

A detailed map of Harker Heights, Texas, showing a grid of streets and various zoning districts indicated by different hatching patterns and shades of gray. The map is the background for the text.

**Harker Heights
Planning and Zoning
Commission Meeting**

Wednesday

5:30 P.M.

January 25, 2017

The Bright Star Of
Central Texas

Harker Heights



The City Of Harker Heights

305 Miller's Crossing
Harker Heights, Texas 76548
Phone 254/953-5600
Fax 254/953-5614

Mayor

Rob Robinson

Mayor Protem

Jody Nicholas

City Council

Hal Schiffman
Steve Carpenter
Spencer H. Smith
John Reider

Dear Commissioner,

Thank you for volunteering to serve the City of Harker Heights as a commissioner on the Planning and Zoning Commission (P&Z). As a member of the commission, you are helping to guide the future growth of the City as well as help make important decisions about the development of land in the City. You also occasionally wear a different hat as a member of the Building and Standards Commission (BSC). This body works with the Building Official to ensure the removal or renovation of unsafe or substandard buildings throughout the City.

For those of you that are new to the P&Z, welcome aboard; for those of you returning, welcome back. I have attached the schedule for P&Z meetings for the calendar year 2017. The P&Z meets on the last Wednesday of each month as necessary. These meetings start at 5:30pm with a workshop, and the actual meeting begins at 6:30pm. On rare occasions, we may have no cases to bring before you and will cancel the meeting. The BSC meets as necessary when we have cases to bring before you, typically 3 to 4 times per year immediately following a regular P&Z meeting.

The Friday before your regularly scheduled meeting, you will receive a packet like this one with the meeting agenda and staff reports for the cases to be heard before you. We ask that you return the packet to the Planning and Development Administrative Assistant, Ty Hendrick, at the end of the meeting. You are free to keep the agenda and staff reports; we just need the plastic cases back for distribution prior to the next meeting.

This month's meeting actually has no cases before you, and would normally be cancelled. However, since this is the first meeting of the year, it is necessary to hold the meeting to swear you in, elect officers, and receive some training. I do not anticipate this meeting will last very long, but it is important for you to attend. For your review prior to the meeting, I have also attached the Agenda, P&Z Bylaws, and the relevant chapters of the Harker Heights Code of Ordinances pertaining to the powers and duties of the P&Z and BSC.



**PLANNING AND ZONING COMMISSION
AND BUILDING STANDARDS COMMISSION MEETING
AGENDA
HARKER HEIGHTS CITY HALL
WEDNESDAY, January 25, 2017 5:30 P.M.**

- I.** Swear in new members
- II.** Convene regular meeting of the Planning & Zoning Commission and establish a quorum
- III.** Elect officers
- IV.** Approval of minutes from regular meetings held on November 30, 2016 and December 21, 2016.
- V.** Begin workshop
- VI.** Adjourn Planning & Zoning workshop and meeting
- VII.** Convene Meeting of Building & Standards Commission
- VIII.** Approval of minutes from regular meeting held on September 7, 2016
- IX.** Staff Comments
- X.** Adjourn meeting

Posted: January 20, 2017

Time: 10:00 A.M.

***Ty Hendrick
Planning & Development Administrative Assistant – City of Harker Heights***



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***Ty Hendrick
Planning & Development Administrative Assistant – City of Harker Heights***



Minutes of the Regular Meeting of the Harker Heights
Planning & Zoning Commission held at the City Hall Building,
January 25, 2017

Present:	Larry Robison	Chairman
	Jeffery Petzke	Vice Chairman
	Jeff Orlando	Secretary
	David Kingsley	Commissioner
	Noel Webster	Commissioner
	Darrel Charlton	Commissioner
	Stephen Watford	Commissioner
	Kyle King	Alternate Commissioner

Staff:	Joseph Molis	Director of Planning and Development
	Brad Alley	Fire Marshal
	Ty Hendrick	Planning & Development Administrative Assistant
	Leo Mantey	City Planner
	Courtney Peres	GIS Coordinator/City Planner
	Calvin Fleming	Code Enforcement Officer
	Eric Moree	Code Enforcement Officer

A quorum was established and the meeting was called to order at 5:30 P.M.

The first item on the agenda was the swearing in of new members and the appointment of officers. Mr. Ty Hendrick for the City had all new members stand and raise their right hand and take the Oath of Office. Following the swearing in, Mr. Larry Robison was appointed Chairman with a unanimous vote (7-0), Mr. Jeff Petzky was appointed Vice Chair with a unanimous vote (7-0) and Mr. Jeff Orlando was appointed Secretary with a unanimese vote (7-0).

The next item on the agenda was the approval of the minutes from the November 30, 2016 meeting and the minutes from the December 21, 2016 meeting . Mr. Kingsley made the motion to approve the minutes and Mr. Petzke seconded the motion. The motion passed unanimously (7-0).

Next, City staff proceeded to give presentations to the members of the Planning and Zoning Commission. Ms. Peres, Mr. Mantey and Mr. Molis with the Planning Department for the City gave a presentation reviewing what the Planning and Zoning Commission had accomplished in the past year and described the responsibilities and activies of the P&Z. Next, Mr. Fleming and Mr. Moree with Code Enforcement gave a presentation over Nuisance and Abatement and explained how code enforcement works in conjunction with the Planning and Zoning Commission.

Next Chairman Robison asked if any of the commissioners had any additional questions. There were none. Chairman Robison then adjourned the meeting at 7:08 P.M.

Chairman

ATTEST:

**BYLAWS
OF THE PLANNING & ZONING COMMISSION
OF HARKER HEIGHTS, TX**

ARTICLE 1. NAMES

Pursuant to Chapter 211.007 of the Texas Local Government Code, hereinafter referred to as TLGC, and Section 3.07 of the Harker Heights City Charter, there is hereby established a Harker Heights Planning and Zoning Commission, hereinafter referred to as P&Z.

ARTICLE 2. AUTHORITY

The applicable provisions of the TLGC are hereby adopted by reference and made a part of the Bylaws and shall be controlling upon the P&Z. Statutory authority and responsibilities of the P&Z are contained in TLGC (Title 7, Chapter 211.007) and the Harker Heights City Charter (Section 3.07) and Zoning Code (Section 155.230 to 155.234).

ARTICLE 3. MISSION

The P&Z provides the City Council with independent, objective and coordinated evaluations and recommendations of planning and zoning issues in the context of applicable state statutes, local ordinances and the Harker Heights Comprehensive Plan.

ARTICLE 4. QUALIFICATIONS OF MEMBERS

The members of the P&Z must be qualified electors within the City. A member of the P&Z shall not be an employee or an appointed or elected official of the City.

ARTICLE 5. TERMS OF MEMBERS; FILING VACANCIES; REMOVAL

Section 1 – The P&Z shall be composed of nine (9) members appointed by the City Council.

Section 2 – During the month of September of each year, or as soon thereafter as is reasonable practicable, the City Council shall appoint members to fill all vacancies expected to occur on the P&Z during the succeeding twelve (12) month period. New members shall be installed at the first official P&Z meeting of January.

Section 3 – The term of the members of the P&Z shall be for three (3) years until successors are appointed and shall begin on January 1 of the following year in which the member was appointed. No member shall serve more than two (2) full consecutive terms on the P&Z. Commissioners may be removed at any time, upon the affirmative vote of a majority of the City Council.

Section 4 – The City Council shall appoint four (4) alternates to serve as required in the order specified by the Council. Alternates shall be eligible until January 1 of the following year in which such person was named. Following a vacancy, and without further action by the Council, the first eligible alternate shall take the oath of office and begin to serve the unexpired term of his or her predecessor.

ARTICLE 6. ELECTION OF OFFICERS

Section 1 – At their first official meeting of January each year, the P&Z shall install new members and elect a Chair, Vice-Chair and Secretary.

Section 2 – Nomination may be made by any Commissioner or at the call of the presiding Chair. Election shall be by acclamation, unless a vote is requested by and of the Commissioners, and for a period of one (1) year. If a vote is requested, a simple majority of the votes cast will determine the elected officer.

ARTICLE 7. DUTIES AND RESPONSIBILITIES OF OFFICERS

Section 1 – The Chair Shall:

1. Preside over the meetings of the P&Z
2. Appoint committees
3. Sign all documents of the P&Z
4. See that all actions of the P&Z are properly taken

Section 2 – The Vice-Chair shall:

1. In the absence of the Chair, exercise or perform all the duties and be subject to all the responsibilities of the Chair.
2. Have the power granted the Chair in the conduct of the Commission's affairs in the Chair's absence.
3. In the absence of the Secretary, exercise or perform all the duties and be subject to all the responsibilities of the Secretary.
4. Attend regular meetings of the City Council where P&Z recommendations are considered and report back to the P&Z at the next P&Z meeting.

Section 3 – The Secretary shall:

1. Attest to all approved documents and plats.
2. In the absence of the Chair and Vice-Chair, exercise or perform all the duties and be subject to all the responsibilities of the Chair.
3. Maintain the P&Z Bylaws in coordination with the Planning & Development Director.

Section 4 – Vacancies of any position of office shall be filled at the next official meeting after a vacancy has determined.

ARTICLE 8. DUTIES AND RESPONSIBILITIES OF P&Z

Section 1 – The P&Z serves at the pleasure of the City Council and exists to support the strategic direction it sets. Commissioners are therefore expected to meet the following standards in the execution of their duties.

1. Display familiarity with planning and zoning documents including the TLGC, Harker Heights Land Use Plan, Subdivision Regulations (Chapter 154), Zoning Codes (Chapter 155) and Comprehensive Plan (TLGC 213.002).
2. Attend the annual American Planning/CTCOG Conference training seminar.
3. Attend monthly P&Z workshops and meetings.
4. Inform the Planning Department Secretary in advance of meetings if unable to attend.
5. Secure information packets and conduct a reconnaissance of agenda items for P&Z meetings. Submit conflict of interest statements as required.
6. Attend Council workshops and meetings on a rotating basis as requested. Submit feedback to P&Z Commissioners via email or at the next workshop.
7. Adhere to ethical standards established by the American Planning Association and TLGC 211.0075 Open Meeting Act constraints. See Appendix A.

Section 2 – The P&Z shall submit an annual report to the City Council, giving a statement of its work during the preceding year. In such annual report it shall also make its recommendations as to future projects to be undertaken.

ARTICLE 9. OFFICE OF THE P&Z

Section 1 – The Planning and Development Department shall be the headquarters of the P&Z.

Section 2 – The Director's office shall:

1. Receive and process all subdivision plats, petitions, requests, publications, and documentary distribution over which the P&Z shall have jurisdiction.
2. Meeting and work with the P&Z and assist in gathering data, preparing master plans and elements thereof in the execution of the P&Z's functions.
3. Ensure that all necessary documents are transmitted to the Chair or the proper committee.

Section 3 – All maps, plats, and other materials required by law are to be filed in the office of the Planning and Development Director for processing prior to consideration by the P&Z.

ARTICLE 10. MEETINGS; RULES OF ORDER

Section 1 – The regular monthly meeting of the P&Z shall be held at the location open to the public. Additional called meetings may be held pursuant to direction of the City Council, the P&Z Chair, or the Planning and Development Director after consulting with the Chair.

Section 2 – The default order of business during regular meetings shall be as follows:

1. Convene & Establish a Quorum
2. Approval of Minutes
3. Recognition of Affidavits for Conflict-of-Interest
4. Report on City Council Actions
5. Report on Development Activity
6. New Business
7. Public Hearings
8. Citizens to be Heard
9. Commissioners and Staff Comments
10. Adjournment

Section 3 – A majority of the members at any regular, special or committee meeting shall constitute a quorum for the transaction of business.

Section 4 – In the conduct of its affairs in regular and called meetings, every member of the P&Z, including the Chair and Vice-Chair shall vote.

Section 5 – Any Commissioner who feels they have a conflict-of-interest on any matter shall file an affidavit(s) for conflict-of-interest and refrain from discussion and voting on said item(s).

Section 6 – Any vote less than a unanimous vote shall be recorded such that the vote of each Commissioner is identified.

Section 7 – In the event of an abstention, the reason for said abstention shall be specified and made part of the minutes.

Section 8 – Any action taken by a majority of the membership shall constitute an official action of the P&Z.

Section 9 – In the event of a tie vote, the item may be considered tabled until the next regular meeting.

Section 10 – Should a member of the P&Z fail to attend three (3) consecutive regular meetings, such member shall be automatically dropped from the P&Z and a vacancy thereon declared.

Section 11 – The Planning and Development Secretary shall serve as record keepers and see that the minutes are properly transcribed and maintained.

Section 12 – The deadline for filing of materials for placement on the agenda shall be established by the Planning and Development Director in accordance with applicable state laws and city codes.

Section 13 – Roberts Rules of Order newly revised (10th Ed) shall govern P&Z meeting procedures.

Section 14 – All P&Z meetings shall comply with applicable requirements of the Texas Open Meeting Act.

ARTICLE 11. COMMITTEES

Section 1 – The Chair shall designate standing or ad hoc committees and their charges as deemed necessary to address and manage P&Z responsibilities and activities.

Section 2 – It shall be they duty of each Committee to review, investigate and report on all matters submitted to them by the Chair. In the discharge of all duties involving specific provisions and requirements of state statutes and/or city ordinances, the particular committee involved shall perform in strict accordance with the provisions of such statutes and ordinances.

ARTICLE 12. AMENDMENT OF BYLAWS

Section 1 – These Bylaws may be amended at any regular or called meeting by a majority of the entire membership of the P&Z.

Section 2 – These Bylaws and any subsequent amendments, upon approval, shall become part of the public record of the P&Z after meetings at which they are adopted.

Chairman, Planning and Zoning

Secretary, Planning and Zoning

PLANNING AND ZONING COMMISSION

§ 155.230 ESTABLISHED; MEMBERSHIP; FUNCTION.

There is hereby established a Harker Heights Planning and Zoning Commission composed of nine voting members and four alternates, to be appointed by the City Council.

(Ord. 2001-36, passed 11-13-01)

§ 155.231 TERMS OF MEMBERS; FILLING VACANCIES; REMOVAL.

(A) The term of the members of the Planning and Zoning Commission shall be for three years or until their respective successors are appointed and have qualified. No member shall serve more than two full consecutive terms on the Planning and Zoning Commission. Commission members may be removed at any time upon the affirmative vote of a majority of the City Council.

(B) During the month of September of each year, or as soon thereafter as is reasonably practicable, the City Council shall appoint members to fill all vacancies expected to occur on the Planning and Zoning Commission during the succeeding twelve month period. The term of each member shall begin on January 1 of the following year in which the member was appointed.

(C) The City Council shall choose from the alternates to fill vacant positions.

(Ord. 2001-36, passed 11-13-01)

§ 155.232 QUALIFICATION OF MEMBERS.

The members of the Planning and Zoning Commission must be qualified electors within the city. A member of the Planning and Zoning Commission shall not be an employee or an appointed or elected official of the city.

(Ord. 2001-36, passed 11-13-01)

§ 155.233 MEETINGS.

(A) A majority of the members shall constitute a quorum for the transaction of business. Monthly meetings of the Planning and Zoning Commission shall be held at a location open to the public; additional meetings may be held at the call of the City Council or the Planning and Zoning Commission Chair. Meetings shall comply with all applicable requirements of the Texas Open Meetings Act.

(B) Should a member of the commission fail to attend three consecutive regular monthly meetings of the Commission, such member shall be automatically dropped from the Commission and a vacancy thereon declared.

(Ord. 2001-36, passed 11-13-01)

§ 155.234 POWERS AND DUTIES.

(A) The Commission shall elect a chairman, vice-chairman and such other officers as it may be deemed necessary for a term of one year. The Commission shall adopt rules for the practical and efficient transactions, findings and determinations, which rules shall be a public record.

(B) The function and the duty of the Planning and Zoning Commission shall be to make, or cause to be made, and to recommend a Comprehensive Plan for City Council adoption which guides the physical development of the city. Such plans may relate to the comprehensive planning of the city. Such plans and the accompanying maps, plats, charts, and descriptive matter shall show the Planning and Zoning Commission's recommendations for the development of the territory, including among other things the general locations, character and extent of streets, alleys, ways, viaducts, bridges, railroads, terminals, school grounds, fire station sites, or any

other public grounds or public improvements, and the removal, relocation, widening or extension of such public work then existing. As the work of making the whole Comprehensive Plan progresses, the Planning and Zoning Commission may from time to time amend, extend or add to the plan.

(C) In the preparation of such plan, the Planning and Zoning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the city, and with due regard to its relations to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the efficient expenditures of public funds, and the adequate provision of public utilities and other public requirements.

(D) The Planning and Zoning Commission shall make to the City Council an annual report, giving a statement of its work during the preceding year. In such annual report it shall also make its recommendations as to future projects to be undertaken, and from time to time it shall also make like recommendations for public improvements, which in its judgment should be undertaken.

(E) The Commission shall exercise its authority as the Zoning Commission in accordance with Tex. Loc. Gov't Code § 211.007 and recommend to the City Council approval or disapproval of proposed changes in the zoning districts and related ordinances based on the adopted Comprehensive Plan.

(Ord. 2001-36, passed 11-13-01; Am. Ord. 2006-40, passed 10-24-06)

§ 155.999 PENALTY.

(A) It shall be the duty of the Building Official to enforce the provisions of this chapter, and to refuse to issue any permit for any building, or for the use of any premises, which would violate any of the provisions of this chapter.

(B) In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land is used in violation of this chapter, the Building Official is authorized and directed to institute any appropriate action to put an end to any such violation.

(C) Any person or corporation who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$2,000, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of this chapter shall be placed, or shall exist, and any architect, engineer, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof shall be fined as herein before provided.

(Ord. 2001-36, passed 11-13-01)

BUILDING AND STANDARDS COMMISSION

§ 33.80 ESTABLISHED; FUNCTION.

There is hereby established a Building and Standards Commission which shall consist of one or more panels, each composed of at least five regular members. The Commission shall have the powers and duties granted by §§ 150.02(G) and (J), Chapter 160, and V.T.C.A., Local Government Code Chapters 54 and 214.

(Ord. 2011-07, passed 4-12-11)

§ 33.81 APPOINTMENT, TERM, ALTERNATES, VACANCY, AND REMOVAL.

(A) The City Council shall appoint both regular and alternate members to the Commission. The term of the regular and alternate members of the Commission shall be three years, or until their respective successors are appointed and have been qualified. The term of each regular and alternate member (other than the initial members) shall begin on January 1 of the following year in which the member was appointed. No regular member shall serve more than three full consecutive terms on the Commission. The City Council shall fill a vacancy for the unexpired term.

(B) The City Council may appoint four alternate members of the Commission who shall serve in the absence of one or more regular members when requested to do so by the Mayor or City Manager. A vacancy shall be filled in the same manner as a vacancy among the regular members.

(C) The City Council may, upon a written charge and the affirmative vote of a majority of the entire City Council, remove a member of the Commission for cause. Before a decision regarding removal is made, a public hearing shall be held on the removal if requested by the member.

(Ord. 2011-07, passed 4-12-11)

§ 33.82 QUALIFICATIONS OF MEMBERS.

All regular and alternate members of the Commission must be residents of the city and must be standing members or alternate members of the current Planning and Zoning Commission of the City of Harker Heights.

(Ord. 2011-07, passed 4-12-11)

§ 33.83 PROCEEDINGS.

(A) Meetings of the Commission shall be held at the call of the chairman, or in the chairman's absence, the acting chairman, the Mayor or the City Manager.

(B) The Commission shall adopt rules for its proceedings consistent with the requirements of law. The rules shall establish procedures for use in hearings, providing ample opportunity for presentation of evidence and testimony by respondents or persons opposing charges being brought by the city relating to alleged violations of ordinances.

(C) The Commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. Each Commission panel shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the office of the City Secretary as public records.

(D) All meetings of the Commission shall be open to the public.

(Ord. 2011-07, passed 4-12-11)

Print

Harker Heights Code of Ordinances

CHAPTER 160: UNSAFE, SUBSTANDARD AND DANGEROUS STRUCTURES

Section

- 160.01 Findings and purpose
- 160.02 Definitions
- 160.03 Generally
- 160.04 Minimum standards; substandard buildings declared
- 160.05 Determination by building official
- 160.06 Public hearing for abatement of substandard buildings
- 160.07 Order of Commission regarding substandard buildings
- 160.08 Notice of order of the Commission
- 160.09 Enforcement of the order of the Commission
- 160.10 Performance of work by the city
- 160.11 Recovery of cost of securing, repair, removal or demolition
- 160.12 Additional authority to secure certain substandard buildings prior to public hearing and secure, demolish, repair or remove certain dangerous buildings
- 160.13 Violations
- 160.14 Civil penalty
- 160.15 Authority not limited
- 160.16 Authority of City Attorney

§ 160.01 FINDINGS AND PURPOSE.

The facts and recitations contained in the preamble of the ordinance that is the basis for this chapter are found and declared to be true and correct.

(Ord. 2011-07, passed 4-12-11)

§ 160.02 DEFINITIONS.

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

BUILDING. Includes any building, fence, retaining wall, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever, or any portion thereof, and the enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

BUILDING OFFICIAL. The person designated by the City Council to enforce this chapter.

COMMISSION. The Building and Standards Commission established pursuant to § 33.80.

STANDARD CODES. The codes adopted and amended by § 150.02.

(Ord. 2011-07, passed 4-12-11)

§ 160.03 GENERALLY.

(A) *Powers of the building official.*

(1) *Administration.* The building official is hereby authorized to enforce the provisions of this chapter. The building official shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

(2) *Inspections.* All buildings 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. The building official, fire marshal and their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(3) *Right of entry.* When it is necessary to make an inspection to enforce the provisions of this chapter, or when the building official or his designee has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building or premises unsafe, dangerous, or hazardous, the building official or his designee may enter the building or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official or his designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(B) *Abatement of dangerous or substandard buildings.* All buildings or portions thereof which are determined after inspection by the building official to be dangerous or substandard as defined by this chapter are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this chapter.

(C) *Notice.* When notice is given in accordance with this chapter to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered. On receipt of a notice under this chapter, a manager of the affected property shall notify the owner of the notice within 10 days.

(Ord. 2011-07, passed 4-12-11)

§ 160.04 MINIMUM STANDARDS; SUBSTANDARD BUILDINGS DECLARED.

(A) *Substandard building.* For the purposes of this chapter any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described shall be deemed to be a substandard building, and a nuisance:

(1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.

(2) Whenever any building, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage, or by children for any purpose.

(3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:

(a) The building constitutes a danger to the public even though secured from entry; or

(b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by division (A)(2) of this section.

(4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence.

(5) Whenever any portion of a building remains on a site after the demolition or destruction of the building.

(6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public.

(7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:

(a) Lack of, or improper lavatory.

(b) Lack of, or improper bathtub or shower in a dwelling unit or lodging house.

(c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel.

(d) Lack of, or improper kitchen sink in a dwelling unit.

(e) Lack of hot and cold running water to plumbing fixtures.

- (f) Lack of, or improper operation of, adequate heating facilities.
 - (g) Lack of, or improper operation of, required ventilating equipment.
 - (h) Lack of minimum amounts of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city.
 - (i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation of the city.
 - (j) Lack of required electrical lighting.
 - (k) Excessive dampness or mold in habitable rooms.
 - (l) Infestation of insects, vermin or rodents.
 - (m) General dilapidation or improper maintenance.
 - (n) Lack of connection to required sewage disposal system.
 - (o) Lack of adequate garbage and rubbish storage and removal facilities.
- (8) Whenever any building contains structural hazards, including but not limited to the following:
- (a) Deteriorated or inadequate foundation.
 - (b) Defective or deteriorated flooring or floor supports.
 - (c) Flooring or floor supports are insufficient to carry imposed loads with safety.
 - (d) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
 - (e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety.
 - (f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration.
 - (g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety.
 - (h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.
 - (i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety.
- (9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
- (B) *Dangerous and substandard building.* For the purposes of this chapter, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare

of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:

(1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

(3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1" times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location.

(4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location.

(5) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings.

(7) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause.

(9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(10) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(11) Whenever the building, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; or (b) a harbor for vagrants, criminals or illegal activity.

(13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(14) Whenever any building or structure, because of obsolescence, dilapidation, deterioration, damage or decay, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

(15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered.

(16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.05 DETERMINATION BY BUILDING OFFICIAL.

When the building official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the building official may take any or all of the following actions, as he or she deems appropriate:

- (A) Issue notice to the record owner that the building is substandard and must be repaired or demolished;
- (B) Issue a citation for each violation of this chapter;
- (C) Secure the building if permitted by this chapter; or
- (D) Commence abatement proceedings before the Commission pursuant to § 160.06.

(Ord. 2011-07, passed 4-12-11)

§ 160.06 PUBLIC HEARING FOR ABATEMENT OF SUBSTANDARD BUILDINGS.

(A) *Commencement of proceedings.* When the building official has found and determined that a building is a substandard building, the building official may commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.

(B) *Public hearing to be held.* Except when the Commission finds that a building is likely to immediately endanger persons or property, a public hearing shall be held before the Commission to determine whether a building complies with the standards set out in § 160.04. If the Commission determines that the building constitutes an immediate danger, the procedures set forth in § 160.12(B) and following shall be followed.

(C) *Notice.* Not less than ten days prior to the date on which the hearing is set, the building official shall issue a notice of the public hearing directed to the record owner of the building, and to all mortgagees and lienholders. The city shall use diligent efforts to determine the identity and address of any owner, lienholder or mortgagee of the building through searching the Bell County real property records, the records of the Bell County Tax Appraisal District, records of the Secretary of State, Bell County assumed name records, tax records of the city, and utility records of the city. The notice shall contain:

- (1) The name and address of the record owner;
- (2) The street address or legal description sufficient for identification of the premises upon which the building is located;
- (3) A statement that the building official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of § 160.04;
- (4) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the chapter, and the time it will take to reasonably perform the work;
- (5) Notice of the time and place of the public hearing; and
- (6) A statement that if the building is found to be in violation of this chapter, the Commission may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.

(D) *Additional notice of public hearing.* Prior to the public hearing; the city may file a copy of the notice mailed pursuant to this section in the official public records of real property in Bell County. If such notice is not filed of record, each identified mortgagee and lienholder must be notified of any abatement order issued by the Commission at the public hearing, prior to any remedial action by the city. The city shall also post a copy of the notice mailed pursuant to this section on the front door of each improvement situated on the affected property, or as close thereto as practicable, or if there is no front door then at a conspicuous location on the property. In addition, the notice must be published in a newspaper of general circulation in the city on one occasion on or before the tenth day before the date fixed for the hearing.

(E) *Burden of proof.* At the public hearing, the owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this chapter, and the time it will take to reasonably perform the work.

(F) *Conduct of public hearing.* All cases to be heard by the Commission must be heard by a panel of at least five members and/or alternate members, and a majority vote of the members voting on a matter is necessary to take action thereon. At the public hearing, the owner of the building, and all other interested persons may make their appearance in person or by attorney, and shall have a reasonable opportunity to be heard. Any relevant evidence may be received and considered by the Commission, and for this purpose the chairperson or acting chairperson shall have the authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents. The hearing may be adjourned from day to day or continued upon a majority vote of the Commission, in compliance with the Open Meetings Act.

(Ord. 2011-07, passed 4-12-11)

§ 160.07 ORDER OF COMMISSION REGARDING SUBSTANDARD BUILDING.

(A) *Findings of the Commission.* If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in § 160.04, the Commission may order that the building be repaired, vacated, removed or demolished, secured, or the occupants relocated, by the owner, mortgagee or lienholder within a reasonable time as provided herein.

(B) *Time allowed to complete work.*

(1) The order must require the owner, lienholder or mortgagee of the building to within 30 days:

(a) Secure the building from unauthorized entry; and/or

(b) Repair, remove or demolish the building unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(2) If the Commission allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the Commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Commission.

(3) The Commission may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner lienholder or mortgagee:

(a) Submits a detailed plan and time schedule for the work at the hearing; and

(b) Establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work.

(4) If the Commission allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the Commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Commission or the building official to demonstrate compliance with the time schedules.

(C) *Contents of order.* The order of the Commission must contain at minimum:

(1) An identification (which is not required to be a legal description) of the building and the property on which it is located; and

(2) A description of the violation of minimum standards present in the building; and

(3) A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option; and

(4) A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost to the property; and

(5) If the Commission has determined that the building will endanger persons or property and that the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

(Ord. 2011-07, passed 4-12-11)

§ 160.08 NOTICE OF ORDER OF THE COMMISSION.

(A) *Order shall be mailed.* After the public hearing, the building official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lienholder and mortgagee of the building.

(B) *Order shall be filed with City Secretary.* Within ten days after the date that the order is issued by the Commission, the building official shall file a copy of the order in the office of the City Secretary.

(C) *Order shall be published.* Within ten days after the date the order is issued by the Commission, the building official shall publish in a newspaper of general circulation within the city a notice containing:

- (1) The street address or legal description of the property;
- (2) The date the hearing was held;
- (3) A brief statement indicating the results of the order; and
- (4) Instructions stating where a complete copy of the order may be obtained.

(D) *Filing of order or abstract.* The order may be filed in the official public records of real property in Bell County. An abstract or judgment shall be ordered against all parties found to be the owners of the subject property or in possession of that property.

(Ord. 2011-07, passed 4-12-11)

§ 160.09 ENFORCEMENT OF THE ORDER OF THE COMMISSION.

(A) *Compliance.* If an order of the Commission under this chapter is not complied with, the city may take action. If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense, provided however:

(1) The city may not act to remove or demolish a building until after the Commission has found:

(a) That such defects or conditions exist to the extent that the life, health, property or safety of the public or the occupants of the building are endangered; and

(b) The building is infeasible of repair, or there is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given.

(2) The city may only repair a building as provided herein to the extent necessary to correct the conditions which render the building dangerous, and may not act to repair a building unless:

(a) The Commission has made a determination that the building is likely to endanger person or property; and

(b) The building is a residential dwelling with ten or fewer dwelling units.

(3) In the event there are mortgagors or lienholders, the city may only repair, remove or demolish the building after allowing the lienholder or mortgagee an additional 30 days after the time prescribed in the order has expired to complete the required work.

(4) Unless specifically authorized by a court order or by a written agreement signed by all record owners, mortgagees and lienholders, the city may not act to remove or demolish a building during the pendency of any appeal to a court of competent jurisdiction of the Commission's order.

(B) *Posting of notice to vacate building.* If the order requires vacation or if compliance is not had within the time specified therein, the building official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested to the occupant of the building and shall be posted at or upon each entrance to the building. The notice shall be in substantially the following form:

"SUBSTANDARD BUILDING

DO NOT ENTER

UNSAFE TO OCCUPY

It is unlawful to occupy this building or to remove or deface this notice.

The Harker Heights Building and Standards Commission has declared this building to be substandard. To obtain a copy of this order, contact the City Secretary at 305 Miller's Crossing, Harker Heights, Texas, (254) 953-5600.

Building Official

City of Harker Heights"

(C) *Remedial action by city.* Any repair or demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid over to the person or persons lawfully entitled thereto.

(D) *Permit required.* Any work of closure, repair, removal or demolition by the property owner or any lienholder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the city. All permits issued pursuant to an order of the Commission shall expire upon expiration of the time for compliance set forth in the order.

(Ord. 2011-07, passed 4-12-11; Am. Ord. 2012-02, passed 2-14-12)

§ 160.10 PERFORMANCE OF WORK BY THE CITY.

(A) *Procedure.* When any work of repair, removal, demolition or securing is to be performed by the city, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

(B) *Costs.* The cost of such work shall be paid from city funds and shall constitute a special assessment and a lien against such property to secure payment thereof together with 10% interest on such amount from the date on which the work is performed.

(C) *Repair to minimum standards only.* The city may repair the building at its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with the minimum standards set forth in § 160.04.

(Ord. 2011-07, passed 4-12-11)

§ 160.11 RECOVERY OF COST OF SECURING, REPAIR, REMOVAL OR DEMOLITION.

(A) *Itemized account and notice of lien.* The building official shall keep an itemized account of the expenses incurred by the city in the securing, repair, removal or demolition of any building pursuant to this chapter. Upon completion of the work, the building official shall prepare and file with the City Secretary a sworn account and notice of lien containing the following information:

- (1) The name and address of the owner if that information can be determined with a reasonable effort;
- (2) A legal description of the real property on which the building is or was located;
- (3) The type of work performed; and
- (4) The amount of expenses incurred by the city in performing the work and the balance due.

(B) *Notice filed in county records.* The City Secretary shall file the notice of lien along with a copy of the order of abatement issued by the Commission in the official public records of Bell County.

(C) *Personal obligation of property owner.* The expenses incurred by the city as set forth in the sworn account of the building official shall be a personal obligation of the property owner in addition to a priority lien upon the property.

(D) *Lien shall be valid and privileged.* Upon filing of the notice of lien in the official public records of Bell County, Texas, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens and existing special assessment liens, and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(E) *Assessment must be paid.* No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the city.

(F) *Release of lien.* After the expenses incurred by the city, as set forth in the sworn account of the building official, have been fully paid with interest of 10% per annum from the date the work was performed, the building official shall execute a release of lien which shall be filed in the official public records of Bell County.

(Ord. 2011-07, passed 4-12-11)

§ 160.12 ADDITIONAL AUTHORITY TO SECURE CERTAIN SUBSTANDARD BUILDINGS PRIOR TO PUBLIC HEARING AND SECURE, DEMOLISH, REPAIR OR REMOVE CERTAIN DANGEROUS BUILDINGS.

(A) *Securing of unoccupied, substandard building.* Notwithstanding any other provisions of this chapter the city may secure a building if the building official determines that the building:

- (1) Violates the minimum standards set forth in § 160.04; and
- (2) Is unoccupied or is occupied only by persons who do not have the right of possession to the building.

(B) *If building creates immediate danger.* Notwithstanding any other provisions of this chapter, if the Commission finds that a building is likely to immediately endanger persons or property the Commission may:

- (1) Order the owner of the building, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the dangerous part of the structure, within a specified time; or
- (2) Repair, remove, or demolish the structure, or the dangerous part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(C) *Notice to owner.* Before the eleventh day after the date the building is secured pursuant to division (A) above, or action is ordered pursuant to division (B)(1) above, or the building is repaired, removed or demolished pursuant to division (B)(2) above, the building official shall give notice to the owner by:

- (1) Personally serving the owner with written notice;
- (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- (3) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located, if personal service cannot be obtained and the owner's post office address is unknown; or
- (4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown; and

(5) In addition to the above, depositing notice in the United States mail to all lienholders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the County Clerk.

(D) *Contents of notice.* The notice must contain:

(1) An identification (which is not required to be a legal description) of the building and the property on which it is located;

(2) A description of the violation of the minimum standards present in the building;

(3) A statement that the city will secure or has secured, as the case may be, the building, or that the city has taken or will take the action ordered pursuant to division (B); and

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing, removing, demolishing or repairing of the building.

(E) *Hearing.* The Commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing, repairing, removing or demolishing of the building, if, within 30 days after the date the city has taken action pursuant to divisions (B)(1) or (B)(2) of this section, the owner files with the city a written request for the hearing. The hearing shall be conducted within 20 days after the date the request is filed.

(F) *Expenses.* If the city incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by § 160.10 and § 160.11.

(Ord. 2011-07, passed 4-12-11)

§ 160.13 VIOLATIONS.

(A) *Generally.* Except with the valid written permission of the building official, it shall be unlawful for any person to:

- (1) Erect, construct or maintain any building that is deemed herein to be a nuisance;
- (2) Use, occupy, enter, or remain in any building that is posted with a notice to vacate;
- (3) Remove, damage or deface a notice to vacate posted under this chapter; or
- (4) Cause or permit any act to be done in violation of any provision of this chapter.

(B) *Compliance with order.* It shall be unlawful for any person to whom an order of the Commission is directed to fail to comply with such order.

(C) *Interference prohibited.* It shall be unlawful for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated, demolished, removed or secured under the provisions of this chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building, or purchaser is engaged in the work of

repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provision of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

(D) *Transfer of ownership.* No person may sell, transfer, mortgage, lease or otherwise dispose of a building or property that is the subject of a notice of substandard building, a citation, or an order of the Commission under this chapter until:

(1) The deficiencies noted in the notice, citation or order have been corrected and a new certificate of occupancy has been issued by the city; or

(2) The building official receives a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the notice, citation or order, and unconditionally accepting the responsibility for timely correcting the deficiencies noted therein.

(E) *Separate violations.* Each building or property which is in violation of any part of this chapter is a separate offense. Each violation in any building or property is a separate offense. Each and every day's violation shall constitute a separate and distinct offense.

(F) *Municipal court.* Proceedings under the jurisdiction of the municipal court are not affected by proceedings of the Commission or civil penalties under this chapter.

(Ord. 2011-07, passed 4-12-11)

§ 160.14 CIVIL PENALTY.

(A) *Civil penalty authorized.* In addition to any other enforcement authority provided for by law, and without regard to any criminal prosecution or conviction under this chapter, the Commission may at an administrative hearing assess a civil penalty by order against a property owner for failure to comply with an order issued by the Commission pursuant to this chapter.

(B) *Showing required.* The civil penalty may be assessed if it is shown at the administrative hearing that:

(1) The property owner was notified of the contents of the order issued pursuant to § 160.07; and

(2) The property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order.

(C) *Amount of penalty.* The civil penalty may be assessed in an amount not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation.

(D) *Notice of administrative hearing.* Not less than ten days prior to the date on which the administrative hearing is set, the property owner shall be sent a notice of the hearing by certified mail, return receipt requested. The notice shall contain:

(1) A copy of the order issued by the Commission pursuant to § 160.07;

(2) A statement that the building official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order;

(3) A statement that at the administrative hearing the Commission may assess a civil penalty not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owners' lawful homestead, in an amount not to exceed \$10 a day for each violation; and

(4) Notice of the time and place of the hearing.

(E) *Copy of order filed with district clerk.* After the civil penalty is assessed, the City Secretary shall file with the Bell County District Clerk a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.

(F) *Enforcement.* The civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this division is final and binding and constitutes prima facie evidence of the penalty in any suit.

(Ord. 2011-07, passed 4-12-11)

§ 160.15 AUTHORITY NOT LIMITED.

Notwithstanding all other provisions of this chapter, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.16 AUTHORITY OF CITY ATTORNEY.

The City Attorney may without further authorization of the City Council undertake the enforcement of this chapter by all legal means appropriate or necessary, including but not limited to: enforcement in municipal court; filing a notice of *lis pendens* in the official public records of Bell County; filing of appropriate civil actions in courts of appropriate jurisdiction to seek compliance with an order made under this chapter, to collect a civil penalty, or recover costs as provided by this chapter; to appointment of a receiver as provided by Local Government Code Chapter 214; and to defend the city from suit if suit is taken to appeal any action of the city.

(Ord. 2011-07, passed 4-12-11)