rental registration program since 1977 (Ordinance No. 770421-B). The original ordinance required all hotels, motels, rooming houses, and boarding houses to pay an annual license fee that would cover the possible costs of annual inspections by the City. Licensees were required to maintain their property to Housing Code standards. Failure to comply with applicable standards could result in license suspension or revocation. In the 1990s, bed and breakfast was added to the license requirements. In 2012, short term rental was added to the City Code.

On August 16, 2012, the Public Information Office confirmed that there were 447 hotels, motels, and bed and breakfast locations paying Hotel Occupancy Tax. On August 17, 2012, Code Enforcement confirmed that there were 101 licensed hotels, 52 licensed motels, and 2 Bed and Breakfasts (154 licenses sites). Code Enforcement noted that some bed and breakfasts might be licensed as rooming houses and boarding houses. Code Enforcement noted that total revenue was \$137,313.75.

On July 17, 2013, the Code Compliance Department confirmed that City Auditors estimated that there are 1,500 short term rental properties in Austin. The Code Compliance Department estimates that there are 800 short term rentals, and that only 437 are registered. Revenue from short-term rental registration totals \$108,235.

This information confirms what some of us discussed in the rental registration stakeholder meetings in 2009 and 2010. The City administers the existing rental registration program in a way that results in almost 300 hotels, motels, and bed and breakfasts paying Hotel Occupancy Tax but not purchasing required licenses. If a bed and breakfast claims to be a boarding house or rooming house, it is not subject to Hotel Occupancy Tax and is not subject to a review for compliance with bed and breakfast regulations.

Code Enforcement was asked how many hotel, motel, and bed and breakfast license inspections it had performed in 2011-2012 and anticipated to perform in 2012-2013. Code Enforcement was asked how many additional multi-family inspections it intended to perform in 2012-2013 with additional staff. Code Enforcement was asked to document how increasing multi-family inspectors would have prevented balcony collapses at 1900 Burton Drive. It responded to each of the Open Records Requests in the following way, "We have no responsive information."

Code Enforcement also responded that it expected revenue from fines to decrease from \$93,176.56 in 2011-2012 to \$50,000 2012-2013. Yet, Code Enforcement reported that it anticipated a revenue increase of \$305,000 in 2012-2013 to pay for additional multi-family inspectors.

The 2012-2013 City Budget revealed that the staffing for Code Enforcement had increased from 63 full time equivalent (FTEs) employees in 2009-2010 to 88 FTEs in 2012-2013.

The costs of Code Enforcement rose from \$6,599,932 to \$13,437,002 in the same 4 year period. Staffing increased by 40% during the 4 year period, while the code enforcement budget increased by 104% during the same period.

Renters who have their trash and recycling picked up by a private company pay the \$6 monthly solid waste/code enforcement fees just like those homeowners and renters who have the City pick up their trash and recycling. These fees help pay for the increases in the code enforcement budget. Some of us who pay these fees or who would pay a future rental registration fee call this the Renter Austin Tax, or by its acronym, the RAT. The homeownership minority imposes this on the rental majority, or at least the part of the rental majority that does not live in single-family or two-family housing where the City provides trash and recycling services.

Renters need housing they can afford and that is safe. Neighborhoods and neighbors should expect compliance with adopted property maintenance and land use regulation. The 35 year old licensing program has not proved to be a viable path for achieving these results. So what can be accomplished?

1. The City Budget could include a performance measure that all hotels, motels, rooming houses, boarding houses, bed and breakfasts, and short term rentals secure licenses for 2013 and 2014 by no later than March 31, 2014 or face Building and Standards Commission fines of \$1,000 per day if they remain in non-compliance.
2. The license review process could include a confirmation of compliance with land use regulations to prevent stealth dormitories in single family neighborhoods.
3. All complaints filed with Code Enforcement after October 1, 2013 could result in investigation within 2 working days.

4. The key performance measure for the Code Compliance Department would be the safe that it was for code compliance inspectors in the 1990s: that 90% of cited cases are in compliance within 90 days or have made improvements with required permits and inspections.
5. The second performance measure for the 10% of non-compliant cases is that they are placed on the Building and Standards Commission agenda if they involve property maintenance issues, or are cited in Municipal Court if the BSC does not have jurisdiction.
6. The BSC is encouraged to establish maximum daily fines for non-compliance with orders it issues consistent with State law.
7. Municipal Court is encouraged to establish standard fines for certain common first offenses, and progressively increasing fines for habitual violators.
8. A habitual violator or recidivist registry is established for persons that are in non-compliance with more than one Building and Standards Commission order within a 24 month period and/or more than one Municipal Court deferred adjudication or conviction.
9. The recidivist registry would be posted prominently on the City website and at the entry to City Hall and Municipal Court and is updated weekly, and the registered recidivist would be required to notify any prospective lessee that the owner is a registered recidivist.
10. Priority complaint investigation and compliance will become a pilot in the neighborhoods identified by Council resolution.
11. The increase in license fee collection, BSC order collections, and Municipal Court fines would be available for tenant relocation from dangerous buildings and/or displacement from zoning or demolition decisions.
12. If these funds are significantly underutilized by mid budget year, a budget amendment to make these funds available for rehabilitation of rental housing and home repair for households at or below 50% Median Family Income will be proposed.

Finally, securing permits and inspections in a timely manner is critical to renter assistance. Here are some practices in Austin from the past that could prove successful in making sure that owners who are repairing their property can achieve compliance sooner rather than later:

1. Reinstate the former Minimum Standards permit as a Property Maintenance permit with a minimum fee permit not based on the valuation of repairs or the value of other permits that never received final inspection.
2. Allow the Property Maintenance permit to be issued with all outstanding permit items required to be completed as well as new citations and work the owner is addressing proactively or by applying for assistance from publicly funded repair programs.
3. Re-establish satellite offices for the issuance of electrical, mechanical, and plumbing permits by phone, in person, and/or electronically (previously at William Cannon/South 1st and Anderson/Shoal Creek) to reduce the number of persons/vehicles who have to travel to a downtown/near downtown location. This also decreases the demand to create additional office space downtown/near downtown.
4. Assign code enforcement staff on a monthly rotating basis for review of applications for property maintenance permits so they can be issued as the customer waits in line.
5. Increase inspector availability in the field and increase the number of requested permit inspections performed by allowing inspectors to take home their vehicles again. When instituted previously, this increased functionally the number of inspectors in the field by 6

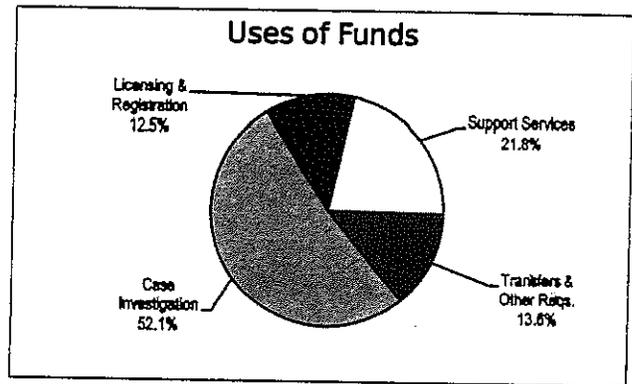
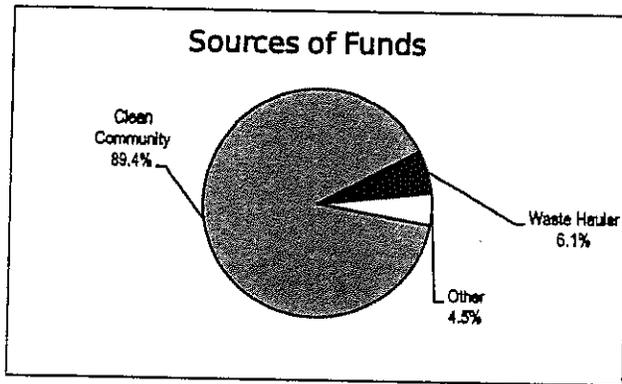
full time employees without having to provide an additional vehicle, office space, and parking spaces.

Austin was once a best practices city in code compliance, just not in rental registration. With the implementation of these and other suggestions, we can once again be proud of our ability to secure property owner cooperation with compliance with community standards for property maintenance.

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Code Compliance



Budget Overview

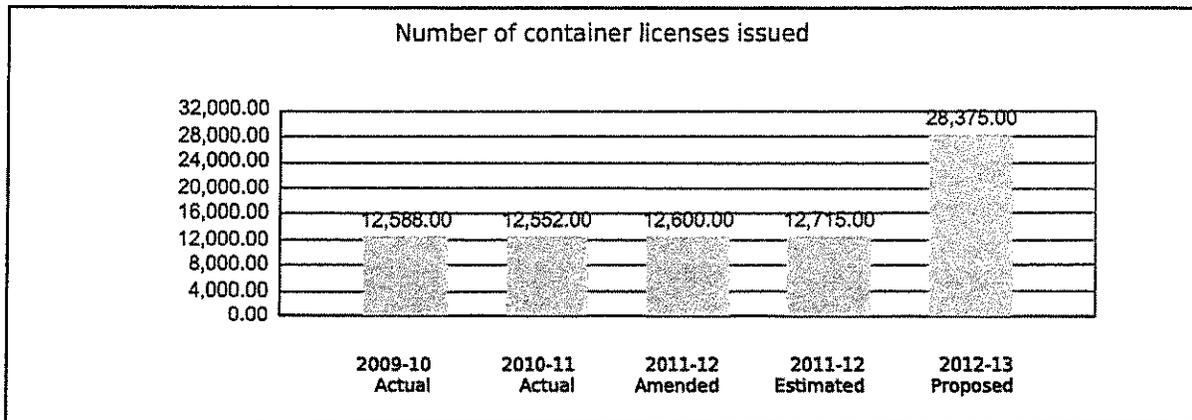
	2009-10 Actual	2010-11 Actual	2011-12 Amended	2011-12 Estimated	2012-13 Proposed
Code Compliance Fund					
Revenue	\$548,147	\$654,367	\$839,189	\$675,244	\$13,459,727
Transfers In	\$6,019,185	\$7,918,786	\$10,464,263	\$9,996,098	\$0
Requirements	\$6,567,332	\$8,585,824	\$11,303,452	\$10,671,342	\$13,437,002
Full-Time Equivalents (FTEs)	63.00	69.00	69.00	69.00	88.00
Expense Refunds	\$13,220	\$248	\$0	\$0	\$0
Grants	\$19,380	\$0	\$0	\$0	\$0
Total Budget	\$6,599,932	\$8,586,072	\$11,303,452	\$10,671,342	\$13,437,002

Code Compliance Budget Detail by Activity

Program: Licensing and Registration Compliance

Activity: Licensing & Registration Compliance

The purpose of the Licensing and Registration Compliance activity is to ensure Billboards, Hotels, Motels, Boarding and Rooming Houses, and Mobile Home Parks are properly licensed and in compliance with City Codes.



	2009-10 Actual	2010-11 Actual	2011-12 Amended	2011-12 Estimated	2012-13 Proposed
Requirements					
Code Compliance Fund	0	0	0	0	793,165
Total Requirements	\$0	\$0	\$0	\$0	\$793,165
Full-Time Equivalents					
Code Compliance Fund	0.00	0.00	0.00	0.00	6.25
Total FTEs	0.00	0.00	0.00	0.00	6.25
Performance Measures					
Number of container licenses issued	12,588	12,552	12,600	12,715	28,375
Number of vehicle licenses issued	226	207	230	250	362
Services					
Billboard, Hotel, Motel, Boarding and Rooming House and Mobile Home Park licensing and registration.					

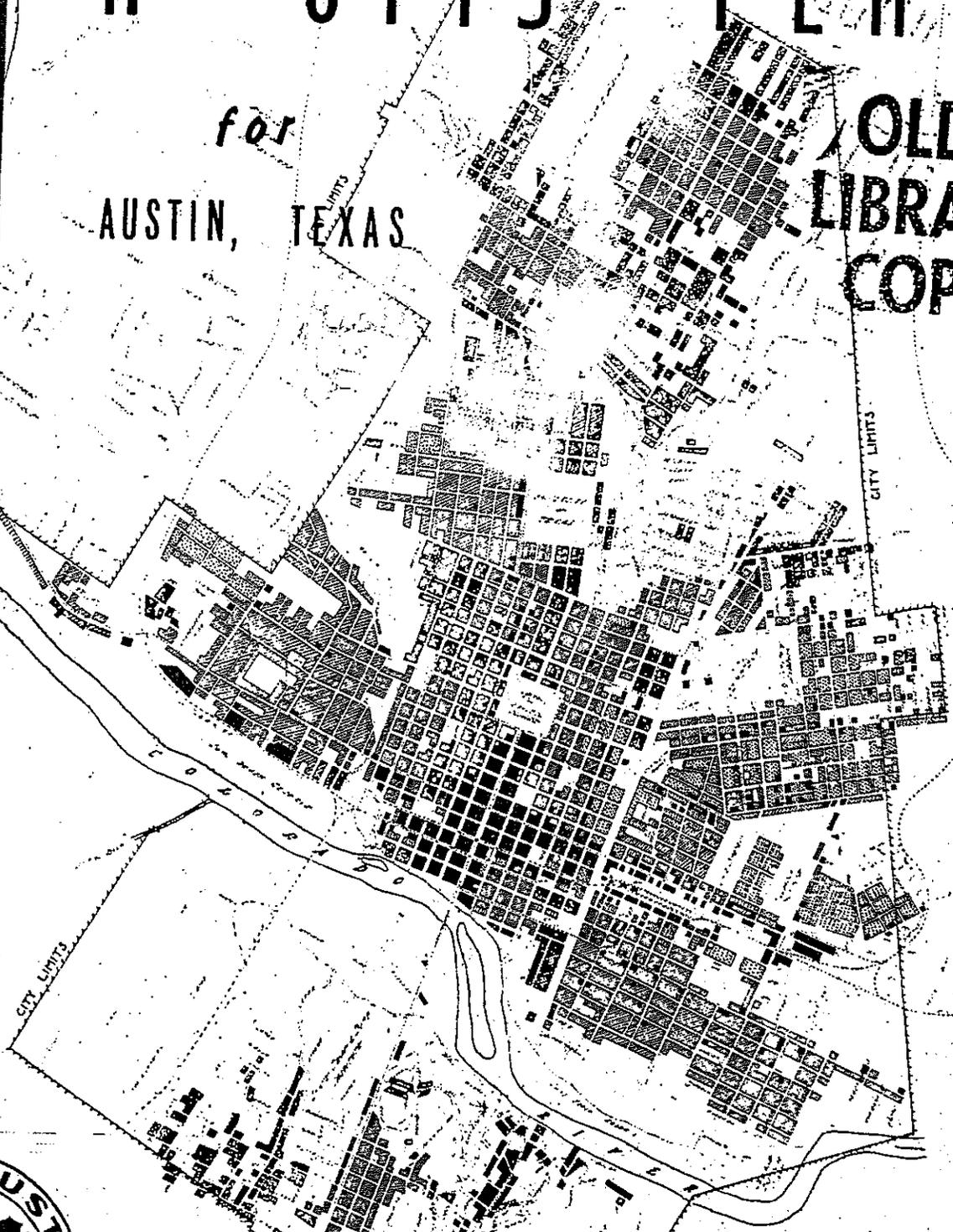
Bold/italicized Measure = Key Indicator

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A CITY PLAN

for
AUSTIN, TEXAS

OLDS
LIBRARY
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KOCH & FOWLER

consulting engineers - 1928

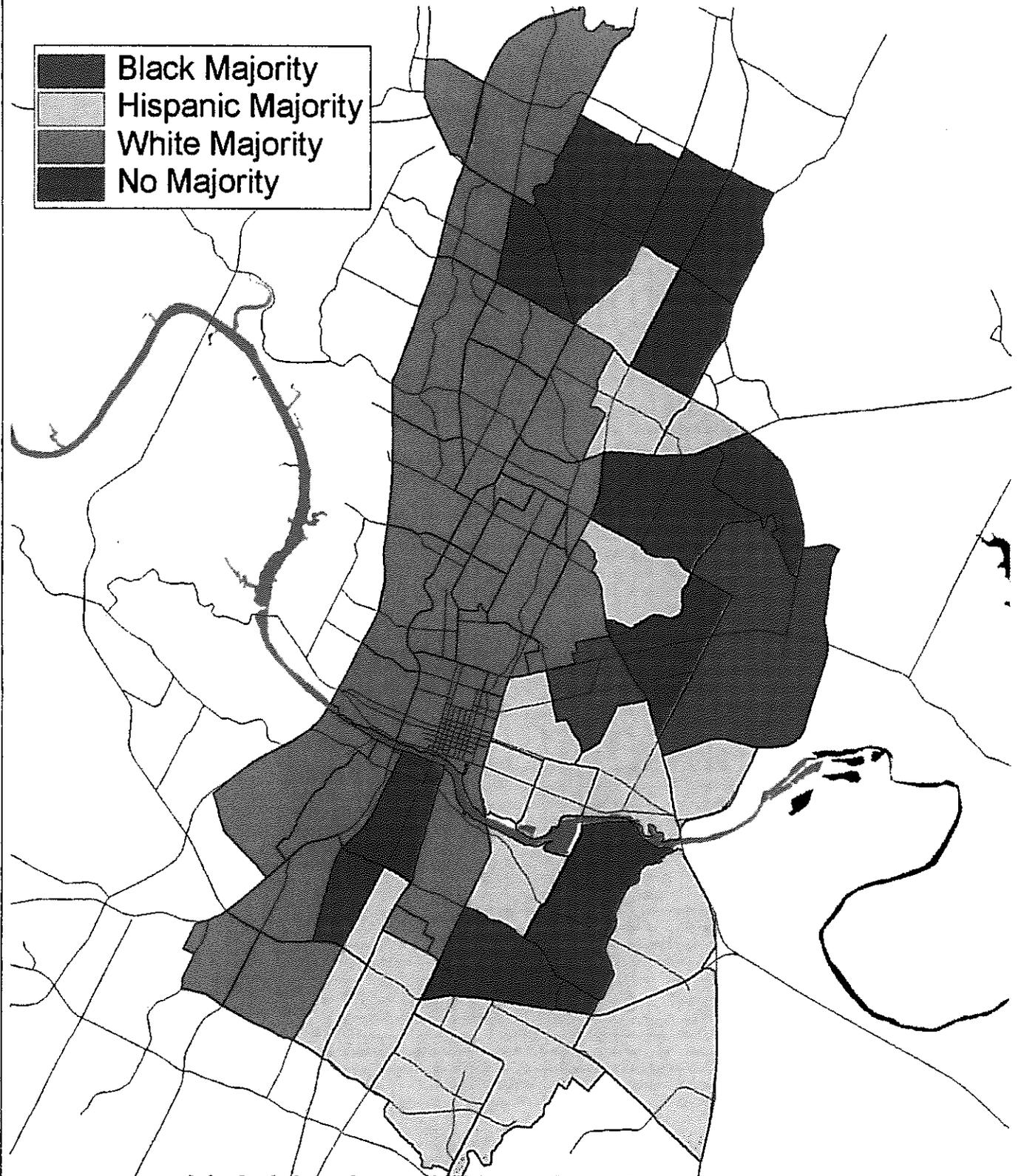
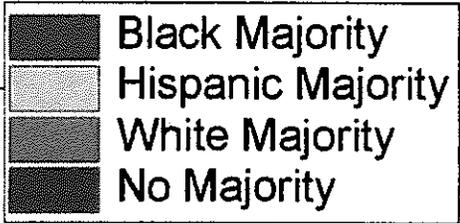


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that this play-field be enlarged and developed to provide for a modern play-field. We also recommend that other play-fields be established in various part of the city. If it is the intention of the school board to provide additional high schools, such play-fields should preferably be located at, or adjacent to, these high schools.

There has been considerable talk in Austin, as well as other cities, in regard to the race segregation problem. This problem cannot be solved legally under any zoning law known to us at present. Practically all attempts of such have been proven unconstitutional.

In our studies in Austin we have found that the negroes are present in small numbers, in practically all sections of the city, excepting the area just east of East Avenue and south of the City Cemetery. This area seems to be all negro population. It is our recommendation that the nearest approach to the solution of the race segregation problem will be the recommendation of this district as a negro district; and that all the facilities and conveniences be provided the negroes in this district, as an incentive to draw the negro population to this area. This will eliminate the necessity of duplication of white and black schools, white and black parks, and other duplicate facilities for this area. We are recommending that sufficient area be acquired adjoining the negro high school to provide adequate space for a complete negro play-field in connection with the negro high school. We further recommend that the negro schools in this area be provided with ample and adequate play ground space and facilities similar to the white schools of the city.



**Neighborhood Planning Areas --
Majority Ethnic Groups**

Chapter 13-11

HOUSING CODE*

- Art. I. In General, §§ 13-11-1—13-11-20
- Art. II. Administration and Enforcement, §§ 13-11-21—13-11-105
 - Div. 1. Generally, §§ 13-11-21—13-11-35
 - Div. 2. Building Standards Commission, §§ 13-11-36—13-11-50
 - Div. 3. Specific Responsibilities of Owners, §§ 13-11-51—13-11-65
 - Div. 4. Landlord-Tenant Relationships, §§ 13-11-66—13-11-75
 - Div. 5. Procedures for Demolition, Vacation, Etc., §§ 13-11-76—13-11-90
 - Div. 6. Violations, §§ 13-11-91—13-11-105
- Art. III. Minimum Standards, §§ 13-11-106—13-11-180
 - Div. 1. Generally, §§ 13-11-106—13-11-115
 - Div. 2. Space and Occupancy Standards, §§ 13-11-116—13-11-135
 - Div. 3. Structural Requirements, §§ 13-11-136—13-11-145
 - Div. 4. Mechanical Systems, §§ 13-11-146—13-11-155
 - Div. 5. Exits, §§ 13-11-156—13-11-165
 - Div. 6. Fire Protection, §§ 13-11-166—13-11-180
- Art. IV. Rooming Houses, Hotels and Motels, §§ 13-11-181—13-11-220
 - Div. 1. Generally, §§ 13-11-181—13-11-195
 - Div. 2. License, §§ 13-11-196—13-11-220
- Art. V. Moving of Buildings, §§ 13-11-221—13-11-245
 - Div. 1. Generally, §§ 13-11-221—13-11-235
 - Div. 2. Permit, §§ 13-11-236—13-11-245

ARTICLE I IN GENERAL

Sec. 13-11-1. Short title.

This chapter shall be known as the Austin Housing Standards Ordinance. (Code 1967, § 40-1; Ord. No. 770421-B, pt. 1)

Sec. 13-11-2. Legislative findings of fact.

It is hereby found and declared that there exists in the city buildings used for human habitation and nonresidential purposes which are substandard and dilapidated in structure and maintenance. Furthermore, inadequate provision for light and ventilation, insanitary conditions, inadequate structural and mechanical conditions, insufficient protection

against fire, inadequate shelter provisions, lack of proper heating, and overcrowding constitute a hazard to the health, safety, welfare and reasonable comfort of our citizens. It is further found and declared that the existence of such conditions, factors or characteristics will create slum and blighted areas requiring large scale clearance, if not remedied, and further that, in the absence of corrective measures, such areas will experience a deterioration of social values, a curtailment of investment and tax revenue, and an impairment of economic values. It is further found and declared that the establishment and maintenance of minimum structural and environmental standards are essential to the prevention of blight and decay and the safeguarding of public health, safety and

*Cross references—Building code, Ch. 13-5; electrical code, Ch. 13-6; fire prevention code, Ch. 13-7; mechanical code, Ch. 13-8; plumbing code, Ch. 13-9; swimming pools, Ch. 13-10; unsafe commercial buildings, Ch. 13-12.

welfare. (Code 1967, § 40-2; Ord. No. 770421-B, pt. 1)

Sec. 13-11-3. Purpose of chapter.

(a) The purpose of this chapter is to protect the health, safety and welfare of our citizens by establishing minimum standards applicable to residential and nonresidential structures. Minimum standards are established with respect to utilities, facilities and other physical components essential to make structures safe, sanitary and fit for human use and habitation. Demolition of structures is provided for as a last resort when compliance with standards cannot be reasonably achieved.

(b) This chapter is found to be remedial and essential to the public interest, and it is intended that this chapter be liberally construed to effect its purpose. All structures within the city on May 2, 1977, or constructed thereafter, must comply with the provisions of this chapter. (Code 1967, § 40-3; Ord. No. 770421-B, pt. 1)

Sec. 13-11-4. Definitions.

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section unless the context requires otherwise:

Accessory structure: A structure, the use of which is incidental to that of the main building, and which is attached thereto or located on the same premises.

Apartment hotel: A building containing apartments rented for nontransient use and having a desk or lobby and providing some services customary and appropriate to a hotel such as room and housekeeping services, but not having any public meeting room.

Basement: That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from the grade to the floor below is less than the vertical distance from grade to ceiling.

Bathroom: An enclosed space containing one or more bathtubs, showers, or both, and which may also include toilets, lavatories or fixtures serving similar purposes.

Board: The building standards commission.

Boardinghouse: A building, other than a hotel, where lodging and meals for five (5) or more persons are provided for compensation.

Building official: The officer or other designated authority charged with the administration and enforcement of this chapter, or any duly authorized representative.

Cellar: That portion of a building between floor and ceiling which is wholly or partially below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

Efficiency living unit: An apartment or living unit having a maximum floor area of four hundred (400) square feet and meeting the requirements of section 13-11-118(c).

Extermination: The control and elimination, to a reasonable extent, of insects, rodents and vermin by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by other approved means of pest elimination.

Family: One person, or two (2) or more persons, related by blood, marriage or legal adoption, or a group of not more than five (5) unrelated persons occupying a dwelling unit. A group of people occupying a boardinghouse, dormitory, lodging house, fraternity house, sorority house, hotel, motel or similar accommodation shall not be considered as a family.

Floor space: The total area of all habitable space.

Garbage: The animal, vegetable and mineral waste resulting from handling, preparation, cooking and consumption of food.

Grade: The lowest point of elevation of the finished surface of the ground, paving or a sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Habitable building: A building or a portion of a building used, designed or intended to be used for human habitation which meets the requirements of this chapter and wherein all rooms, designed or intended to be used for human habitation, are habitable rooms.

Habitable space: Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

Health officer: The health officer shall be the legally designated head of the department of health of this city, or any duly authorized representative.

Hotel: A building or part of a building in which there are guest rooms, rooming units or apartments used primarily for transient occupancy and which may be rented on a daily basis, providing desk service, and having one or more of the services of maid, telephone, bellboy or furnishing of lines. Such term shall include motels, motor hotels, and similar uses.

Hot water: Water at a temperature of not less than one hundred twenty (120) degrees Fahrenheit.

Infestation: The presence within or upon the premises of a building, dwelling unit, rooming house, rooming unit or premises, of insects, rodents, vermin or other pests posing a hazard to the health and safety of the occupants.

Kitchen: A room used, or designed to be used, for the preparation of food in which an approved kitchen sink is installed.

Mechanical code: The Uniform Mechanical Code, published by the International Confer-

ence of Building Officials, as adopted and amended by the city.

Occupant: Any person as owner, tenant, licensee, trespasser or other person in the exclusive or partial possession or living upon the premises.

Owner: A person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to:

- (a) The holder of fee simple title;
- (b) The holder of a life estate;
- (c) The holder of a leasehold estate for an initial term of five (5) years or more;
- (d) The buyer in a contract for deed; and,
- (e) A mortgagee, receiver, executor or trustee in control of real property; but, not including the holder of a leasehold estate or tenancy for an initial term of less than five (5) years.

Plumbing code: The Uniform Plumbing Code published by the International Conference of Plumbers and Mechanical Officials as adopted and amended by the city.

Plumbing fixtures: Includes gas pipes, water pipes, toilets, lavatories, sinks, laundry tubs, dishwashers, garbage disposal units, clothes washing machines, catch basins, wash basins, bathtubs, shower baths, sewer pipes, sewage systems, septic tanks, drains, vents, traps or other fuel burning or water using fixtures and appliances, together with all connections to pipes.

Premises: A lot, plot or parcel of land, including any structures thereon.

Property manager: A person who, for compensation, has managing control of real property.

Public sewer: A sewer operated by public authority or public utility and available for public use.

Rooming house: A building, or part thereof, which contains one or more rooming units,

and in which space is occupied or intended to be occupied by five (5) or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the resident owner or operator.

Rooming unit: Any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping but not for cooking or eating purposes.

Rubbish: All combustible and noncombustible waste, except garbage.

Structure: That which is built or constructed, a building of any kind, or any piece of work artificially built-up or composed of parts joined together in some definite manner.

Uniform Building Code or building code: The Uniform Building Code, published by the International Conference of Building Officials, as adopted and amended by the city.

Window: A glazed opening, including glazed doors, which opens upon a yard, court or recesses from a court, or a vent shaft open and unobstructed to the sky. (Code 1967, § 40-4; Ord. No. 770421-B, pt. 1)

Sec. 13-11-5. Scope.

(a) The provisions of this chapter shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation. Where any building or portion thereof is used or intended to be used as a combination apartment house-hotel, the provisions of this chapter shall apply to the separate portions as if they were separate buildings. Every rooming house or lodging house shall comply with all the requirements of this chapter for dwellings and shall comply with all Group I occupancy requirements of the building code.

(b) Existing buildings which are altered or enlarged shall be made to conform to this chapter insofar as new work is concerned and in accordance with the provisions of this chapter.

(c) Existing buildings which are moved or relocated shall be considered as new buildings

and shall comply with all the requirements of this chapter. (Code 1967, § 40-5; Ord. No. 770421-B, pt. 1)

Cross reference—Building code, Ch. 13-5.

Sec. 13-11-6. Substandard buildings designated.

Any building or portion thereof including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and is hereby declared to be a substandard building:

- (a) Inadequate sanitation. Inadequate sanitation shall include, but not be limited to, the following:
 - (1) Lack of or improper water closet, lavatory bathtub or shower in a dwelling unit.
 - (2) Lack of or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
 - (3) Lack of or improper kitchen sink.
 - (4) Lack of hot and cold running water to plumbing fixtures in a hotel.
 - (5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
 - (6) Lack of adequate heating facilities.
 - (7) Lack, or improper operation, of required ventilating equipment.
 - (8) Lack of minimum amounts of natural light and ventilation required by this chapter.
 - (9) Room and space dimensions less than required by this chapter.
 - (10) Lack of required electrical lighting.
 - (11) Dampness of habitable rooms.
 - (12) Infestation of insects, vermin or rodents as determined by the health officer.
 - (13) General dilapidation or improper maintenance.
 - (14) Lack of connection to required sewage disposal system.

- (15) Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.
- (16) Lack of sanitary, interior wall covering.
- (b) Structural hazards. Structural hazards shall include, but not be limited to, the following:
- (1) Deteriorated or inadequate foundations.
 - (2) Defective or deteriorated flooring or floor supports.
 - (3) Flooring or floor supports of insufficient size to carry imposed loads with safety.
 - (4) Members of walls, partitions, or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
 - (5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
 - (6) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
 - (7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
 - (8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
 - (9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- (c) Hazardous wiring. All wiring except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.
- (d) Hazardous plumbing. All plumbing except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross-connections and siphonage between fixtures.
- (e) Hazardous mechanical equipment. All mechanical equipment, including vents, except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.
- (f) Faulty weather protection, which shall include but not be limited to the following:
- (1) Deteriorated, crumbling or loose plaster.
 - (2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
 - (3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
 - (4) Broken, rotted, split or buckled exterior wall coverings or roof coverings.
 - (5) Lack of adequate insulation in ceilings.
 - (6) Lack of adequate insulation in exterior walls. Provided however, double wall construction which was in compliance with this Code at the time of original construction shall be deemed adequate for purposes of this chapter; otherwise, insulating material will be required.
- (g) Fire hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
- (h) Faulty materials of construction. All materials of construction except those which are specifically allowed or ap-

proved by this chapter and the building code, and which have been adequately maintained in good and safe condition.

- (i) Hazardous or insanitary premises. Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions, constitute fire, health or safety hazards.
- (j) Inadequate maintenance. Any building or portion thereof which is determined to be an unsafe building in accordance with section 203 of the Uniform Building Code.
- (k) Inadequate exits. All buildings or portion thereof not provided with adequate exit facilities as required by this Code except those buildings or portion thereof whose exit facilities conform with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy. When an unsafe condition exists through lack of, or improper location of exits, additional exits may be required to be installed.
- (l) Inadequate fire protection or fire-fighting equipment. All buildings or portions thereof which are not provided with a fire-resistive construction or fire extinguishing systems or equipment required by this chapter, except those buildings or portions thereof which conform with all applicable laws at the time of their construction and whose fire-resistive integrity and fire extinguishing systems or equipment have been maintained and approved in relation to any increase in occupant load, alteration or addition or any change in occupancy.
- (m) Improper occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used

for such occupancy. (Code 1967, § 40-34; Ord. No. 770421-B, pt. 1; Ord. No. 781026-A, pts. 8, 9)

Cross reference—Building code, Ch. 13-5.

Sec. 13-11-7. Abatement of substandard buildings.

All buildings or portions thereof which are determined to be substandard as defined in this chapter are hereby declared to be a hazard to the health, safety and welfare of the citizens and shall be abated by repair, rehabilitation, demolition or removal, in accordance with the procedures specified in section 13-11-76 of this Code or by prosecution in municipal court. (Code 1967, § 40-7; Ord. No. 770421-B, pt. 1; Ord. No. 781026-A, pt. 1)

Secs. 13-11-8—13-11-20. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 13-11-21. Enforcement officer designated.

The building official is hereby authorized and directed to administer and enforce all of the provisions of this chapter. (Code 1967, § 40-6(a); Ord. No. 770421-B, pt. 1)

Sec. 13-11-22. Building permits and inspections.

(a) No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure or cause or permit the same to be done, without first obtaining a separate building permit for each such building or structure from the building official in the manner and according to the conditions prescribed in Chapter 3 of the Uniform Building Code. All permits issued under this chapter shall be

valid only for the time specified in the permit.

(b) Whenever a building permit is required by subsection (a), the appropriate fees shall be paid to the building official as specified in section 303 of the Uniform Building Code.

(c) All buildings or structures within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this chapter and in sections 304 and 305 of the Uniform Building Code. (Code 1967, §§ 40-22—40-24; Ord. No. 770421-B, pt. 1)

Sec. 13-11-23. Entry powers.

Whenever necessary to make an inspection or enforce any of the provisions of this chapter, or whenever the building official or any authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises substandard as defined in section 13-11-6, the building official or any authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this chapter; provided that if such building or premises be occupied, he or she shall first present proper credentials and demand entry; and, if such building or premises be unoccupied and securely locked, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. Permission of the owner, occupant or person in control is necessary for entry; except if such entry is refused, the building official or any authorized representative shall have recourse to every remedy provided by law to secure entry. (Code 1967, § 40-6(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-24. Relative responsibilities of owners and occupants.

(a) Every owner remains liable for violations of duties imposed upon such owner by

this chapter, even though an obligation is also imposed on the occupants of the building, and even though the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this chapter.

Every owner, or any agent, in addition to being responsible for maintaining his building in a sound structural condition, shall be responsible for keeping that part of the building or premises which he or she occupies or controls in a reasonably clean, sanitary and safe condition including the shared or public areas in a building containing two (2) or more dwelling units. It shall be a defense that the owner neither knew nor should have known of the said condition.

Every owner shall, when required by this chapter, health ordinances or the health officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment, or facilities for the prevention of insect and rodent infestation, and where infestation has taken place, shall be responsible for the extermination of any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling.

(b) Every occupant of a dwelling unit shall refrain from rendering the premises insanitary or unsafe, and every occupant shall dispose of all his rubbish, garbage, and other organic wastes in a manner required by ordinance. Every occupant shall, when required by this chapter, any health ordinance or the health officer, furnish and maintain approved devices, equipment or facilities necessary to keep his or her premises safe and sanitary. (Code 1967, § 40-6(c); Ord. No. 770421-B, pt. 1)

Sec. 13-11-25. Specific responsibilities of occupants.

An occupant shall:

- (1) Maintain those portions of the interior of a structure under his control free from rubbish, garbage, and other conditions

that would encourage infestation of insects, rodents or vermin;

- (2) Remove an animal or animals from the premises if the presence of the animal or animals is a health hazard to an occupant;
- (3) Connect plumbing fixtures and heating equipment that the occupant supplies in accordance with the plumbing code and the mechanical code;
- (4) Provide solid waste receptacles or containers as required by Chapter 6-6 of this Code; and,
- (5) Not alter a structure or its facilities so as to create a nonconformity with section 13-11-6, or this section. (Code 1967, § 40-14; Ord. No. 770421-B, pt. 1)

Cross references—Mechanical code, Ch. 13-8; plumbing code, Ch. 13-9.

Sec. 13-11-26. Housing surveys.

The building official is authorized to make housing surveys in any area of the city to determine the general conditions of housing in that area, the extent of deterioration of buildings, the lack of facilities and maintenance, the unsafe and insanitary conditions, the overcrowding which may exist, and other matters included within the provisions of this chapter in addition to his or her other powers. (Code 1967, § 40-8; Ord. No. 770421-B, pt. 1)

Secs. 13-11-27—13-11-35. Reserved.

DIVISION 2. BUILDING STANDARDS COMMISSION*

Sec. 13-11-36. Established.

In order to provide for final interpretation of the provisions of this chapter and to hear appeals provided for hereunder, there is hereby established a building standards commission. (Code 1967, § 40-9(a); Ord. No. 770421-B, pt. 1)

***Cross references**—Ethics and financial disclosures, Ch. 2-3; boards and commissions generally, Ch. 2-4.

Sec. 13-11-37. Members.

(a) The building standards commission shall consist of eleven (11) members appointed by the city council. If available, the membership of the commission shall consist of the following:

- (1) A registered architect or structural engineer who has experience in the construction of buildings and housing;
- (2) A mortgage loan banker who has been engaged in mortgage loan banking;
- (3) A home builder who has experience in the construction and remodeling of homes;
- (4) A licensed real estate broker who has experience in the appraisal of real estate;
- (5) A person who is engaged in social or welfare work and who has experience in public or private case work;
- (6) A low-income tenant;
- (7) A landlord who is active in full-time property management or who owns and controls more than fifty (50) dwelling units; and,
- (8) Four (4) members chosen on the basis of their interest in community affairs.

(b) All members must be residents of the city. Said members shall be appointed to two-year staggered terms with the terms of six (6) of such commission members expiring June first of even-numbered years and the other five (5) terms shall expire June first of odd-numbered years.

(c) In addition to such eleven (11) members, the fire marshal, the building official, and the health officer shall be ex officio, nonvoting members of the building standards commission. Such ex officio members may designate a representative to attend hearings. (Code 1967, § 40-9; Ord. No. 770421-B, pt. 1; Ord. No. 771103-B, pt. 1)

Sec. 13-11-38. Officers and meetings.

The members of the building standards commission shall select a chairman. The

building official shall act as executive secretary to the commission. The commission may adopt procedural rules not inconsistent with the terms of this chapter. Meetings will be held at the call of the chairman, or in his absence, the vice-chairman, or an acting chairman designated by the chairman or as the board may determine. The chairman, acting chairman, or the vice-chairman, may administer oaths and compel the attendance of witnesses. Rehearings on and appeals from the decisions of the commission shall be governed by section 13-11-77. (Code 1967, §§ 40-9, 40-11; Ord. No. 770421-B, pt. 1)

Sec. 13-11-39. Staff assistance.

Additional staff personnel are to be in attendance at meetings of the building standards commission at the request of the commission. (Code 1967, § 40-9; Ord. No. 770421-B, pt. 1)

Sec. 13-11-40. Functions.

The building standards commission shall have the following powers and duties:

- (1) To require the reduction in occupancy load of an overcrowded structure or vacation of a structure that is hazardous to the health, safety and welfare of the occupants;
- (2) To permit the repair of a substandard structure as an alternative to demolition of the structure;
- (3) To require the demolition of structures found to be substandard;
- (4) To require the removal of personalty from a structure ordered vacated or demolished. Removal may be accomplished by use of city forces or a private transfer company if the owner of the personalty is not known, or the whereabouts of the owner cannot be ascertained, or the owner fails to remove the personalty. The building standards commission may cause any personalty removed to be stored in the care and custody of a bonded warehouse facility.

Cost of removal and storage are the responsibility of the owner of the personalty;

- (5) To require that a vacant structure or vacant portion of a structure constituting a hazard be securely closed and made safe;
- (6) To grant a variance when, in the opinion of the building standards commission, a literal interpretation of this chapter would result in an imposition of an unnecessary or unreasonable hardship;
- (7) To hear all applications for move permits and to decide whether such permits are to be granted or denied;
- (8) To interpret the provisions of this chapter in such a way as to carry out its intent and purpose, and to from time to time, as it deems advisable, make suggestions and recommendations for improvement of this chapter to the city council;
- (9) To advise the general public of the availability of funding for relocation and rehabilitation, and the general availability of low-cost, standard living units. (Code 1967, § 40-10; Ord. No. 770421-B, pt. 1)

Secs. 13-11-41—13-11-50. Reserved.

DIVISION 3. SPECIFIC RESPONSIBILITIES OF OWNERS

Sec. 13-11-51. Property standards.

An owner shall:

- (1) Eliminate a hole, excavation, sharp protrusion, and other objects or conditions that exist on the land and are reasonably capable of causing injury to a person;
- (2) Securely cover or close a well, cesspool or cistern;
- (3) Provide solid waste receptacles or containers as required by Chapter 6-6 of this

Code, or require the tenant to provide such containers in a written lease for single-family dwelling or multi-family complexes of twelve (12) units or less;

- (4) Provide drainage to prevent standing water and flooding on the land, except as required by ordinance;
- (5) Remove dead trees and tree limbs that are reasonably capable of causing injury to a person;
- (6) Keep the doors and windows of a vacant structure or vacant portion of a structure securely closed to prevent unauthorized entry; and,
- (7) Apply paint or other coatings at reasonable intervals sufficient to protect the exterior surfaces of a structure which are subject to decay. (Code 1967, § 40-13(a); Ord. No. 770421-B, pt. 1)

Sec. 13-11-52. Structural standards.

An owner shall:

- (1) Fill hollow, masonry supporting piers, if used, with concrete and anchor the piers to concrete footings with a five-eighths-inch steel dowel;
- (2) Provide and maintain railing for stairs, steps, balconies, porches and elsewhere as specified in the building code;
- (3) Repair holes, cracks and other defects reasonably capable of causing injury to a person in stairs, porches, steps and balconies;
- (4) Maintain the structure intended for human occupancy in a reasonably weather-tight and water-tight condition;
- (5) Maintain floors, walls, ceiling and all supporting structural members in a sound condition, capable of bearing an imposed load safely;
- (6) Provide cross-ventilation of not less than one and one-half (1½) square feet for each twenty-five (25) linear feet of wall in each basement, cellar and crawl space;
- (7) Repair or replace chimney flue and vent attachments that do not function properly;
- (8) Repair holes, cracks, breaks and loose surface materials that are health or safety hazards in or on floors, walls and ceilings; and,
- (9) Provide and maintain a moisture-resistant finish or material for the floor of each bathroom, shower room and toilet room, unless same is carpeted with structurally sound flooring underneath. (Code 1967, § 40-13(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-53. Utility standards.

An owner shall:

- (1) Provide and maintain connections to discharge sewage from a structure or land into a public sewer system where available, or in conformance with city/county health regulations.
- (2) Provide and maintain a toilet connected to a water source and to a public sewer, where available, in each structure intended for human habitation, or in conformance with city/county health regulations.
- (3) Provide and maintain connections and pipes to supply potable water at adequate pressure to a structure intended for human occupancy.
- (4) Provide and maintain a device to supply hot water of a reasonably constant minimum temperature of one hundred twenty (120) degrees Fahrenheit within each structure intended for human habitation.
- (5) Provide a connected kitchen sink, bathtub or shower, and lavatory to a cold and hot water source in each structure intended for human habitation.
- (6) Connect plumbing fixtures and heating equipment that the owner supplies in

accordance with the building code and mechanical code.

- (7) Provide heating equipment in multi-dwelling units capable of maintaining a minimum inside temperature of sixty-eight (68) degrees Fahrenheit. All other units must have either heating equipment capable of maintaining an inside temperature of sixty-eight (68) degrees Fahrenheit or operable gas utility connections for such equipment in each room of a structure intended for human occupancy.
- (8) Provide and maintain supply lines for electrical service to each structure intended for human occupancy if electrical service is available within three hundred (300) feet.
- (9) Connect each heating and cooking device that burns solid fuel to a chimney or flue.
- (10) Provide and maintain electrical circuits and outlets sufficient to safely carry a load imposed by normal use of appliances and fixtures. (Code 1967, § 40-13(c); Ord. No. 770421-B, pt. 1)

Sec. 13-11-54. Health standards.

An owner shall:

- (1) Be responsible for extermination of insects, rodents and vermin within and contiguous to a dwelling unit, including land and buildings in multi-family dwellings; extermination shall be no less than every six (6) months unless it can be shown to the building official that more frequent extermination is necessary. All rental premises shall be reasonably free of insects, rodents and vermin when the tenant assumes occupancy.
- (2) Provide a structure intended for human habitation with a screen for keeping out insects at each opening of the structure, if the structure is not cooled with refrigerated air.

- (3) Maintain the interior of a vacant structure or vacant portion of a structure free from rubbish and garbage.
- (4) Keep the interior of vacant structure or portion of vacant structure free from insects, rodents, and vermin. (Code 1967, § 40-13(d); Ord. No. 770421-B, pt. 1)

Sec. 13-11-55. Exception.

It is a defense to prosecution under this division that the premises concerned is the site of new construction and reasonable and continuous progress is being made to complete the construction. (Code 1967, § 40-13(e); Ord. No. 770421-B, pt. 1)

Secs. 13-11-56—13-11-65. Reserved.

DIVISION 4. LANDLORD-TENANT RELATIONSHIPS

Sec. 13-11-66. Generally.

The owner shall remain responsible for compliance with this chapter even if, by the terms of a written rental agreement, the tenant has agreed to assume certain duties or responsibilities as set out in sections 13-11-25 or 13-11-51 to 13-11-65. Such agreement on the part of the tenant must be made voluntarily, intelligently, knowledgeably, for consideration and in writing; and it must set forth the specific duties assumed by the tenant and it must be made in good faith and not inconsistent with the purpose of this chapter. (Code 1967, § 40-15(a); Ord. No. 770421-B, pt. 1; Ord. No. 781026-A, pt. 3)

Sec. 13-11-67. Retaliation against tenants.

(a) A landlord may not make a retaliatory eviction against a tenant who files a valid complaint with the building official or enforces his rights under this chapter. It shall be a misdemeanor to raise the rent, diminish services, or to attempt eviction for reasons other than nonpayment of rent or other good cause:

- (1) Within six (6) months after a valid complaint is filed by the tenant with the building official, complaining of violations of this chapter; or,
- (2) Within six (6) months after completion of repairs required by a valid order of the building official, whichever time period is longer.

A complaint or order, for purposes of this section, shall be presumed valid only if the building official has stated, in a sworn affidavit, that the rental premises are in violation of this chapter, listing the specific violations. No criminal charges for violation of this section may be filed or commenced without such affidavit having been first executed by the building official or without a lapse of ten (10) working days from the time a complaint was received by the building inspection department from the tenant.

(b) The following shall not under any circumstances constitute retaliation:

- (1) Increases in rent pursuant to an escalation clause for utilities, taxes or insurance in a written rental agreement;
- (2) Increases in rent or reduction in services against the complaining tenant which are a part of a pattern of rental increases or service reductions for an entire multi-family dwelling project of four (4) or more units, and;
- (3) Increases in rent which are reasonably related to repairs or improvements actually made by the landlord after a complaint has been filed and which do not cause the total rent to exceed fair market value of the premises. No such rental increase shall be made until the structure is in full compliance with the building official's order. (Code 1967, § 40-15(b); Ord. No. 770421-B, pt. 1; Ord. No. 781026-A, pt. 3)

Cross reference—Penalty for violation of code, § 1-1-7.

Sec. 13-11-68. Rental of nonconforming premises.

It shall be a misdemeanor to rent a structure if the premises are in violation of this chapter which poses a danger to the health, safety and welfare of an ordinary tenant and if the building official has made a reasonable attempt to notify the owner of the alleged violation or if the tenant has given notice, in writing to the owner of the alleged violation. (Code 1967, § 40-15(c); Ord. No. 770421-B, pt. 1)

Cross reference—Penalty for violation of code, § 1-1-7.

Secs. 13-11-69—13-11-75. Reserved.

DIVISION 5. PROCEDURES FOR DEMOLITION, VACATION, ETC.

Sec. 13-11-76. Substandard structures; repair and demolition; notice.

(a) The building official shall give notice of a hearing to consider demolition of a substandard structure to the owner or owners, lessor and occupant of the structure and any lienholder of record of the real property concerned. A structure is substandard if the owner of the structure fails to comply with one or more of the minimum standards of section 13-11-6, and the structure is a hazard to the health, safety and welfare of an occupant or other person.

(b) A public hearing to consider demolition of the structure shall be held before the building standards commission at a time more than ten (10) days after receipt of notice by any one of the persons defined as an owner.

(c) The building standards commission, after hearing evidence from each interested party present, may:

- (1) Find that the structure is not substandard and refer the matter to the building official for further appropriate action;
- (2) Grant a variance in order to avoid the imposition of an unreasonable hardship;
- (3) In the case of a single-family dwelling occupied by the owner where the health, safety and welfare of other persons will not be affected, may grant an exception to any provision of this chapter to avoid the imposition of an unreasonable hardship; or
- (4) Find that the structure is substandard and order repair or other suitable remedy within a specified period of time and demolition of the structure if the repair and other suitable remedies are not timely effected; or
- (5) Order the demolition of the structure within a specified period of time. When the building standard commission so orders the demolition of the structure, the permit for this demolition shall be issued at no cost.

(d) Demolition of a structure may be accomplished by an owner in compliance with this section or by the city. The expense of demolition, when performed under contract with the city or by city forces, constitutes a lien against the real property on which the structure stood and the lien runs with the land. The city may use lawful means to collect demolition costs from an owner, except for sale of the land.

(e) The building official shall give notice of demolition if he determines that the owner has not complied with an order issued under subsection (c)(4).

(f) The building official shall give notice of an order issued under subsection (c)(4) or (c)(5) and notice of demolition under subsection (e), at the time of issue, to each person designated in subsection (a) and shall file each order under subsections (c)(4) and (c)(5) in the deed records of the county. If an order to repair is timely effected, the building

official shall, upon request and payment of the cost by the owner, file a notice of compliance in the deed records.

(g) When an order issued under subsection (c)(4) or (c)(5) has been filed in the deed records, execution of the order is not effected by sale or other transfer of the premises. A person acquiring interest in property after an order has been so filed is subject to the requirements of the order. The provision of this subsection shall be included as part of each order.

(h) The building official shall serve notice required by this section to any one of the persons defined as an owner by certified U.S. mail, return receipt requested, sent to the last known address of the person being notified. If the certified mail is returned undelivered, the building official may serve the notice personally if the person to be notified can be found within the county. If notice sent to an owner pursuant to subsection (f) is returned undelivered, and after a diligent search, the building official is unable to discover a correct address for the owner and is unable to serve the owner personally, then the building official shall give notice by publication of the order two (2) times within ten (10) consecutive days in a newspaper of general circulation in the city. (Code 1967, § 40-16; Ord. No. 770421-B, pt. 1; Ord. No. 781026-A, pts. 6, 7)

Sec. 13-11-77. Rehearing of demolition orders and appeal to city council.

(a) The building standards commission may grant one rehearing if a person affected by an order and notice of demolition requests the rehearing within ten (10) days after notice of demolition is received. The rehearing shall not be given prior to issuance of a notice of demolition.

(b) The decision of the building standards commission may be appealed to the city council within ten (10) days after notice of demolition is received.

(c) When a rehearing is granted or when there is an appeal to the city council, the building official shall stay all proceedings of demolition until the conclusion of the rehearing or the appeal. (Code 1967, § 40-17; Ord. No. 770421-B, pt. 1)

Sec. 13-11-78. Reduction of occupancy load; vacation of a structure.

(a) The building official shall give notice by certified mail, return receipt requested, sent to the last known address of the person being notified, of a hearing to consider reduction of occupancy load or vacation of a structure to an owner, lessor, or occupant of a structure that is overcrowded or hazardous to the health, safety and welfare of the occupants.

(b) The building official may place placards on a structure warning of its hazardous condition. No person without authority from the building official shall remove or destroy a placard placed by the building official and no person shall occupy a vacant structure on which a placard has been placed.

(c) A public hearing to consider reduction of occupancy load or vacation of a structure shall be held before the building standards commission at a time more than ten (10) days after receipt of notice by the owner, lessor or occupants. The building official shall present evidence of the overcrowded or hazardous condition of the structure and the owner, lessor or occupants may present evidence on relevant issues.

(d) The building standards commission shall order reduction of the occupancy load if it finds the structure is overcrowded or vacation of a structure if it finds a structure is hazardous to the health, safety and welfare of the occupants. Notice of the order to reduce the occupancy load or to vacate shall be given to the owner, lessor and occupants and the order shall be filed in the deed records of the county.

(e) Each occupant of a structure that has been ordered vacated shall vacate a structure

within a specified time which is determined by the building standards commission. No person shall occupy a structure that has been ordered vacated. The occupants of a structure which has been ordered reduced in occupancy load shall reduce the occupancy to the number ordered by the hearing board within the specified time determined by the board.

(f) A structure is overcrowded if the following standards are not met:

- (1) *Floor space per person.* Each structure shall contain at least one hundred and fifty (150) square feet of habitable floor space for the first occupant and at least one hundred (100) square feet of additional habitable floor space for each additional occupant.
- (2) *Sleeping space per person.* In each structure of two (2) or more rooms, each room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least fifty (50) square feet of floor space for each occupant.
- (3) *Special provisions.* Children under twelve (12) months of age shall not be considered occupants, and children under twelve (12) years of age shall be considered as one-half of one occupant for purposes of subparagraphs (1) and (2).
- (4) *Ceiling height.* For purposes of subparagraphs (1) and (2) a room of a structure must have a ceiling height of at least seven (7) feet to be considered habitable space. (Code 1967, § 40-18; Ord. No. 770421-B, pt. 1)

Sec. 13-11-79. Closure of a structure.

(a) The building official shall give notice by certified mail, return receipt requested, sent to the last known address of the owner of a structure that is open and vacant or a portion of which is open and vacant, notifying him of a hearing to consider closure of the structure.

A vacant structure or a vacant portion of a structure is open if a door or window is not securely closed to prevent unauthorized entry and is left unguarded.

(b) A public hearing to consider closure of a structure or portion of a structure shall be before the building standards commission at a time within ten (10) days after receipt of notice by the owner. The building official shall present evidence of the need to close a vacant and open structure or portion of a structure and the owner may present evidence on relevant issues.

(c) The building standards commission shall order closure of a structure if it finds the structure or portion of the structure to be open and potentially hazardous to the health, safety and welfare of the public.

(d) Notice of an order to close a structure shall be given to the owner. The building standards commission shall give an owner a reasonable and specific period of time to accomplish closure of a structure, but if closure is not accomplished in compliance with the order, the building standards commission may cause closure. The expense of closure when performed in a city contract or by city forces, constitutes a lien against the property. The city may use lawful means to collect closure costs from an owner, except forced sale of the land.

(e) The building official may place a placard on an open and vacant structure or portion of a structure warning of its potential hazards. No person without authority from the building official shall remove a placard placed by the building official.

(f) Immediate closure of an unsafe building. If the building official finds that a vacant building is open and constitutes an immediate hazard to the health, safety and welfare of the public, he or she may have the building closed immediately by city forces. Every reasonable attempt is to be made to notify the owner of the building that the structure has been closed. (Code 1967, § 40-19; Ord. No. 770421-B, pt. 1)

Sec. 13-11-80. Posting of buildings.

When it has been determined by the building official that a violation of this chapter exists with respect to any building, the building official may cause to be posted at the entrance, a notice to be read as follows:

“WARNING

THIS IS A
SUBSTANDARD BUILDING

ACCORDING TO THE TERMS OF THE
MINIMUM HOUSING CODE, CHAP-
TER 13-11 OF THE AUSTIN CITY
CODE OF 1981, IT IS UNLAWFUL TO
OCCUPY OR RENT

THIS BUILDING UNTIL IT COMPLIES
WITH SUCH CODE.”

Such notice shall remain posted until the required repair, demolition or removal is completed. Such notice shall not be removed without written permission of the building official. Occupancy of any building so posted shall constitute a violation of this chapter. (Code 1967, § 40-20; Ord. No. 770421-B, pt. 1)

Secs. 13-11-81—13-11-90. Reserved.

DIVISION 6. VIOLATIONS

Sec. 13-11-91. Notice.

(a) Whenever the building official determines that a violation of this chapter exists, or has reasonable grounds that there is, or has been, a violation of any provision of this chapter, he or she shall give notice of such violation or alleged violation to the person responsible for such violation. Such notice shall:

- (1) Be in writing;
- (2) Specify the alleged violation;
- (3) Specify the corrective measures required;
- (4) Provide a reasonable time for compliance;

- (5) Be served upon the person responsible as set out in this section; and,
- (6) Include appeal provisions as set out below:

Any person affected by any notice of violation in connection with the enforcement of any provisions of this chapter may request and shall be granted an appeal and hearing before the building standards commission; provided, that such persons shall first file in the office of the building official a written request for such hearing, to be made on forms furnished by the building official within ten (10) days of said notice. The appeal shall be heard at the next regular meeting of the commission if the appeal is made at least ten (10) days in advance of such meeting, otherwise it shall be heard at the next succeeding meeting. If the appeal is filed within ten (10) days after the service of notice of a violation, compliance with such notice shall not be required while the hearing is pending; provided, that in cases of emergency where, in the opinion of the building official, a stay of proceeding would result in imminent peril to life or property, no such stay shall be observed.

(b) Such notice shall be deemed properly served upon such person responsible if a copy thereof is served upon such person personally, or if a copy thereof is sent by certified mail, return receipt requested, to the last known address of such person, or if the mailed copy is returned, it shall be posted in a conspicuous place in or about the building affected by this notice. Failure of the owner or occupant to comply with such notice shall be deemed a violation of this chapter.

(c) If the owner of the property resides outside the county where the property is

located, then the building official may give notice to the property manager. Upon receipt of notice of a violation, a property manager shall notify the owner of specifics of the notice of violation within ten (10) days and shall make every reasonable effort to have the owner correct the violation.

(d) After notice, a person who knowingly continues to violate a provision of this chapter, or fails to perform an act required of him by this chapter, commits a misdemeanor. (Code 1967, § 40-12(a), (b), (c); Ord. No. 770421-B, pt. 1)

Cross reference—Penalty for violation of code, § 1-1-7.

Sec. 13-11-92. Restriction on disposal of property.

No owner of any structure upon whom a notice has been served that violations of this chapter exist in such structure or on its premises, shall sell, transfer, grant, mortgage, lease or otherwise dispose of such property until compliance with such notice or order has been secured, or until such owner shall have furnished to the purchaser, transferee, grantee, mortgagee or lessee who is affected by the violations a true copy of such notice or order and at the same time shall have given adequate notification to the building official of his intent to enter into such transaction, including supplying the name and address of the person to whom the sale, transfer, grant, mortgage or lease is proposed. A purchaser who has been informed of the existence of any notice or order pursuant to this chapter shall be bound thereby. (Code 1967, § 40-12(e); Ord. No. 781026-A, pt. 2)

Secs. 13-11-93—13-11-105. Reserved.

ARTICLE III. MINIMUM STANDARDS

DIVISION 1. GENERALLY

Secs. 13-11-106—13-11-115. Reserved.

DIVISION 2. SPACE AND OCCUPANCY STANDARDS

Sec. 13-11-116. Location on property.

(a) All buildings shall be located with respect to property lines and to other buildings on the same property as required by section 504 and Part V of the Uniform Building Code. Each dwelling unit and each guest room in a dwelling or a lodging house shall have access to a passageway not less than three (3) feet in width leading to a public street or alley. Each apartment house or hotel shall have access to a public street by means of a passageway not less than four (4) feet in width.

(b) Interior lots occupied by buildings within the scope of this chapter shall have not more than thirty (30) percent of the lot in occupied space. Corner lots used for such buildings shall have not more than seventy-five (75) percent of the lot in occupied space. Where housing units are on a floor above the first floor, roof area at or below the floor level of the housing units need not be considered as occupied space. (Code 1967, § 40-25; Ord. No. 770421-B, pt. 1)

Sec. 13-11-117. Yards and courts.

(a) This section shall apply to yards and courts having required windows opening therein.

(b) Every yard shall be not less than three (3) feet in width for one story and two (2) story buildings. For buildings of more than two (2) stories in height the minimum width of the yard shall be increased at the rate of one foot for each additional story. Where yards completely surround the building, the required width may be reduced by one foot. For buildings exceeding fourteen (14) stories

in height, the required width of yards shall be computed on the basis of fourteen (14) stories.

(c) Every court shall be not less than three (3) feet in width. Courts having windows opening on opposite sides shall be not less than six (6) feet in width. Courts bounded on three (3) or more sides by the walls of the building shall be not less than ten (10) feet in length unless bounded on one end by a street or yard. For buildings more than two (2) stories in height the court shall be increased one foot in width and two (2) feet in length for each additional story. For buildings extending fourteen (14) stories in height, the required dimension shall be computed on the basis of fourteen (14) stories. Adequate access shall be provided to the bottom of all courts for cleaning purposes. Every court more than two (2) stories in height shall be provided with a horizontal air intake at the bottom not less than ten (10) square feet in area and leading to the exterior of the building unless abutting a yard or public space. The construction of the air intake shall be as required for the court walls of the buildings, but in no case shall be less than one hour fire-resistive.

(d) Eaves and cornices may project into any required yard not more than two (2) inches for each foot of yard width. Unroofed landings, porches, and stairs may project into any required yard provided no portion extends above the floor level of a habitable room; and, provided further, that no such projection shall obstruct a required exitway.

(e) Yards and courts meeting the requirements of chapter 11-2 of this Code shall be considered to meet the requirements of this chapter. (Code 1967, § 40-26; Ord. No. 770421-B, pt. 1)

Sec. 13-11-118. Room dimensions.

(a) Habitable rooms, storage rooms and laundry rooms shall have a ceiling height of not less than seven and one-half (7½) feet. Hallways, corridors, bathrooms and toilet rooms shall have a ceiling height of not less than seven (7) feet measured at the lowest projection from the ceiling.

If any room in the building has a sloping ceiling the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring more than five (5) feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof. If any room has a furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than seven (7) feet.

(b) Every dwelling unit shall have at least one room which shall have not less than one hundred and fifty (150) square feet of floor area. Other habitable rooms except kitchens shall have an area of not less than seventy (70) square feet. Where more than two (2) persons occupy a room used for sleeping purposes the required floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2).

(c) Nothing in this section shall prohibit the use of an efficiency living unit within an apartment house which meets the following requirements:

- (1) The unit shall have a living unit of not less than two hundred and twenty (220) square feet of superficial floor area. An additional one hundred (100) square feet of superficial floor area shall be provided for each occupant of such unit in excess of two (2).
- (2) The unit shall be provided with a separate closet.
- (3) The unit shall be provided with a kitchen sink, a gas outlet or a two hundred twenty (220) volt electrical outlet to serve a cooking appliance and an electrical outlet to serve a refrigeration facility, each having a clear working space of not less than thirty (30) inches in front of such sink, cooking appliance, and refrigeration facility when installed. Lights and ventilation conforming to this chapter shall be provided.

- (4) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(d) No habitable room shall be less than seven (7) feet in any dimension and no water closet space less than thirty (30) inches in width and shall provide a clear space in front of the toilet stool not less than twenty-four (24) inches. (Code 1967, § 40-27; Ord. No. 770421-B, pt. 1)

Sec. 13-11-119. Light and ventilation.

(a) All guest rooms, dormitories, and habitable rooms within a dwelling unit shall be provided with natural light by means of windows or sky lights with an area of not less than one-tenth of the floor area of such rooms with a minimum of ten (10) square feet unless approved mechanical ventilation and artificial light are provided.

All bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of windows or sky lights with an area of not less than one-tenth of the floor area of such rooms with a minimum of three (3) square feet.

Not less than one-half of the required window or sky light areas shall be openable to provide natural ventilation.

(b) Required windows shall open directly onto a street or public alley or a yard or court located on the same lot as the building; provided, however, that required windows may open into a roofed porch where the porch:

- (1) Abuts a street, yard or court; and,
- (2) Has a ceiling height of not less than seven (7) feet; and,
- (3) Has a longer side at least sixty-five (65) percent open and unobstructed.

A required window in a service room may open into a vent shaft which is open and unobstructed to the sky and not less than

four (4) feet in least dimension. No vent shaft shall extend through more than two (2) stories. For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when one-half of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or twenty-five (25) square feet, whichever is greater.

(c) In lieu of openable windows for natural ventilation, a mechanical ventilation system may be provided. Such system should be capable of providing two (2) air changes per hour in all guest rooms, dormitories, habitable rooms, and in public corridors. One-fifth of the air supply shall be taken from the outside. In bathrooms, water closet compartments, laundry rooms, and similar rooms, a mechanical ventilation system connected directly to the outside, capable of providing five (5) air changes per hour, shall be provided.

(d) All public hallways, stairs and other exitways shall be adequately lighted at all times in accordance with section 3312(a) of the Uniform Building Code. (Code 1967, § 40-28; Ord. No. 770421-B, pt. 1)

Sec. 13-11-120. Sanitation.

(a) Every dwelling unit shall be provided with a water closet, lavatory and a bathtub or shower.

(b) Where private water closets, lavatories, and baths are not provided, there shall be provided on each floor, for each sex, at least one water closet and lavatory and one bath accessible from a public hallway. Additional water closets, lavatories and baths shall be provided on each floor, for each sex, at the rate of one for every additional ten (10) guests, or fractional number thereof in excess of ten (10). Such facilities shall be clearly marked for "men" or "women."

(c) Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. No wooden sink

or sink of similar absorbent material shall be permitted.

(d) All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply provided with hot and cold running water, except water closets shall be provided with cold water only. All plumbing fixtures shall be an approved glazed earthenware type or of a similar nonabsorbent material.

(e) Walls and floors of water closet compartments, except in dwellings, shall be finished in accordance with section 1711 of the Uniform Building Code. Water closet compartments in dwellings shall be finished with approved, nonabsorbent materials or shall be in conformance with current building practices when approved by the building official.

(f) Every water closet, bathtub or shower required by this chapter shall be installed in a room which will afford privacy to the occupant. A room in which a water closet is located shall be separated from food preparation or storage rooms by a tight-fitting door.

(g) All sanitary facilities shall be installed and maintained in safe and sanitary conditions and in accordance with applicable laws. (Code 1967, § 40-29; Ord. No. 770421-B, pt. 1)

Cross reference—Building code, Ch. 13-5.

Secs. 13-11-121—13-11-135. Reserved.

DIVISION 3. STRUCTURAL REQUIREMENTS

Sec. 13-11-136. Generally.

Buildings or structures may be of any type of construction permitted by the building code. Roofs, floors, walls, foundations, and all other structural components of buildings shall be capable of resisting any and all forces and loads to which they may be subjected. All structural elements shall be

proportioned and joined in accordance with the stress limitations and design criteria as specified in appropriate sections of the building code. Buildings of every permitted type of construction shall comply with the applicable requirements of the building code. (Code 1967, § 40-30; Ord. No. 770421-B, pt. 1)

Cross reference—Building code, Ch. 13-5.

Sec. 13-11-137. Protection from weather and termites.

(a) Every building shall be weather protected so as to provide shelter for the occupants against the elements and to exclude dampness.

(b) All wood shall be protected against termite damage and decay as provided in the building code. (Code 1967, § 40-30; Ord. No. 770421-B, pt. 1)

Cross reference—Building code, Ch. 13-5.

Secs. 13-11-138—13-11-145. Reserved.

DIVISION 4. MECHANICAL SYSTEMS

Sec. 13-11-146. Heating.

Every dwelling unit and guest room will be provided with adequate heating service outlets to serve heating facilities capable of maintaining a room temperature of sixty-eight (68) degrees Fahrenheit at a point three (3) feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with Chapter 37 of the Uniform Building Code, the mechanical code and all other applicable laws. All heating devices or appliances shall be of an approved type and vented in accordance with section 901 of the Uniform Mechanical Code. (Code 1967, § 40-31(a); Ord. No. 770421-B, pt. 1)

Cross references—Building code, Ch. 13-5; mechanical code, Ch. 13-8.

Sec. 13-11-147. Electrical equipment.

(a) All electrical equipment, wiring and appliances shall be installed and maintained

in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type.

(b) Every habitable room in an occupied dwelling shall contain at least two (2) supplied electric convenience outlets or one such convenience outlet and one supplied electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one supplied electric light fixture. (Code 1967, § 40-31(b); Ord. No. 770421-B, pt. 1)

Cross reference—Electrical code, Ch. 13-6.

Sec. 13-11-148. Ventilation.

Ventilation for rooms and areas and for fuel burning appliances shall be provided as required in the mechanical code and in this chapter. Where mechanical ventilation is provided in lieu of the natural ventilation required by section 13-11-119 of this chapter, such mechanical ventilating system shall be maintained in operation during the occupancy of any building or portion thereof. (Code 1967, § 40-31(c); Ord. No. 770421-B, pt. 1)

Cross reference—Mechanical code, Ch. 13-8.

Secs. 13-11-149—13-11-155. Reserved.

DIVISION 5. EXITS

Sec. 13-11-156. Generally.

Every dwelling unit or guest room shall have access directly to the outside or to a public corridor. All buildings or portions thereof shall be provided with exits, exitways and appurtenances as required by Chapter 33 of the Uniform Building Code. (Code 1967, § 40-32; Ord. No. 770421-B, pt. 1)

Cross reference—Building code, Ch. 13-5.

Sec. 13-11-157. Sleeping rooms.

(a) Every sleeping room below the fourth floor shall have at least one window or exterior door approved for emergency exit or rescue. Where windows are provided they

shall have a sill height of not more than forty-eight (48) inches above the floor.

(b) Windows with a net clear openable area of not less than five (5) square feet with no dimension less than twenty-two (22) inches shall be deemed to meet the requirements of this section provided the sill heights are not over forty-eight (48) inches above the floor. (Code 1967, § 40-32; Ord. No. 770421-B, pt. 1)

Secs. 13-11-158—13-11-165. Reserved.

DIVISION 6. FIRE PROTECTION

Sec. 13-11-166. Generally.

All buildings or portions thereof shall be provided with a degree of fire-resistive construction as required by the building code, for the appropriate occupancy, type of construction and location on property or in fire zones. (Code 1967, § 40-33; Ord. No. 770421-B, pt. 1)

Cross reference—Building code, Ch. 13-5.

Sec. 13-11-167. Fire extinguishing equipment.

All buildings or portions thereof shall be provided with the appropriate fire extinguishing systems or equipment required by Chapter 38 of the Uniform Building Code. (Code 1967, § 40-33; Ord. No. 770421-B, pt. 1)

Cross reference—Building code, Ch. 13-5.

Secs. 13-11-168—13-11-180. Reserved.

ARTICLE IV. ROOMING HOUSES, HOTELS AND MOTELS

DIVISION 1. GENERALLY

Sec. 13-11-181. Application to hotels and motels.

Every provision of this chapter which applies to rooming houses shall also apply to hotels and motels, except to the extent that such provision may be found in conflict with the laws of this state. (Code 1967, § 40-21(a); Ord. No. 770421-B, pt. 1)

Sec. 13-11-182. Inspections.

The building official is hereby authorized and directed to make inspections to determine the condition of hotels, motels and rooming houses located within the city, in order that he or she may perform his or her duty of safeguarding the safety, health and welfare of the occupants and of the general public. For the purpose of making such inspections, the building official or any representative is hereby authorized to enter, examine and survey at all reasonable times all buildings, dwelling units and premises upon presentation of the proper credentials. The owner or operator of every hotel, motel or rooming house, or the person in charge thereof, shall give the building official free access to such building, dwelling unit and its premises, at all reasonable times, for the purpose of such inspection, examination and survey. (Code 1967, § 40-21(f); Ord. No. 770421-B, pt. 1)

Secs. 13-11-183—13-11-195. Reserved.

DIVISION 2. LICENSE

Sec. 13-11-196. Required.

No person shall operate a rooming house, hotel or motel unless he holds a valid license issued by the building official in the name of the operator and for the specific dwelling. (Code 1967, § 40-21(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-197. Occupation of unlicensed rooming houses.

It shall be unlawful for a person other than the owner and his immediate family to occupy any room in the rooming house that does not have a valid license issued and displayed as required in this division. (Code 1967, § 40-21(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-198. Application.

A person desiring the license required by the provisions of this division shall apply in writing to the building official. (Code 1967, § 40-21(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-199. Fee.

Each application for a rooming house, hotel or motel license shall be accompanied by the payment of a fee in an amount established by ordinance, to be prorated on a quarterly basis. (Code 1967, § 40-21(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-200. Issuance.

A rooming house, hotel or motel license shall be issued by the building official upon compliance by the operator with the applicable provisions of this chapter and of any rules and regulations adopted pursuant hereto. (Code 1967, § 40-21(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-201. Appeal from denial.

Any person whose application for a license to operate a rooming house, hotel or motel has been denied may request and shall be granted a hearing on the matter before the building standards commission, under the procedure provided in this chapter for appeals. (Code 1967, § 40-21(c); Ord. No. 770421-B, pt. 1)

Sec. 13-11-202. Expiration.

Every rooming house, hotel and motel license shall expire at the end of the calendar year for which it is issued, unless sooner suspended or revoked as provided in this division. (Code 1967, § 40-21(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-203. Transfer and notice upon sale of premises.

A license issued pursuant to the provisions of this division shall not be transferable. Every person holding such a license shall give notice, in writing, to the building official within ten (10) days after having sold, transferred, given away or otherwise disposed of ownership of, interest in or control of any rooming house, hotel or motel. Such notice shall include the name and address of the person succeeding to the ownership or control

of such rooming house, hotel or motel. (Code 1967, § 40-21(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-204. Display.

The license required by the provisions of this division shall be displayed within the rooming house, hotel or motel at all times in a conspicuous place designated by the building official. (Code 1967, § 40-21(b); Ord. No. 770421-B, pt. 1)

Sec. 13-11-205. Suspension.

(a) Whenever upon inspection of any rooming house, hotel or motel the building official finds that conditions or practices exist which are in violation of any provision of this chapter or of any rule or regulation adopted pursuant hereto, the building official shall give notice, in writing, to the operator of such rooming house, hotel or motel that unless such conditions or practices are corrected within a reasonable time, to be determined by the building official, the operator's rooming house, hotel or motel license shall be suspended. At the end of such period, the building official shall reinspect such rooming house, hotel or motel and if he finds that such conditions or practices have not been corrected, he or she shall give notice, in writing, to the operator that the latter's license has been suspended. Upon receipt of notice of suspension, such operator shall immediately cease operation of such rooming house, hotel or motel and no person shall occupy for sleeping or living purposes any rooming unit therein.

(b) Any person whose license has been suspended, or who has received notice from the building official that his license is to be suspended unless existing conditions or practices are corrected, may request and shall be granted a hearing on the matter before the building standards commission under the procedure provided for appeals; provided, that if no petition for such hearing is filed within ten (10) days following the effective date on which such license was suspended, such suspension shall be deemed to be final. (Code 1967, § 40-21(d), (e); Ord. No. 770421-B, pt. 1)

Secs. 13-11-206—13-11-220. Reserved.

ARTICLE V. MOVING OF BUILDINGS

DIVISION 1. GENERALLY

Sec. 13-11-221. Persons allowed to move building.

No building shall be moved except by a licensed, bonded mover. (Code 1967, § 40-38; Ord. No. 770421-B, pt. 1)

Sec. 13-11-222. Permissible hours.

(a) No building or portion thereof shall be on any street within the city, except between the hours of 12:00 midnight and 6:30 a.m.; except, that certain buildings which are of a size and so loaded and routed as to be quickly and safely moved without public inconvenience may be moved over such streets within the city by special permission of the building standards commission at other hours. The decision of any one of the departments (public works, police, urban transportation or fire) or public utilities affected that moving should not be permitted at any time other than between 12:00 midnight and 6:30 a.m. shall be final. In the event that the move cannot be made at its originally scheduled time, the permittee shall request and obtain written permission for time change before proceeding with the move.

(b) It shall be unlawful for any person to permit any building or portion thereof to be on any public street or alley at any time other than the time stated on the moving permit for such building or portion thereof. (Code 1967, § 40-35(h); Ord. No. 770421-B, pt. 1)

Sec. 13-11-223. Police escort.

If the chief of police shall find that the protection of public safety or property other than vehicles, trailers, dollies or cargo of the mover requires a police escort, and shall so advise the building official, such fact shall be specified on the moving permit, and it shall

be unlawful for such building to be moved along or across any street or public place within the city unless accompanied by a uniformed police escort as required by the chief of police. It shall be unlawful for any person to refuse or fail to comply with any lawful order or direction of any police officer escorting such move. After the move has been completed, the escorting police officer shall file a written report of such move with the building official. (Code 1967, § 40-35(j); Ord. No. 770421-B, pt. 1)

Sec. 13-11-224. Cleanup and basic safety.

(a) The building or structure to be moved and the site of the restoration work shall be kept in a clean and safe condition during repairs and remodeling. Each lot from which a structure or building is moved shall be left in a clean, raked condition within thirty (30) days after the removal of the structure or building.

(b) Upon failure to comply with the provisions of subsection (a), the city is authorized to clean the lot by city contract or by city forces. Such expenses incurred by the city constitutes a lien against the real property on which the structure stood, and the lien runs with the land. (Code 1967, § 40-40; Ord. No. 770421-B, pt. 1)

Sec. 13-11-225. Responsibility for damage to property.

If the moving of a building pursuant to this article has caused any damage to public or private property, other than vehicles, trailers, dollies or cargo of the mover, the permittee hereunder shall forthwith place the same in as good repair as it was before the permit was granted. Upon his failure to do so within ten (10) days after notification, the building official may cause the necessary repairs to be made and the mover shall be responsible for the payment of the costs. The permittee shall not cut or trim those parts of trees or shrubs on or over any public way or place without permission from the department of public

works and shall not cut or trim those parts of trees or shrubs on or over any private property without permission from the owner or person in control of such property. (Code 1967, § 40-41; Ord. No. 770421-B, pt. 1)

Sec. 13-11-226. New buildings.

Existing buildings which are moved or relocated shall be considered as new buildings and shall comply with all the requirements of this chapter. (Code 1967, § 40-42; Ord. No. 770421-B, pt. 1)

Secs. 13-11-227—13-11-235. Reserved.

DIVISION 2. PERMIT

Sec. 13-11-236. Required.

(a) No person shall move any building or portion thereof from one site to another, or along any public way or place, within the city, until such person shall have first secured a permit to do so from the building standards commission.

(b) The provisions of subsection (a) shall not apply to small buildings specifically designed and constructed to be portable when the same are loaded on trucks, trailers or dollies, and have a loaded height of not over fourteen (14) feet and loaded width of not over fourteen (14) feet. (Code 1967, § 40-35(a); Ord. No. 770421-B, pt. 1; Ord. No. 781026-A, pt. 10)

Sec. 13-11-237. Application.

(a) Applications for moving permits shall be made in the office of the building official upon forms provided by the building official and shall show at least the name of the owner, the name of the mover, the present use and location of the building, the future use and location of the building, the proposed route and time of move, and the loaded height and width.

(b) In addition the application for a moving permit shall be accompanied by restoration plans for the building or structure to be

moved, and a tax certificate indicating that no delinquent taxes are outstanding on the properties involved. (Code 1967, § 40-35(d), (e); Ord. No. 770421-B, pt. 1)

Sec. 13-11-238. Fees and deposits generally.

(a) Applications for moving permits shall be accompanied by an application fee in an amount established by ordinance and a deposit in an amount established by ordinance. The building official shall make a charge against such deposit for the escort services of each officer or employee of the city required by the building official to escort such move based upon the current hourly wage of such officer or employee. The unused balance of such deposit shall be refunded to the applicant, and the applicant shall promptly remit to the building official the balance due if such deposit is insufficient to cover the escort service charges. No house moving permit may be issued until all building permits required by all ordinances of the city have been issued.

(b) Only one application fee in an amount established by ordinance shall be required for the moving of one principal building and its accessory buildings from one lot of record to one other lot of record, if all such buildings and parts thereof are moved within a period of twenty (20) days, but in all other cases, a separate inspection fee in an amount established by ordinance and a deposit in an amount established by ordinance shall be required for each building or part thereof. (Code 1967, § 40-35(d); Ord. No. 770421-B, pt. 1; Ord. No. 781026-A, pt. 11)

Sec. 13-11-239. Insurance, bonds and cleanup deposits.

(a) No person shall be issued a moving permit under this division, or move any building or portion thereof on the streets of the city, unless such person has currently in effect public liability and property damage insurance covering any loss or damage that may be caused any person or any property

other than vehicles, trailers, dollies or cargo of such house mover, in amounts of twenty-five thousand dollars (\$25,000.00) for each person for bodily injury; fifty thousand dollars (\$50,000.00) for bodily injury liability on each accident and fifty thousand dollars (\$50,000.00) for property damage liability for each accident.

(b) The person applying for a permit under this section shall file with the building official a good and sufficient surety bond in a form to be approved by the city attorney and building official, which bond shall be carried by a company authorized to transact such business in the state. Such bond may be filed in connection with one such permit or may cover all permits issued to the permittee during a given period; but regardless of which type of bond is filed it shall be necessary that a permit be obtained for each house moving operation. The bond shall be payable to the city manager or any successors in office for the use and benefit of the city and of the other persons described in this section, and shall be conditioned that the principal shall pay to the city any damages to streets or other property owned or controlled by the city, which damages are occasioned in any manner by the principal's use of his or her house moving permit; that the principal shall indemnify and hold harmless the city against any claims, damages, causes of action, costs and expenses, up to the limit provided for in this section, arising against the city by reason of such operations; and that the principal shall comply with all lawful regulations and ordinances of the city and with the terms and conditions of the permit in connection with which this bond is filed. Such bond shall be in the amount of twenty thousand dollars (\$20,000.00); shall constitute a continuing liability notwithstanding any recovery thereon; and shall contain a provision for a ten-day written notice to the city of cancellation by the surety.

(c) The building standards commission may require the owner of the new site to post a cash deposit of at least one hundred dollars (\$100.00) or a bond to cover the demolition or

removal of the structure if the moved structure fails to comply with the standards of this chapter. (Code 1967, §§ 40-35(b), (c), 40-37; Ord. No. 770421-B, pt. 1)

Sec. 13-11-240. Approval by city departments and public utilities.

The building official shall inform the departments of public works, traffic and transportation, police department, fire department and all public utilities affected by the move of the permit applicant's proposed route, size of load, time of move, lighting and safety precautions and other features of the move brought to the attention of the building official. If any such department or utility shall inform the building official of reasons why such permit should not issue, the applicant shall be entitled to amend his application and to take such remedial steps or precautions as may be necessary after being advised of the nature of any disapproval of his application. (Code 1967, § 40-35(g); Ord. No. 770421-B, pt. 1)

Sec. 13-11-241. Inspection.

The building official shall be entitled to inspect the building to be moved, and the proposed location of the building, and satisfy himself that all applicable city ordinances are being complied with, or that satisfactory arrangements to comply with all applicable ordinances have been made. (Code 1967, § 40-35(f); Ord. No. 770421-B, pt. 1)

Sec. 13-11-242. Issuance.

(a) Each application for a moving permit is to be reviewed by the building standards commission which has the authority to grant or deny the permit.

(b) At least fourteen (14) days prior to the hearing on a moving permit by the building standards commission, the locations involved shall be posted with a sign giving the following information:

- (1) The current location of the structure or the intended move-on location;

- (2) The name and address of the owner; and,
- (3) The date, time and location of the hearing.

In addition, all residents and property owners within three hundred (300) feet of the proposed move-on location shall be notified of the intended move by mail and any neighborhood association on file in the area of the proposed move-on and move-off location shall be similarly notified.

(c) A permit may be withheld for any mover who has knowingly and repeatedly violated the provisions of this article. The building standards commission may refuse to issue a moving permit for the removal of any building if it finds that it cannot be safely moved over the proposed route or that it cannot or will not be made to comply with this chapter and any other applicable city ordinances in its proposed new location, or, if the structure is judged to be incompatible with the neighborhood.

(d) If the building official determines that the cost of repairs and rehabilitation will exceed sixty (60) percent of the assessed tax value, he can recommend that no moving permit be issued by the building standards commission.

(e) The decision of the building standards commission to deny or grant a moving permit may be appealed to the city council by any aggrieved individual by following the pro-

cedures set out in section 13-11-77. (Code 1967, §§ 40-35(f), 40-36, 40-41; Ord. No. 770421-B, pt. 1; Ord. No. 781026-A, pts. 12, 13)

Sec. 13-11-243. Transfer or assignment.

It shall be unlawful for any permittee to transfer or attempt to transfer any permit or any rights secured to him by any permit issued under this division. (Code 1967, § 40-35(i); Ord. No. 770421-B, pt. 1)

Sec. 13-11-244. Posting.

The final permit issued to the mover shall describe the terms and conditions of the move fully. One copy of the permit shall be posted on the building before the same is moved and retained thereon until the conditions have been fully met. (Code 1967, § 40-35(k); Ord. No. 770421-B, pt. 1)

Sec. 13-11-245. Time limitations.

Move permits shall be issued with a maximum renovation and completion time of one hundred twenty (120) days. The building standards commission may grant an extension of time. Any move permit which has not been activated within thirty (30) days after issuance shall expire. In the event no work was ever commenced, the permit may be renewed without additional charge. (Code 1967, § 40-39; Ord. No. 770421-B, pt. 1)

TOBY:

I promised you some information on the issue of lack of resources devoted to code enforcement, and how this may be creating concern for neighborhoods about impervious cover violations associated with Smart Growth.

For historical background, I have attached copies of the 1997 Vulnerability Assessment, the 1991 Summary of Implications of the Balcony collapse case, and pages from the Department's 1986 Internal Audit Report. These reports demonstrate that possible solutions to this problem have been offered, but resource allocation has gone to areas other than permit inspection and code enforcement.

Earlier this year I shared with Alice and others the following chart prepared prior to the mid-year adjustment which added three zoning inspectors and one housing inspector (I have a call in to Melanie Miller at the Budget Office to confirm the numbers).

Inspection Category	1985 FTEs	1998 FTEs
Building	9	5
Electrical	14	9
Plumbing	9	5
Mechanical	7	4
Energy	6	0
Housing	11	6
Zoning	14	3
Residential	22	15
TOTAL	92	47

The total number of pending permits was 3, 291.

The total number of inactive permits was 54, 625.

The total number of active permits issued prior to 1997 was 51, 099.

This means that there were more than 100, 000 projects undertaken since 1980 when the building permit computer system was created which did not receive all required final inspections. The level of compliance with community standards for land use and building construction is unknown. These numbers are likely to increase as we issued 40, 583 total permits in the past fiscal year.

Three new zoning were hired following the mid-year budget adjustment, as was one new housing inspectors. Requirements for vacancy savings cause other inspection positions to to remain vacant, even in years when revenue exceeds projections.

Infill could result in even more permits and projects which hook-up to City of Austin utilities without required inspections and without compliance with community standards. This could be the reason that the Dawson Neighborhood Plan calls on the neighborhood to identify the land use violations and the Development Review and Inspection Department to respond to these complaints. When projects are not do not receive all required inspections, more impervious cover may be added than was approved on the plans approved. This can contribute to drainage problems and contentious hearings before the Board of Adjustment on impervious Cover variance issues.

A handwritten signature in black ink, appearing to be the initials 'SA' with a stylized flourish extending to the right.

11/24/98



*** WARNING ***
*** AVISO ***

IDEAL NO. _____
CERTIFIED MAIL
RECEIPT NO. _____
(IF MAILED)

*** WARNING NOTIFICATION ***

City of Austin
Department of Planning and Development
Ciudad de Austin
Departamento de Planeación y Desarrollo

You are hereby notified that you are in violation of the City of Austin Land Development Code. Your failure to correct the violation(s) cited below prior to _____ will result in the filing of a criminal complaint.

Le estamos notificando que usted ha violado el Código en el Desarrollo de Terrenos de la Ciudad de Austin. Al no corregir la(s) violación(es) que se refieren en seguida por _____ sera motivo de que se le acuse con una queja criminal.

NAME _____ PHONE _____
NOMBRE _____ TELÉFONO _____

ADDRESS _____
DIRECCIÓN _____

CITY _____ STATE _____ ZIP CODE _____
CIUDAD _____ ESTADO _____ ZONA _____

BUSINESS NAME / ADDRESS _____
NOMBRE DEL NEGOCIO/DIRECCIÓN _____

ADDRESS OF VIOLATION _____
DIRECCIÓN DE VIOLACIÓN _____

CONTRARY TO SECTION(S) _____
CONTRARIO A SECCIÓN(ES) _____

DESCRIPTION OF VIOLATION _____
DESCRIPCIÓN DE VIOLACIÓN _____

ISSUED BY _____ DATE _____ MAILED ON _____
INSPECTOR _____ FECHA _____ ENVIADO EL DIA _____

(IF MAILED)

*** IMPORTANT! ***
*** IMPORTANTE! ***

This is not a Plea of Guilty.
Esto no es una Declaración de ser Culpable.

I HEREBY ACKNOWLEDGE RECEIPT OF THIS WARNING NOTIFICATION FROM THE DEPARTMENT OF PLANNING AND DEVELOPMENT FOR THE AFOREMENTIONED VIOLATION.

ESTOY ADMITIENDO QUE HE RECIBIDO UN AVISO DEL DEPARTAMENTO DE PLANEACIÓN Y DESAROLLO POR LA VIOLACIÓN ARRIBA MENCIONADA.

SIGNATURE _____ DATE RECEIVED _____
FIRMA _____ FECHA _____

(See back of form for compliance schedule)
(Por favor de voltiar para mas información)

OFFICE COPY

*** WARNING NOTIFICATION ***

*** NOTIFICACIÓN ***

If you require further information or explanation of the violation being cited please contact the inspector issuing this warning notice at 499-2875. Inspectors are only available Monday through Friday, between 7:45 and 8:30 a.m.

Si requieres mas infomación o explicación de la violación, por favor de llamar el inspector pasando este aviso por 499-2875. Los inspectores estan en la oficina solamente desde la 7:30 a.m. - 8:30 a.m. Lunes ha Viernes.

Failure to correct the violation named herein prior to _____ will result in the issuance of a citation and the filing of a criminal complaint in the Municipal Court of the City of Austin.

FRACASO HA CORRECTAR la violacion descrito aqui por el _____ resultara en la citacion de una queja criminal en la Corte Municipal de la Ciudad de Austin.

ONCE A COMPLAINT IS FILED you will receive a summons from the Municipal Court to appear at the Environmental Court Docket.

UNA VES QUE POSTAMOS UNA QUEJA tu receviras una citación de la Corte Municipal para aparecer el le Corte Ambiente Registro.

IF YOU ARE CONVICTED of an offense cited below, a fine up to \$ 2,000 per offense may be assessed.

SI TE ENCUENTRAN CULPABLE de una ofensa escrito abajo, una multa hasta \$ 2,000 es posible.

CODE SECTION

VIOLATION

- 13-2-302..... Residential Accessory Use
- 6-9-26..... Objectionable Matter
- 13-2-221..... Vehicle Storage
- 13-7-67 (2.9.0)..... Screening Provison
- 13-2-850..... Sign Provisions
- 13-2-100..... Historic Landmark Provisions
- 13-1-737..... Contractor Inappropriately or not Licensed
- 13-1-735..... No Permit
- 13-1-904 & -906..... No Valid Certificate of Occupancy

MULTAS

- 13-2-302..... *Uso de Accesorio residencia*
- 6-9-26..... *Basura*
- 13-2-221..... *Almacenaje de Automóvil*
- 13-7-67 (2.9.0)..... *Provisiónes de cercas entre zonas distintos*
- 13-2-850..... *Provisiónes Señales*
- 13-2-100..... *Provisiónes de Señales Históricos*
- 13-1-737..... *Contractor sin licencia o con licencia incorrecto*
- 13-1-735..... *Trabajando sin permiso*
- 13-1-904 & -906..... *Sin certificado de ocupancia válido*

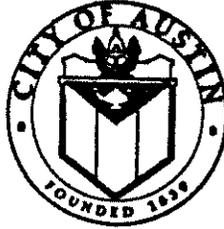
MAXIMUM FINE FOR THE AFOREMENTIONED VIOLATONS IS \$ 2,000
MÁXIMO MULTA PARA ESTAS VIOLACIONES ES \$ 2,000

City of Austin
Department of Planning and Development
P.O. Box 1088
Austin, Texas 78767

Ciudad de Austin
Departamento de Planeación y Dessarollo
P.O. Box 1088
Austin, Texas 78767

CITATION SYSTEM PROCEDURE

DECEMBER 1993



M E M O R A N D U M

TO: Stuart Hersh, C.B.O.; Manager of Inspections
Department of Planning and Development

FROM: Stewart Rojo, Senior Prosecutor

DATE: December 10, 1993

SUBJECT: Expanded Citation System

I have reviewed all of the materials submitted to this office developed for the Expanded Citation System. It is my belief that the procedures outlined in the materials are adequate to allow this office to successfully prosecute any code violations that may be filed at Municipal Court.

If I can be of any further help please do not hesitate to contact me.


Stewart Rojo
Senior Prosecutor

PROCEDURE FOR
REINSPECTION FEES, INVESTIGATION FEES, AND CITATIONS

I. Reinspection and Investigation Fee Form (Yellow Form)

1. The inspector completes the form in pen and fills in all appropriate blanks.
2. The inspector sticks white copy of the form in a visible location near the building entrance.
3. The inspector turns yellow copy to team leader prior to 8:30 a.m. on the next working day or to location designated by the team leader. The inspector keeps the pink copy.
4. The team leader arranges for associate to process fee.
5. The associate returns forms to team leader.

II. Warning Form (Work Without Permit; Work Without License; Occupancy Without Certificate of Occupancy)

1. When an investigation fee is required, a contractor is not licensed appropriately, or a building is occupied without a valid Certificate of Occupancy, a warning will be issued.
2. The inspector completes all lines on the top part of the warning form EXCEPT the date that the complaint will be filed.
3. The inspector signs and dates the warning form.
4. The inspector asks the person who is receiving the warning to sign and date the form.
5. The inspector returns the form to the team leader.
6. The team leader arranges for the associate to process the form.

PROCEDURE
ADMINISTRATIVE AND COURT PROCEDURES FOR WORK DONE
WITHOUT THE REQUIRED PERMITS USING THE
EXPANDED CITATION SYSTEM

I. Who will be charged investigation fees

To avoid the assessment of any investigation fee after a warning has been issued for work started without the required permit(s), all persons doing such work must have applied and paid required fees for such work at the cited location within one working day following the day the warning was issued.

All work started without the required permits where no permit application(s) have been submitted and required fees have not been paid within one day following the day the warning was issued will be subject to an investigation fee and enforcement action through Municipal Court.

Exception: A homeowner who was issued a warning for performing unpermitted work to his homestead shall not be charged an investigation fee.

II. Anticipated Scenarios and Recommendations

1. Scenario One:

The permit and investigation fees are not paid within the next working day.

Recommendation: Note the repeat offenders log for the contractor with the date and address of the violation. Then file charge for work without the required permit.

2. Scenario Two:

Only the permit and not the investigation fee is paid within one working day.

Recommendation: Attempt to call the permit owner and/or offending contractor to inform that no inspections will be made until all investigation fee(s) are paid. Place an administrative hold on inspections until said fees are paid.

3. Scenario Three:

Both the permit and investigation fees are paid within one working day.

Recommendation: Note repeat offender log for the contractor with the date and address of violation. If the violation is a first offense dispose of the investigation fee notice.

III. Administrative Procedure Questions and Answers

1. Who will have the authority to delete investigation or reinspection fees?

Answer: Only the person who assessed them or the team leader.

2. Should charges be dismissed if the permit and investigation fees are paid prior to the environmental docket setting:

Answer: Yes

3. Should deferred adjudication be available?

Answer: Yes, if not a repeat offender.

Who will determine what conditions must be satisfied under the deferral?

Answer: All details regarding the conditions of the deferral are made at the discretion of the Legal Coordinator and the assigned Court prosecutor.

PROCEDURE
CITATIONS

I. PURPOSE

The purpose of the citation system is to provide quality service by reducing the time and expense necessary to achieve compliance on easily corrected violations.

II. APPLICATION

Violations citable under these procedures include:

1. No Permit
2. Contractor with no license or improper license
3. Screening requirements
4. Sign violations
5. Vehicle storage business
6. Historic landmark provisions governing exterior alterations where prior HLC approval has not been obtained, regardless of whether a building permit was required or not.
7. No valid Certificate of Occupancy

III. ENFORCEMENT PROGRAM

Definitions:

1. Citable Person means any person 16 years of age or older who, in the opinion of the inspector, understands (1) that the property is in violation and (2) agrees to deliver the warning or notice of violation to the non minor (adult) who has authority over the property as a tenant or owner.
2. Responsible Party means the owner(s) of record according to the deed or a tenant(s) of record who has an active utility account according to utility customer service records.
3. Warning means the three part half sheet carbonized form delivered by code enforcement inspectors to citable and/or responsible parties to advise them of a violation, specifying a compliance deadline, and listing a minimum fine

4. Notice of Violation (also referred to as Notice) means a form containing all of the elements of a criminal complaint with a recipient line.
5. Affidavit for Warrant of Arrest and Detention (also referred to as Affidavit) means a form containing all the elements of a criminal complaint and a case information section in which pertinent information for the filing of the complaint is recorded.
6. Complaint means the document generated by the complaint unit of Municipal Court which contains the formal language describing the violation and the code sections being violated. It requires the inspector's review for correctness and signature in the presence of one of the Deputy Municipal Court Clerks working in the unit.
7. Sole Proprietorship means a business or rental property owned by an individual. The individual may be named in the filing of charges.
8. Partnership (General and/or Limited) means an unincorporated business or rental property owned by two or more individuals. The general or managing partner whose name and address is listed in the assumed names register must be named as the responsible party who is to receive warnings and notices, and is named in his capacity as the person on whom charges are to be filed on behalf of a general partnership. The general or managing partner whose name and address are shown in the Limited Partnership Agreement filed in the Office of the Secretary of State must be named as the responsible party whom is to receive warnings and notices, and is named in his capacity as the person on whom charges are to be filed on behalf of a limited partnership.
9. Corporation (domestic or foreign) means a separate legal entity that is organized in accordance with state or federal statutes and in which ownership is divided into shares of stock. The President or Vice President of a corporation as shown on the Articles of Incorporation filed in the Office of the Secretary of State must be named as the responsible party who is to receive warnings and notices, and is named in his capacity as the person on whom charges are to be filed on behalf of a corporation.
10. Joint Venture means a legal entity in the nature of a partnership which may be a one-time association of two or more persons (legal or natural) who share the profits (and losses) of a commercial enterprise. The managing partner of

a joint venture, who may be an individual, any form of partnership, or a corporation, must be named as the responsible party who is to receive warnings and notices, and is named in his capacity as the person on whom charges are to be filed on behalf of a joint venture. The inspector must research the aforementioned sources to determine the named and address of the responsible party.

11. Assumed Name means a business operating under a factitious name. Individuals, Sole Proprietorships, all forms of partnerships, corporations and joint ventures may operate under assumed names. Limited Partnerships and corporations doing business in Texas are required to record the assumed names they use with the Secretary of State. General Partnerships, individuals, sole proprietorships and joint ventures are required to register the assumed names they use in the Assumed Names Register kept by the County Clerk of the county in which they operate. The Assumed Names Register contains the file number under which the County Clerk has filed the Assumed Name Certificate. The register and the certificate will identify those persons using the name, their address, the date they filed the certificate, the kind of business (retail, wholesale, real estate, etc.) and the period of time they intend to use the name.

IV. Warning

Inspectors Responsibilities

1. Within four working days of receiving a new complaint each inspector must conduct a site inspection of all locations.
2. Upon documentation of the violation(s), the inspector must make appropriate notations on the complaint card and effect notice (deliver a warning).
3. Each violation and the proper accompanying cite from the Land Development Code must be provided on the warning. Where more than one citable violation is observed, the violations and accompanying cites must be footnoted to each other. Footnoting will avoid confusing the citizen and his attorney should verification be sought in the Land Development Code.

4. The number of violations which can be cited on one warning is limited only by the legible recording of information in the space available. Additional properly completed warnings may be used as the inspector deems necessary.
5. The deadline for compliance must be entered on the front of the first page and on the back of the second page (above the fine schedule).
6. * If the violation exists at a residence and the owner (responsible person) is a sole proprietorship (owned by an individual), the tenant and the owner must be cited.
7. The inspector is responsible for determining the type of organization involved and the identity of the responsible party.
8. The warning must be delivered to a citable person or responsible party at the location if it is occupied.
9. If the location is not occupied or is a vacant lot, the inspector must request the appropriate support services staff person mail a copy of the warning via certified mail to both responsible parties (owner and tenant).
10. The inspector must provide the support services staff with a copy of the warning with the deadline completed and T.C.A.D, and W.L.I.S. printouts showing the address for mailing.
11. If no one is at the violation who is a citable person, a copy of the warning must be sent certified mail to the responsible parties.
12. If the inspector has spoken with a responsible party prior to the warning deadline and the party agrees to bring the violation(s) into compliance by a date certain before or within a reasonable period after the warning deadline, the complaint card must be so noted and the location must be reinspected within two days of the agreed upon compliance date.
13. If compliance exists on at least one violation, a reasonable extension may be agreed upon between the inspector and a responsible party. Reasonable extensions may be granted by the inspector so long as the responsible party continues steady progress toward bringing all violations into compliance on or before agreed deadlines.

13. Failure of a responsible party to accomplish compliance by an agreed deadline terminates the inspector's ability to independently negotiate deadlines. Any and all subsequent compliance agreements must be approved by the senior inspector or supervisor.

14. If the inspector has not spoken with a responsible party prior to the warning deadline, the violation location must be reinspected within two days of the deadline. If the inspector sees progress toward compliance, he must pend the case for reinspection within 10 days and again reinspect the violation location.

V. PREPARING A CASE FOR LEGAL ACTION

Procedure when Notice of Violation is signed:

1. To prepare a case for legal action, inspectors must complete an Affidavit for Warrant of Arrest and Detention, Notice of Violation, and Guide Sheet for each violation. After these forms are completed, it is the inspector's responsibility to obtain the review and approval of these forms by the senior inspector or supervisor.

2. Upon the return of the Affidavit, Notice and Guide forms from the senior or supervisor, the inspector must, within twenty-four hours or the next work day, either deliver and obtain the signature of a responsible party on the Notice or provide the appropriate support services staff member with a T.C.A.D. and/or W.L.I.S. print out showing the address for certified mailing of a copy of the Notice. Under no circumstances should the responsible party(ies) ever be sent any kind of Affidavit or the original of the Notice. Responsible parties must only be provided with copies of warnings or notices.

3. If a copy of the Notice is signed when delivered, the Affidavit, and the original of the Notice of Violation must be filed in the Municipal Court Complaint Unit within twenty-four hours or the next work day. A properly completed Guide Sheet must accompany all complaints being filed. The complaint Unit of Municipal Court is located on the second floor of the Municipal Court Building at East 7th Street and the south frontage road to Interstate 35.

4. A copy of the Affidavit and Complaint must be obtained after the inspector's signature on both forms has been notarized. These copies, along with the Guide Sheet which is returned to the inspector by the Deputy Clerk, and a copy of the Notice must be filed in the complaint folder kept in the office. These may be necessary should the originals be lost at Municipal Court or questions arise about how notice was effected.

Procedure when Notice of Violation is Mailed

1. If a copy of the Notice is sent certified mail, the Affidavit and a copy of the Notice must be filed in the complaint unit of Municipal Court within twenty-four hours of the division's receipt of the signed certified receipt or on the next work day. The procedures and requirements are the same as those specified above when the Notice is signed.

2. If certified mail containing a copy of the Notice is returned by the post office, said mail must be either signed and dated by the responsible party to whom it was originally sent if within the city limits, or posted and photographed at the location if the responsible party to whom it was sent has an address outside the city limits.

3. If upon attempted delivery, the responsible party fails to sign or accept the warning or notice, the inspector must leave the responsible party's location and return to the site within twenty-four hours or the next working day, with the senior inspector or supervisor as a witness, to attempt delivery. If signature and acceptance is still refused, the inspector and either the senior or supervisor must indicate on the original and all copies of the Notice the date delivery was attempted, the name of the person refusing delivery and signature (if known), and the date delivery was refused. Both witness and inspector must sign the Notice. The inspector must file the Affidavit and the original Notice at the complaint unit of Municipal Court within twenty-four hours or the next working day following attempted delivery.

Clerical Responsibilities

1. Each copy of a warning referred to support services for mailing must be sent to the responsible parties as provided by certified mail, return receipt requested.

2. Documentation (utility and tax printouts) corroborating the owners and occupants interest in the property must be attached to each copy by the inspector. If it is missing the folder must be returned to the appropriate senior inspector with a note indicating why it is being returned.

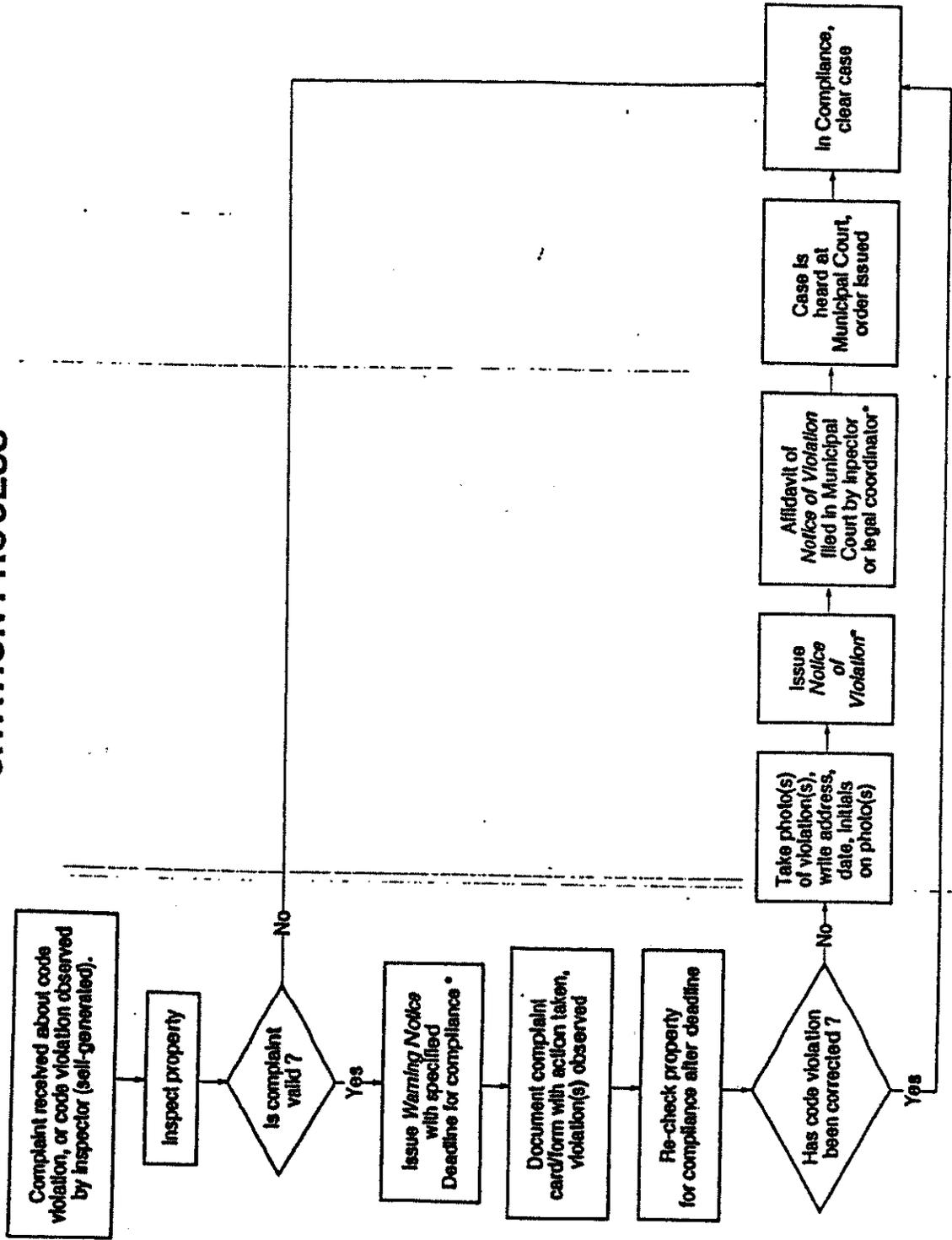
3. Only the senior inspector will discuss the matter with the inspector.

4. Prior to mailing, clerical staff must note in a uniform location on the return receipt the assigned inspector's radio number and the address of the violation. This will ease later filing and retrieval. All mailed warnings returned by the post office and all green cards must be filed in a tray or other device alphabetically by inspector number. Prior to the remailing of copies of warnings, corroborating information which verifies the proper address must have been provided for the review and approval of the senior inspector.

VI. NOTICES OF VIOLATION

At such time as the inspector, senior inspector, or supervisor determines that negotiations with the responsible parties are not progressing appropriately, the inspector must hand deliver a Notice of Violation to the owner and/or occupant whether or not they are present at the violation location if they reside within the Austin city limits. Notices of Violation to be served upon owners who are not residents within the city limits must be mailed certified, return receipt requested. Documentation of a person's interest in the property must be submitted with a carbon or machine copy to the clerical staff. The inspector is responsible for filing the original notice of violation in the case folder. Upon determining that a notice of violation must be issued, the inspector must obtain a manila folder, place the original warning and notice of violation with all corroborating documentation inside the folder. The copy of the notice of violation to be mailed with the address where it is to be sent must be stapled together and paper clipped to the outside of the case folder. All such case folders must be attached to the inspector's daily report for that day and turned in to their assigned support services staff member for mailing.

CITATION PROCESS



* See Written Citation Procedure

Example
326

9300000

COMPLAINT FORM

ADDRESS OF COMPLAINT: 301 W. 2ND Street TYPE OF COMPLAINT: ZONING

OCCUPANT: _____ PHONE: _____

FLAT: _____ USE DISTRICT: SF-3 HHA DISTRICT: _____ DATE RECD: 6/23/93 RECD BY: Citizen

PROPERTY OWNER: _____ PHONE: _____

OWNER'S ADDRESS: _____

COMPLAINT: occurants operating business (massage therapists) from basement - is this legal?

ACTION TAKEN: 6/24/93 - Investigated complaint, (2) signs @ resid. "Massage Fingers" + "Massages \$30.00" - issued warning notice to one of owners
A. Dominique - compliance deadline 7/4/93 recheck

Department of Planning
and Development

301 V. 2nd St., P. O. Box 1088
Austin, Texas 78767-8810

City of Austin



INSPECTOR: _____ PHONE: _____ DATE: _____
TYPE INSPECTION: BUILDING PLUMBING MECHANICAL ELECTRICAL

Please be advised that a Reinspection Investigation fee has been assessed due to the following reason(s):

- Starting Work Without a Required Permit STOP WORK
- More than Four (4) Violations on Work Performed
- Work Not Ready for Inspection
- No Access for Inspection or Locked
- Corrections Previously Identified Not Corrected
- Work To Be Inspected Was Covered
- No Approved Plans on Site

Payment must be made at Permit Intake Center at above address. No Certificate of Occupancy will be issued, or utilities released, until fees are paid.

Si usted tiene preguntas o requiere informacion adicional, favor de llamar (512) 499-2532.

sample



*** WARNING ***
*** AVISO ***

DEAL NO. 930000
CERTIFIED MAIL
RECEIPT NO.

WARNING NOTIFICATION

City of Austin
Department of Planning and Development
Ciudad de Austin
Departamento de Planeación y Desarrollo

You are hereby notified that you are in violation of the City of Austin Land Development Code. Your failure to correct the violation(s) cited below prior to July 5, 1993 will result in the filing of a criminal complaint.

Le estamos notificando que usted ha violado el Código en el Desarrollo de Terrenos de la Ciudad de Austin. Al no corregir la(s) violación(es) que se refieren en seguida por el 5 de Julio de 1993 sera motivo de que se le presente con una queja criminal.

NAME / NOMBRE Abete M. Domarquez & Robert Calles - Bus. Owners PHONE / TELEFONO 282-2526

ADDRESS / DIRECCIÓN 2914 ARTHURSHIRE WAY AUSTIN TX 78748

BUSINESS NAME / ADDRESS / NOMBRE DEL NEGOCIO / DIRECCIÓN Magic Fingers Massage Therapists / 301 W. 2nd St

ADDRESS OF VIOLATION / DIRECCIÓN DE VIOLACIÓN 301 W. 2nd St.

CONTRARY TO SECTION(S) / CONTRARIO A SECCIÓN(ES) 13-2-302, 13-2-260 (home occupations guidelines)

DESCRIPTION OF VIOLATION / DESCRIPCIÓN DE VIOLACIÓN operating a business in a residential district contrary to section 13-2-260; specifically - the display of signs advertising a home occupation. Please cease the display of signs advertising home occupation and comply all home occupation guidelines by the above deadline.

ISSUED BY / INSPECTOR Steven M. Raming DATE / FECHA 6/24/93 MAILED ON / ENVIADO EL DIA _____

IMPORTANT!
IMPORTANTE!

This is not a Plea of Guilty.
Esto no es una Declaración de ser Culpable.

I HEREBY ACKNOWLEDGE RECEIPT OF THIS WARNING NOTIFICATION FROM THE DEPARTMENT OF PLANNING AND DEVELOPMENT FOR THE AFOREMENTIONED VIOLATION.

ASTOY ADMITIENDO QUE HE RECIBIDO UN AVISO DEL DEPARTAMENTO DE PLANEACIÓN Y DESARROLLO POR LA VIOLACIÓN ARRIBA MENCIONADA.

SIGNATURE / FIRMA Abete M. Domarquez DATE / RECEIVED / FECHA 6/24/93

(See back of form for compliance schedule)

* **WARNING NOTIFICATION** *

* **NOTIFICACIÓN** *

If you require further information or explanation of the violation being cited please contact the inspector issuing this warning notice at 499-2875. Inspectors are only available Monday through Friday, between 7:45 and 8:30 a.m.

Si requieres mas información o explicación de la violación, por favor de llamar el inspector pasando este aviso por 499-2875. Los inspectores estan en la oficina solamente desde la 7:30 a.m. - 8:30 a.m. Lunes ha Viernes.

Failure to correct the violation named herein prior to _____ will result in the issuance of a citation and the filing of a criminal complaint in the Municipal Court of the City of Austin.

FRACASO HA CORRECTAR la violacion descrito aqui por el _____ resultara en la citacion de una queja criminal en la Corte Municipal de la Ciudad de Austin.

ONCE A COMPLAINT IS FILED you will receive a summons from the Municipal Court to appear at the Environmental Court Docket.

UNA VES QUE POSTAMOS UNA QUEJA tu recibiras una citación de la Corte Municipal para aparecer el le Corte Ambiente Registro.

IF YOU ARE CONVICTED of an offense cited below, a fine up to \$ 2,000 per offense may be assessed.
SI TE ENCUENTRAN CULPABLE de una ofensa escrito abajo, una multa hasta \$ 2,000 es posible.

CODE SECTION	VIOLATION	MINIMUM FINE
13-2-302	Residential Accessory Use	\$ 252.00
6-9-28	Objectionable Matter	127.00
13-2-221	Vehicle Storage	127.00
13-7-67 (2.9.0)	Screening Provision	252.00
13-2-850	Sign Provisions	227.00
13-2-100	Historic Landmark Provisions	327.00
13-1-737	Contractor Inappropriately or not Licensed	327.00
13-1-735	No Permit	327.00
13-1-904 & -906	No Valid Certificate of Occupancy	327.00

CÓDIGO SECCIÓN	VIOLACIÓN	MÍNIMO MULTAS
13-1-737	Uso de Accesorio residencia	\$ 252.00
6-9-28	Basura	127.00
13-2-221	Almacenaje de Automóvil	127.00
13-7-67 (2.9.0)	Provisiones de cercas entre zonas distintas	252.00
13-2-850	Provisiones Señales	227.00
13-2-100	Provisiones de Señales Históricas	327.00
13-1-737	Contractor sin licencia o con licencia incorrecto	327.00
13-1-735	Trabajando sin permiso	327.00
13-1-904 & -906	Sin certificado de ocupancia válido	327.00

MAXIMUM FINE FOR THE AFOREMENTIONED VIOLATIONS IS \$ 2,000
MÁXIMO MULTA PARA ESTAS VIOLACIONES ES \$ 2,000

City of Austin
 Department of Planning and Development
 P.O. Box 1088
 Austin, Texas 78767
 Ciudad de Austin
 Departamento de Planación y Desarrollo
 P.O. Box 1088
 Austin, Texas 78767

example

The State of Texas
County of Travis

No. _____

§
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In the Municipal Court
City of Austin
In Travis County, Texas

NOTICE OF VIOLATION

I, Steven M. Ramirez
Adele M. Donaque & Robert Calles, do solemnly swear that I have good reason to believe and do believe that
on or about the 5th day of July, 1993, and before
making of this complaint, did then and there at the location of 301 W. 2nd St., a location
within the territorial jurisdiction of the City of Austin, Travis County, Texas, said person being the owner operator occupant or other
person responsible for the condition or violation, lawfully cause or allow a violation of the Land Development Code and of the Austin
City Code, 1981, as amended in said City Code, operating a business in a residential
district contrary to Sections 13-2-302 & 13-2-260 of the Land
Development Code. Section 13-2-260 prohibits advertisement of home
occupation by any signs on premises. A warning notice was accepted
by Adele M. Donaque on 6-21-93 via hand delivery. Said notice
informed (A.D) that advertising a home occupation is a violation of
the code and provided a compliance deadline of 6-7-5-93. To date
(A.D) has not complied by ceasing advertisement of home occ-pat

- Residential Accessory Use
Section 13-2-302, 13-2-260
- Objectionable Matter
Section _____
- Vehicle Storage
Section _____

- Screening Provisions
Section _____
- Sign Provisions
Section _____
- Historic Landmark Provisions
Section _____

Steven M. Ramirez
Inspector

Wording to be used on Affidavit/Notice of Violation form when citing for display of prohibited signs.

. to wit: the display of (#)(color)(type of prohibited sign)

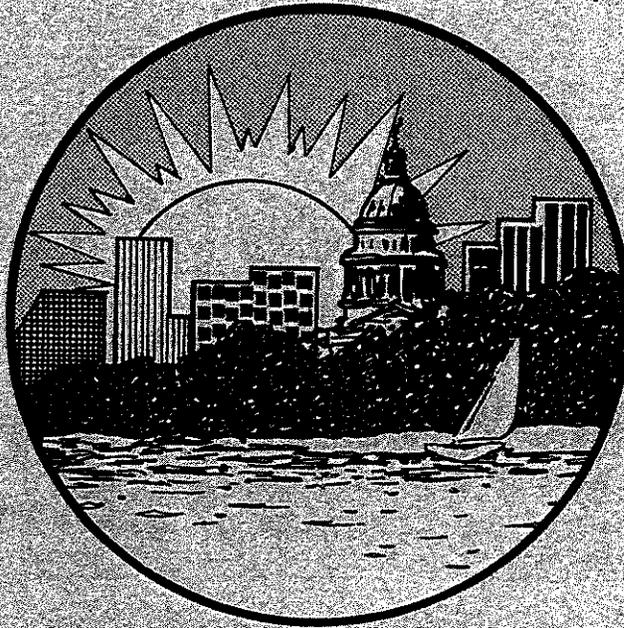
(where sign was displayed if a portable sign or to what item attached if not free-standing) at said location, each (type of prohibited sign) has dimensions of (feet/inches) by (feet/inches) by (feet/inches) and bears the copy ("wording on the prohibited sign(s)"). The Austin Code, (Land Development Code), Section 13-2-863 defines the term ("type of prohibited sign") to mean (insert the definition) and sections 13-2-850, 851, 852, 860, and 863 prohibit the display of said sign(s) within the territorial jurisdiction of the City of Austin. A Notice of Violation was (issued to or accepted by) (defendant) on ((date) via (insert method of delivery). Said Notice informed (defendant) that the display of (a)(type of prohibited sign(s)) is a violation of the code and provided a compliance deadline of (date) to remove and discontinue the use of said sign. (Defendant) has been acknowledged to be the (owner or tenant) at said location according to the certified records of the (source of certified document). To date, (defendant) has not complied by removing and ceasing to display said sign(s).

Evaluation

of the

Building Inspection
Department
1986

Conducted Under Ordinance No: 84-1004-P
"Program Analysis And Evaluation"



Department of Internal Auditing



City of Austin, Texas

**CHAPTER VI
EFFICIENCY AND EFFECTIVENESS OF TWO
BOARDS AND ONE COMMISSION
CAN BE IMPROVED**

CAPSULE SUMMARY

Efficiency and effectiveness of the Building Code Board of Appeals, the Board of Adjustment, and the Building Standards Commission can be improved in a number of ways. To assist inspectors' enforcement efforts and potentially reduce board caseload, the Building Code Board of Appeals should record decisions that clearly establish precedents and communicate these precedents to all interested parties. Members of the Board of Appeals should have an opportunity to review relevant case information prior to the case hearing date.

The Board of Adjustment can improve effectiveness by more strictly adhering to findings of fact and insisting upon thorough and complete information packets for use in hearings. The board can also improve its effectiveness and efficiency by communicating hearing schedules to a larger sector of the interested public, and by providing additional input for expanding and clarifying the new Zoning Ordinance. Administrative services to the board should be upgraded.

The Building Standards Commission's activities are constrained by its decision not to require enforcement of the Housing Code on owner-occupied housing. This decision may limit the scope of the commission's activities and duties. As a result, minimum structural and environmental standards may not be maintained, allowing occupied housing to deteriorate.

BUILDING CODE BOARD OF APPEALS

A comprehensive body of building codes, supported by a coordinated enforcement program, is an essential element of any effort to maintain minimum standards of public health, safety, and welfare. The board serves to render decisions resolving any disagreement on the interpretation of code provisions between the governmental inspector appointed to enforce the code and the person subjected to such enforcement. In addition, the board "may vary the application of any provision of this Code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit

and purpose of the code of public interest."²⁸ The board consists of five members, qualified by experience and training to resolve matters pertaining to building construction. The board meets monthly to hear all appeals filed at least two weeks prior to the meeting.

Board should identify and communicate precedents established by its decisions.

Precedents established by board decisions should be clearly communicated to all interested parties. The board may establish a precedent when conditions forming the basis of judgement may be common to many other cases. Since the remedy may affect the entire building community, the precedent should be identified and communicated.

Our examination of cases from January 1985 to March 1986 suggests that precedents established by board decisions are not clearly communicated to all interested parties. Our study reveals that a number of appeals are repetitions of prior cases. Such occurrences indicate that the designated building official may not be sufficiently informed or instructed to apply the precedents.

A lack of available information concerning precedents makes the building community potentially vulnerable to inequitable code enforcement. The risk is twofold. First, a lack of clearly stated precedents increases the likelihood that the board may fail to render a decision consistent with prior decisions. Second, without a consistent record, the building community is encumbered with the burden of identifying variations in code interpretations between building officials and the board. Since the building community can only achieve remedial action by initiating appeals on a case-by-case basis, it is possible that individuals may not be sufficiently informed to pursue such a remedy.

This lack of readily available information about precedents is attributable to the fact that board decisions have not been formally outlined or compiled. The board's conditions and reasons for specific decisions are not clearly stated in the records, nor are records analyzed for precedents.

Adequate and timely information is needed to make decisions.

Adequate and timely case information should be made available to the board members prior to the hearing. The technical nature of cases heard by the board requires prudent care in considering all the facts and weighing alternatives. Complete and timely information is essential to ensure the most efficient use of the board's time.

According to our survey of board members, two of the four respondents indicated that they were dissatisfied with the board's preparation

²⁸Local amendments to the Uniform Building Code, 1982 edition, Section 13-5-204(g)(1).

for meetings, two offered suggestions for additional information, and three of the respondents rated timeliness of the information received lower than information content (level of detail, completeness, or supporting documentation). To address these problems, on July 19, 1985, the board advanced its filing deadline from one week to two weeks prior to meetings so that agenda information could be made available to the members at an earlier time.

Inadequately prepared board members can contribute to unnecessarily lengthy meetings and cause decisions to be delayed. Two respondents made additional written comments to this effect. A number of cases brought before the board have been tabled until a later date. Although it cannot be ascertained whether the delays could have been avoided by better preparation, this potential nevertheless exists.

Expanding the board's authority to include the Fire Code.

As part of the adoption process of the updated Building Code, the Building Inspection Department, Fire Department, and the board are considering a proposal to expand the authority of the Building Code Board of Appeals. The board currently hears and decides appeals pertaining to the Building Code only. This proposal would extend the board's responsibility to the Fire Code, since a board for hearing appeals relating to the Fire Code does not exist at this time.

Because there is some overlap of the provisions of the two codes, the primary benefit to be derived from a consolidated board arises from the opportunity to provide coordinated rulings. However, this potential benefit must be weighed against the possible dilution of expertise derived from code specialization. Additional expertise could be obtained by increasing the size of the board; however, this alternative may sacrifice the manageability inherent in the board's current size.

RECOMMENDATIONS

31. THE BUILDING CODE BOARD OF APPEALS SHOULD, WITH BUILDING INSPECTION DEPARTMENT'S ASSISTANCE, IMPROVE THE AVAILABILITY OF THE INFORMATION ABOUT ITS PRECEDENTS²⁹.

The board should (1) establish criteria for what constitutes a precedent, and (2) take steps to assure that records are maintained showing the results of similar cases.

²⁹ Auditors met with Building Code Board of Appeals December 10, 1986 to clarify this recommendation. The board stated that until the board formally advises the Building Official to accept an alternative method of compliance, or until a new code is adopted, no precedent is established by individual board decisions.

BUILDING INSPECTION DEPARTMENT RESPONSE

Full concurrence.

32. THE BUILDING CODE BOARD OF APPEALS SHOULD PERFORM A THOROUGH ASSESSMENT OF ITS INFORMATION NEEDS AND MAKE ARRANGEMENTS WITH THE DESIGNATED BUILDING OFFICIAL TO PROVIDE THE NECESSARY PREPARATORY MATERIAL IN A TIMELY MANNER.
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BUILDING INSPECTION DEPARTMENT RESPONSE

Full concurrence.

33. THE BUILDING CODE BOARD OF APPEALS SHOULD ANALYZE THE COSTS AND BENEFITS OF ADOPTING THE PROPOSAL TO EXPAND ITS AUTHORITY TO INCLUDE THE FIRE CODE.
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BUILDING INSPECTION DEPARTMENT RESPONSE

Full concurrence.

BOARD OF ADJUSTMENT

The Board of Adjustment is responsible for deciding on applications for variances or exceptions to the terms of the Zoning Ordinance. In accordance with the general purpose of the Ordinance, the board renders decisions on the following types of cases:

- interpretations of the meaning or intent of the Zoning Ordinance;
- special exceptions for a specific use to develop property; and
- variance from literal enforcement of the Zoning Ordinance in order to achieve reasonable property development.

The Board of Adjustment reviews cases and renders decisions based upon key criteria specified in its rules and regulations. These key criteria include:

- hardship of the applicant,
- weighing of public interest versus private interest,
- uniqueness of the case, and
- maintain character of surrounding area.

The board consists of five members appointed by the City Council. Applicants may request a rehearing before the board, from which appeals are made to District Court. The power to rezone lies with the Planning Commission and the City Council.

Board should apply good management practices to its operations and decision-making process.

Effective management incorporates an interactive process that includes planning combined with communication. Planning includes defining for an organization its purpose, objectives, strategies, policies, and procedures. When organizational policies and procedures are clearly understood and implemented, operations can function effectively and consistently, and with greater assurance of achieving the entity's goals and objectives.

An additional element essential to effective management, communication integrates the managerial functions. Also, effective communication enables the organization to develop a working relationship with its external environment.

When making decisions, certain essentials should be considered. The essentials of effective decision making include:

- focusing resources on main issues and findings of fact,
- having access to all relevant evidence or information, and
- focusing on available alternatives.

We noted in current operations the following areas in which the board is following good management practices:

- The board's purpose is clearly defined in the City Code, State law and the board's own rules and regulations.
- Board rules and regulations define procedures for filing variances or exceptions, and for conducting board meetings.

We also noted some areas in which board operations could function more effectively by adopting improved management practices. These are described below.

Weak management practices in several areas reduce the board's effectiveness.

The Board's effectiveness is reduced by weaknesses in the following areas:

- Board case preparation and decisions may be adversely affected or delayed by unnecessary attention to superfluous issues; insufficient or unavailable information, data, and case histories; out-of-date rules and regulations; and insufficient orientation and training of board members.
- Communication with the public, and in particular the building community, may not be reaching an extensive audience. The audience is generally limited to the participants involved. This may in effect disenfranchise parties who oppose or who could be affected by zoning decisions, since they may not be aware of the hearing.
- Possible amendments to the Zoning Ordinance are not being proposed.

* Board minutes are not prepared and distributed promptly.

Case preparation and decision making. Occasionally, the Board strays from main issues during case discussion, unnecessarily lengthening the time required to handle cases. For example, an applicant requested a variance to erect a communication tower 227 feet high when the maximum allowed was 35 feet in an "SF-2" and "RR" district. One board member discussed the lot size, not at issue. In addition, applicant presentations often bring superfluous issues to the floor. For example, one applicant discussed signs to be attached to a proposed building when signage was not at issue in the case.

Related Planning Commission decisions, cases' prior histories and other relevant information are not always included in the board's agenda material. For instance, one applicant had obtained a Planning Commission decision the month prior to going before the board; however, this Planning Commission information was not included in the board's agenda packet. Therefore, questions regarding the commission's decision had to be answered by the applicant's representatives during the board meeting.

Often, underlying data for required computations such as parking requirements may not be included in the board's agenda packet. Therefore, questions arise because of a lack of adequate information. For example, during a hearing for a requested variance on the number of paved parking spaces, questions arose as to differences between the old and new Zoning Ordinance requirements. Computations were not illustrated, nor was information allowing recomputation included in the board's agenda packet. In this case, a variance was not granted even though the property was constructed under the old ordinance requirements. The new ordinance is more restrictive than the old ordinance.

To further hamper board operations, some site plans in the agenda packet are difficult to read. Consequently, board members may have to question Building Inspection Department staff or the applicant to develop an understanding of the subject property's configuration.

In addition to defects in the agenda packets, the board's rules and regulations have not been organized to accurately correspond with the new Zoning Ordinance requirements. Examples include the following:

- * The Zoning Ordinance states the board "shall hold a public hearing within 45 days of each application for a variance." The board's rules and regulations state "the board shall hold hearings on each appeal within a reasonable time."
- * The ordinance states advertisement shall begin "at least 15 days prior to the date of the hearing." The rules and regulations state notice shall be given "by legal advertisement at least five full days preceeding the date of hearing."

An additional problem concerns the introduction of new board members to their duties. Board members have not received sufficient orientation and training for the following:

- * board rules and regulations;

- the new Zoning Ordinance;
- ethics, authority, and liability issues; and
- reading site plans.

Communication. Motions should specify the decision to grant or deny, and findings of fact on criteria.

Often, the bases for board decisions are not completely specified in the motion. Five out of 13, or 38 percent of the cases examined from the January 1986 minutes lacked either criteria or finding of fact for the motion.

When criteria or findings of fact are not recorded, significant aspects of board decisions are not communicated, either to the public as a whole, or to the building community. Lack of knowledge about case precedents could potentially result in more appeals. Currently, board results are communicated to the public and the building community solely by participants and involved or interested individuals witnessing board decisions.

The public is to be notified of board meetings by:

- posting at City Hall,
- notification in the paper,
- notification to neighbors, neighborhood associations and
- signs at the property site.

Signs notifying the public of pending hearings are not posted on the properties consistently. During April 1986, the board field trip included site visits to nine properties. Of the sites visited, six (66 percent) did not have properly posted signs. Because signs are not being consistently and properly posted on the property, or because of damage to the signs, parties who oppose zoning changes may not be present at hearings because they were unaware of the appeal.

New Zoning Ordinance. We noted that the ordinance does not specifically address:

- nursing and retirement homes for the elderly,
- communication towers, and
- blood bank facilities.

In addition to issues not addressed by the ordinance, the board is not making an effort to discern similar cases for possible amendments to the Zoning Ordinance. For example, cases recur involving requests for variances on shell buildings which were built in accordance with the old ordinance but do not comply with the new ordinance restrictions. A grandfather clause amended into the new ordinance may reduce the board's caseload.

Administration. State law requires board minutes be available for review by board members and by the public. With the loss of a full-time board secretary, minutes requiring board approval are being delayed. For example, during the April meeting, February minutes were not approved and March minutes had not been prepared for board review. Examination of an 18-month period revealed March 1985 minutes were not

available because of technical difficulties. Board minutes, when not completed promptly could result in inaccuracies caused by fading memories.

RECOMMENDATIONS

34. THE BOARD SHOULD REVIEW ITS MANAGEMENT PRACTICES, CORRECTING NOTED WEAKNESSES TO ENSURE THAT ITS GOALS AND OBJECTIVES ARE ACCOMPLISHED. SPECIFIC IMPROVEMENT AREAS INCLUDE CASE PREPARATION AND DECISION-MAKING, COMMUNICATION, NEW ZONING ORDINANCE, AND ADMINISTRATION.

In order to promote operational effectiveness, we recommend the board (with as needed assistance from City departments) implement the following with regard to:

CASE PREPARATION AND DECISION MAKING

- The Board of Adjustment should establish work sessions with the Building Inspection Department Zoning Division and the Legal Department to update the board rules and regulations to ensure adherence to the new Zoning Ordinance. The rules and regulations should be revised to require specification of findings of fact on each criteria for all motions. Rules should also require the chairperson to control and monitor issue relevance during deliberations.
- The board, together with the Building Inspection Department should ensure that case information is available and reviewed for completeness. The agenda packets should provide underlying data for required computations, and other applicable or relevant City board and committee decision information. Site plans should be reviewed prior to inclusion in the agenda packet for clearness and legibility.
- The Building Inspection Department should develop and train additional Zoning Division staff to assist board members (by clearly and adequately answering zoning-related questions) and inform new members of the board's policies and procedures. In addition, the board and Building Inspection should develop orientation sessions to answer board members' questions. Work and training sessions should be scheduled when necessary to address problems and questions which arise.

BUILDING INSPECTION DEPARTMENT RESPONSE

Full concurrence. Several work sessions have been conducted for the Board to update rules and regulations.

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- The board should request sufficient orientation and training from the Legal Department regarding ethics, authority, and liability issues.

COMMUNICATION

- The Building Inspection Department should work with the board to develop an effective communication program to adequately and consistently notify the public and the building community of pending appeals and resulting board decisions.

BUILDING INSPECTION DEPARTMENT RESPONSE

Full concurrence. Board of Adjustment signs are being properly posted; however, many of these signs are removed or destroyed by circumstances beyond our control.

- Motions should specify the decision to grant or deny, and findings of fact on each criteria as demonstrated in the following example excerpts:

DECISION	CRITERION	FINDINGS OF FACT
grant	hardship is unique to the property	topography of the site
grant	zoning regulations prevent reasonable use	public would not be served by denying

BUILDING INSPECTION DEPARTMENT RESPONSE

State statute specifies that a motion to deny a variance need not be accompanied by a reason for the denial.

NEW ZONING ORDINANCE

- The board should consider and propose possible amendments to the Zoning Ordinance regarding nursing and retirement homes for the elderly, communication towers, blood bank facilities, and other structures not specifically addressed in the ordinance.

BUILDING INSPECTION DEPARTMENT RESPONSE

Nursing and retirement homes, etc., are not recurrent enough to warrant an ordinance amendment recommendation from the Board.

- Cases which are similar should be examined for possible amendments, such as recurring cases involving old ordinance versus new ordinance requirements.

ADMINISTRATION

- The Board of Adjustment should refill its full-time secretary position to ensure timely completion of meeting minutes.

BUILDING INSPECTION DEPARTMENT RESPONSE

Due to staff turnover there was a problem with Board minutes being prepared in a timely manner in April and May. This problem has been taken care of with the redistribution of work in the division.

BUILDING STANDARDS COMMISSION

The Building Standards Commission was established in April 1977 by the Austin Housing Standards Ordinance, superseding the former commission of the same name. The commission is composed of nine members appointed by the City Council who serve with no compensation for a two-year period. The commission's overall objective is to aid in the enforcement of minimum structural and environmental standards; to prevent blight and decay; and safeguard the health, safety, and welfare of the public.

Commission meetings are held monthly. Building Inspection develops the agenda based on either the requests of the housing inspectors, appeals by owners, or applications for house moves. Commission orders may be appealed--either back to the commission or to the City Council. Any individual who files an appeal and is still not satisfied with the actions of the commission or the City Council may then pursue legal remedies.

The commission is not actively enforcing all requirements of the Housing Code.

The commission should exercise the powers and duties as described in the Austin Housing Standards Ordinance. Those powers and duties are as follows:

- (1) to require reduction in occupancy load of an overcrowded structure;
- (2) to require vacation of a structure that is hazardous to the health, safety, and welfare of the occupants;
- (3) to permit repair of a substandard structure as an alternative to demolition of the structure;
- (4) to require demolition of structures found to be substandard;
- (5) to require removal of personalty from a structure ordered vacated or demolished;
- (6) to require that a vacant structure constituting a hazard be securely closed and made safe;
- (7) to grant variances when literal interpretation of the ordinance would result in an imposition of unnecessary or unreasonable hardship;

- (8) to hear all applications for move permits and decide whether such permits should be granted or denied;
- (9) to interpret the provisions of the Housing Standards Ordinance in such a way as to carry out its intent and purpose, and, as it deems advisable, make suggestions and recommendations for improvements of the ordinance to the City Council; and
- (10) To advise the general public of the availability of funding for rehabilitation.

Commission decisions should aid in the enforcement of minimum structural and environmental standards to prevent blight and decay (preserving the existing housing stock), and safeguard public health, safety, and welfare.

The commission is not performing all of its responsibilities as defined by the Housing Ordinance. Specifically, the commission is not requiring vacation of occupied substandard structures or making recommendations for improvements to the code. In addition, the commission has historically established its role as an enforcement mechanism rather than a catalyst for improvements. Since 1980, no recommendations have been made by the commission for revisions to the Housing Code.

If the Housing Code is not fully enforced, minimum structural and environmental standards may not be maintained. Occupied housing may be allowed to slowly deteriorate. Currently, inspectors bring primarily extreme cases of unoccupied substandard conditions before the Building Standards Commission. Over a 14-month period from January 1985 to February 1986, the commission issued 196 orders, of which 38 percent were for demolition³⁰. Nine percent of the 196 cases were orders for repair, with demolition ordered in case of non-compliance. These orders, representing 47 percent of the commission's work, contrast with only 6 percent addressing repairs. The remainder, 47 percent, were for house moves and abeyances. (An abeyance delays action until the next hearing.)

The commission hears only those cases brought before it by the Building Inspection Housing Inspectors. The agenda for each commission meeting is set by the Building Inspection staff. Of the cases heard, if the property owner appears before the commission, the appeal will be evaluated, but if the property owner does not appear, the commission routinely adopts the inspector's recommendation.

Some policies relating to enforcement have evolved which, though undocumented, place limitations on the types of cases to be brought before the commission. Citations are rarely, if ever, made on owner-occupied structures by Building Inspection staff. Building Inspection officials explained that at the time the Housing Code was adopted, a

³⁰ Most of the commission's demolition orders, however, are reversed by the City Council when the owner appeals.

decision was made during an "ad hoc" committee meeting to not enforce the Housing Code on owner-occupied housing. This decision places limits on the scope of the commission's Housing Code enforcement. We determined, however, that there is no formal written policy to exclude owner-occupied housing from compliance with Housing Code provisions.

Documented policies and procedures are needed for the commission to perform its duties and efficiently conduct its meetings.

The only written policy presently available for commission members is the Housing Code itself. Written procedures do not exist addressing:

- goals and objectives of the commission to clarify the intent of the code,
- precedents derived from previous cases for use as criteria in making decisions, or
- rules of conduct for the meetings.

As a result, a potential exists for the commission to misinterpret the intent of the Housing Code, make poor or unfair decisions, or conduct meetings in an inefficient manner.

Commission members routinely attend the monthly meetings, following the agenda set by the Housing Inspector. They have not developed the commission's goals and objectives or established procedures to achieve the goals. Members have accepted the general objective of enforcing minimum structural and environmental standards articulated in Housing Code Section 13-11 but they have not established more specific goals and objectives to serve as criteria for making decisions.

The commission members say they rely on their experience and "common sense" to determine what criteria to use in making a decision. There are no established criteria for the commission to follow. There is no opportunity to find out about precedents derived from previous cases or to discern any undocumented policies the commission may have. Also, there are no documented procedures on how to conduct commission meetings. New commission members have to learn about the detailed workings of the commission by trial and error.

RECOMMENDATIONS

35. THE CITY COUNCIL SHOULD DIRECT THE BUILDING STANDARDS COMMISSION TO FORMALLY REVIEW THE PROVISIONS OF THE HOUSING CODE TO DETERMINE IF THE CODE SHOULD BE APPLIED TO OWNER-OCCUPIED HOUSING. BASED ON THE RESULTS OF THE REVIEW, THE COMMISSION SHOULD DEVELOP A PROPOSED AMENDMENT TO THE HOUSING CODE CLARIFYING ITS APPLICABILITY TO OWNER-OCCUPIED HOUSING.

Before making this determination, the commission must consider what alternatives are available to citizens, other than demolition, who fail to comply with the Housing Code. For example, innovative approaches, such as the new Neighborhood Conservative Program, are presently underway to supplement available funding sources for repair. The Council may wish to direct the commission to survey and assess these available alternatives.

BUILDING INSPECTION DEPARTMENT RESPONSE

Partial concurrence. Based on budget difficulties we disagree with this recommendation. Our Neighborhood Conservation Division is being cut back significantly and we do not have the resources to implement existing ordinances. This is not the appropriate time to have the Building Standards Commission review the Housing Code for the purpose of expanding its applicability.

36. THE BUILDING STANDARDS COMMISSION SHOULD DEVELOP ADDITIONAL POLICIES AND PROCEDURES TO ENHANCE ITS DELIBERATIONS.

These policies and procedures should include, as a minimum, the following:

- (a) Statement of the commission's specific goals and objectives, to be revised periodically as necessary;
- (b) Set of possible criteria to be used as a guide in making appropriate decisions. The criteria should be based on past precedents and on the need to balance code enforcement with protecting citizens from suffering undue hardship. Some examples of criteria are:
 - . repairability of structure,
 - . ability of owner to repair,
 - . background history,
 - . whether owner was properly notified,
 - . whether owner was provided a realistic period of time for action,
 - . if good faith has been shown by owner,
 - . health, safety and welfare standards; and
- (c) Summary of meeting procedures.