

Chapter 8

FIRE PROTECTION AND PREVENTION*

* **Charter References:** Authority, Art. II, § 6.
Cross References: Building code adopted, § 6-1; fire districts, § 6-2; oil and gas well operations, § 18-3 et seq.; fire protection in mobile home parks, s; 14-14.
State Law References: Authority of city, V.T.C.S. arts. 1068, 1175(15, 25, 27).

Art. I. In General, §§ 8-1--8-19

Art. II. Fire Prevention Code, §§ 8-20--8-39

Art. III. Fire Marshal, §§ 8-40--8-49

Art. IV. Substandard Buildings and Structures, §§ 8-50--8-109

Div. 1. General Provisions, §§ 8-50--8-69

Div. 2. Definitions and Standards, §§ 8-70--8-79

Div. 3. Inspection; Notice of Substandard Building; Hearing, §§ 8-80--8-94

Div. 4. Appeals, §§ 8-95--8-100

Div. 5. Enforcement, §§ 8-101--8-109

Art. V. Fire Lanes, §§ 8-110--8-115

ARTICLE I.

IN GENERAL

Sec. 8-1. Arson reward--Offer.

The city offers a reward of one thousand dollars (\$1,000.00) in cash for the arrest and conviction of any person or persons found guilty of committing the crime of arson within the city, which reward is a standing offer, and shall be paid out of the general fund of the city.

(Ord. of 3-15-65, § 1; Ord. of 1-19-82, § 1)

State Law References: Crime of arson, V.T.P.C. § 28.02.

Sec. 8-2. Same--Placards; furnishing copies of offer.

The city secretary is directed to have made and printed placards eight (8) inches by twelve (12) inches in size, containing the language in section 8-1, which are to be encased in wooden frames under glass, and posted inside of not less than six (6) public buildings throughout the city at different prominent locations. He is further directed to furnish a certified copy of said section, a copy of one of the placards, and a list of the buildings

where placards have been posted, to the state board of insurance.
(Ord. of 3-15-65, § 2)

Sec. 8-3. Fireworks--Possessing, selling, etc.

(a) The transporting, storing, offering for sale, possession or presence of any fireworks, including types covered by Article 9205, Vernon's Annotated Civil Statutes [V.A.T.S. insurance code, art. 5.43-4], within the city or the territorial jurisdiction of the city, being the area immediately adjacent and contiguous to the city limits and extending outside the city limits for a distance of five thousand (5,000) feet in all directions, unless such area is within the corporate limits of another municipality, is hereby declared to be a nuisance.

(b) The fire chief shall seize and cause to be destroyed any fireworks found within the city or its territorial jurisdiction in violation of the provisions of this section.

(c) Any member of the fire department, any police officer, or any other peace officer, is empowered to detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally, until the fire department can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section.

(d) Notwithstanding any penal provisions hereof, the city attorney is authorized to file suit on behalf of the city for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or using of fireworks within the jurisdiction of the city, and to prevent any person from interfering with the seizure and destruction of such fireworks; provided, however:

- (1) That it shall not be necessary to obtain such injunctive relief as a prerequisite to such seizure and destruction.
- (2) That any member of the fire department is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks.
- (3) That in any instance, where the fire chief or any of his duly authorized assistants have probable cause to believe that fireworks are being stored in a building, they shall promptly enter the building for the purpose of inspection.
- (4) That it shall be the duty of the owner, lessee or person otherwise in charge of such building, or their agents or employees, to open and permit entry into the building by persons charged with the enforcement of the provisions herein.

(e) Any person, firm, corporation, company or association who shall violate any of the provisions of this section, or suffer or allow the same to be violated, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars (\$200.00), and each day during which such violation shall continue to exist shall constitute a separate and distinct offense.

(Ord. No. 1-5-59, §§ 1, 2; Ord. of 1-19-82, §§ 1, 2)

Sec. 8-4. Same--Discharge.

The use, firing, igniting, shooting, exploding or discharge of fireworks as provided in Section 8-3 is hereby found and declared to be a general and public nuisance and the same is hereby prohibited; provided, this section shall not prohibit lawfully authorized pyrotechnic displays.
(Code 1894, Ord. 210; Ord. of 6-3-46, § 1)

Sec. 8-5. Cotton storage--Places in which permitted.

It shall be unlawful for any person to store or keep any cotton within the city in any building or place, except in warehouses for the storage of cotton, or in gin houses.
(Code 1894, Ord. 52)

Sec. 8-6. Same--Duty of warehousemen to carefully guard.

It shall be the duty of all warehousemen to carefully guard their warehouses against fire, and to allow no fire to be made or taken therein at any time; but this shall not prevent the keeping of fire in an office attached to said warehouse.
(Code 1894, Ord. 53)

Sec. 8-7. Same--Unlawful to use private buildings or storehouses for storing cotton.

It shall be unlawful to erect, build or use any storehouse or private building within the city for the storage of cotton, unless the consent of the governing body therefor has been previously obtained.
(Code 1894, Ord. 54)

Sec. 8-8. Recovering cost for fire protection and emergency services.

(a) *Collection of fees:*

- (1) The City Council of the City of Brenham authorizes the city manager to adopt charges to be billed against parties involved in motor vehicle accidents, hazardous waste or chemical spills, or other non-fire suppression activities to which the city responds with fire department equipment and/or personnel. These charges shall be billed as a debt to the party causing the event, the landowner, the party controlling the premises in the event of a spill or dumping and/or the party transporting said hazardous, dangerous and/or injurious product. Fire suppression activities resulting from third party negligence may be billed against that third party. Fire suppression resulting from arson may be billed against the arsonist.
- (2) The city manager, or his designee, shall bill and collect all fees and costs for fire prevention services and for other public safety and emergency services rendered by the department when providing these services for motor vehicle accidents. Such fees include but are not limited to the use of equipment, materials, maintenance and overhead expenses and costs of whatever nature which constitute full reimbursement to the fire department for services actually rendered and as hereafter authorized.
- (3) Within thirty (30) days of the date of providing fire prevention and protection services or other

public safety and emergency services for the motor vehicle accidents, the city manager, or his designee, shall submit an invoice for all costs, fees, charges and expenses related to providing such services, to include but not limited to all actual expenses including costs of equipment operations, cost of material utilized, costs of specialists, experts or other contract labor not in the full time employment of the city; overtime costs, and other incidental costs incurred by the city as a result of the incident, to the customer, client, owner, designated agent, representative and/or insurance company who received, covered and/or otherwise benefited from these services.

- (4) Any bills, fees or penalties, including but not limited to clean up costs, fees or expenses that are imposed the City of Brenham or the fire department by any local, state or federal agency, related to the rendering of fire protection or prevention services or of other public safety and emergency services may be included in the billing or billed separately within thirty (30) days of receipt.

(b) *Enforcement.* The city may enforce the provisions of this section by any action allowed by law for the collection of any amounts due hereafter, including reasonable and necessary attorney fees, costs, and expenses, in a court of competent jurisdiction.

(Ord. of 1-8-04, § 2)

Secs. 8-9--8-19. Reserved.

ARTICLE II.

FIRE PREVENTION CODE

Sec. 8-20. Adoption.

There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the 2003 International Fire Code, and all revisions thereto, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code not less than two (2) copies have been and now are filed in the office of the public works department, and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this section shall take effect, the provisions thereof shall be controlling within the limits of the city.

(Ord. of 11-20-67, § 1; Ord. of 3-3-81, § 1; Ord. of 2-9-82, § 1; Ord. of 7-3-86, § 1(6); Ord. of 9-3-92, § 6; Ord. of 2-1-96, § 7; Ord. of 6-2-05, § 11)

Sec. 8-21. Establishment and duties of bureau of fire prevention.

(a) The fire prevention code shall be enforced by the bureau of fire prevention in the fire department of the city, which is hereby established and which shall be operated under the supervision of the chief of the fire department.

(b) The fire chief shall be in charge of the bureau of fire prevention.

(c) The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the governing body

the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.

(d) A report of the bureau of fire prevention shall be made annually and transmitted to the chief executive officer of the municipality; it shall contain all proceedings under this code, with such statistics as the chief of the fire department may wish to include therein; the chief of the fire department shall also recommend any amendments to the code which, in his judgment, shall be desirable.

(Ord. of 11-20-67, § 2)

Sec. 8-22. Definitions.

(a) Wherever the word "municipality" is used in the fire prevention code, it shall be held to mean this city.

(b) Where the term "corporation counsel" is used in the fire prevention code, it shall be held to mean the attorney for this city.

(Ord. of 11-20-67, § 3)

Sec. 8-23. Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.

The limits referred to in the fire prevention code in which storage of explosives and blasting agents is prohibited are hereby established as the first and second fire districts.

(Ord. of 11-20-67, § 4)

Cross References: Fire districts, § 6-2.

Sec. 8-24. Regulation of use and placement of fuel storage tanks.

(a) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this section:

Aboveground shall mean any storage tank, as defined herein, which any portion thereof is aboveground, excluding valves and pipes into and out of the tank.

Combustible liquid shall mean a liquid having a flash point of one hundred (100) degrees Fahrenheit or higher per NFPA-30, the Flammable and Combustible Liquid Code, 1987 Edition, and as amended thereafter.

Flammable liquid shall mean a liquid having a flash point of less than one hundred degrees Fahrenheit per NFPA-30, the Flammable and Combustible Liquid Code, 1987 Edition, and as amended thereafter.

Storage location shall mean any area which contains no less than one hundred (100) square feet within which one (1) or more fuel storage tanks are to be located. Each storage location shall be located no less than one hundred (100) linear feet from any other storage location.

Storage tanks shall mean any container in excess of one hundred (100) gallons, which is used to store

any hydrocarbon material including, but not limited to, gasoline, diesel and kerosene.

(b) *Permit required.* Every owner shall obtain a permit from the fire marshal for any of the following prior to the commencement of construction of such facilities:

- (1) A belowground, liquefied natural gas, liquefied petroleum gas, or flammable or combustible liquid storage tank.
- (2) An aboveground storage tank for liquefied natural gas, or liquefied petroleum gas. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than two thousand (2,000) gallons or which will contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than four thousand (4,000) gallons.
- (3) An aboveground storage tank for a flammable or combustible liquid. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than one thousand (1,000) gallons or which will contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than four thousand (4,000) gallons.

(c) *Proper tank for aboveground storage of flammable or combustible liquids.* Any new tank or tank system used in the city for aboveground storage of flammable or combustible liquids shall be designed, constructed, installed, operated and maintained in accordance with NFPA-30, titled "Flammable and Combustible Liquid Code, 1987 Edition," and as amended thereafter.

(d) *Proper tank for aboveground storage of liquefied natural gas.* Any new tank or tank system used in the city for aboveground storage of liquid natural gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-59A, titled "Liquefied Natural Gas, 1987 Edition," and as amended thereafter.

(e) *Proper tank for aboveground storage of liquefied petroleum gas.* Any new tank or tank system used in the city for aboveground storage of liquefied petroleum gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-58, titled "Liquefied Petroleum Gas, 1987 Edition," and as amended thereafter.

(f) *Tank location.* In addition to location restrictions listed in NFPA-30, "Flammable and Combustible Liquid Code, 1987 Edition," Chapter 2, no new tank used for the aboveground storage of flammable or combustible liquids may be placed or used within one hundred (100) feet of property zoned for residential use. New tanks added to existing bulk plants are excluded from this provision.

(g) *Noncompliance; denial or revocation of certificate; order to cease operations.* Upon finding of non-compliance with this section, the fire marshal may revoke or deny the renewal of a permit and order the person or firm owning or operating the tank to cease all or part of its operation in this city until in compliance. No one shall operate or own a storage tank without a valid permit.

(h) *Duration and fee.* Each permit shall be valid for a period of twelve (12) months. The fee for said permit is five dollars (\$5.00).

(i) *Provisional Permit.* The fire marshal may issue a provisional permit for not more than three (3) months to allow a firm an opportunity to bring its facility into compliance.

(j) *Establishment of limits of districts in which storage of flammable liquids in aboveground tanks is to be prohibited.* The limits referred to in the Fire Prevention Code in which storage of flammable liquids in aboveground tanks and liquefied petroleum gas is prohibited are hereby established as the first and second fire districts. The limits referred to in Section 16.51 of the Fire Prevention Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as within the city limits of the City of Brenham, Texas.

(Ord. of 8-17-89, §§ 1--3)

Editors Note: Section 4 of an ordinance enacted Aug. 17, 1989, repealed §§ 5 and 6 of an ordinance passed Nov. 20, 1967, from which §§ 8-24 and 8-25, establishing limits in which storage of flammable liquids in outside aboveground tanks was prohibited and the bulk storage of liquefied petroleum gases were restricted, were derived. Section 1-3 of said Aug. 17, 1989, ordinance enacted provisions similar in subject matter which have been included as a new § 8-24.

Sec. 8-25. Reserved.

Note: See the editor's note to § 8-24.

Sec. 8-26. Modifications.

The chief of the bureau of fire prevention shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the bureau of fire prevention thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

(Ord. of 11-20-67, § 8)

Sec. 8-27. Appeals.

Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the governing body within thirty (30) days from the date of the decision appealed.

(Ord. of 11-20-67, § 9)

Sec. 8-28. New materials, processes or occupancies which may require permits.

The governing body, the chief of the fire department and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the fire prevention code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

(Ord. of 11-20-67, § 10)

Sec. 8-29. Penalties.

(a) Any person who shall violate any of the provisions of the fire prevention code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the governing body or by a court of competent jurisdiction, within the time fixed herein, shall severally for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1-5 of the Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
(Ord. of 11-20-67, § 11)

Sec. 8-30. Severability.

The governing body hereby declares that should any section, paragraph, sentence, or word of the fire prevention code hereby adopted be declared for any reason to be invalid, it is the intent of the governing body that it would have passed all other portions independent of the elimination herefrom of any such portion as may be declared invalid.
(Ord. of 11-20-67, § 13)

Secs. 8-31--8-39. Reserved.

ARTICLE III.

FIRE MARSHAL

Sec. 8-40. Office created; appointment, qualifications, removal compensation.

The office of fire marshal is hereby created. Such office shall be independent of other city departments, the fire marshal reporting directly to the governing body. Such office shall be filled by appointment by the governing body. The fire marshal shall be properly qualified for the duties of his office and shall be removed only for cause. He shall receive no salary or compensation for his services.
(Ord. of 5-15-11, § 1)

Sec. 8-41. Investigation and record of fires.

The fire marshal shall investigate the cause, origin and circumstances of every fire occurring within the city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within twenty-four (24) hours, not including Sunday, of the occurrence of such fire. The fire marshal shall keep in his office a record of all fires occurring within the city, together with all facts, statistics and circumstances, including the origin, of the fires and the amount of loss, which may be determined by the investigation required by this article. Such

record shall at all times be open to public inspection.
(Ord. of 5-15-11, § 2)

Sec. 8-42. Taking testimony; charging suspected offenders; referring matter to prosecutor.

The fire marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter as to which an examination is herein required to be made, and shall cause the same to be reduced to writing, and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson or with the attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such fire, he shall cause such person to be arrested and charged with such offense, and shall furnish to the proper prosecuting attorney all such evidence together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

(Ord. of 5-15-11, § 3)

Sec. 8-43. Summoning witnesses; compelling production of documents.

The fire marshal shall have the power to summon and compel the attendance of witnesses before him to testify in relation to any matter which is by the provisions of this article a subject of inquiry and investigation, and may require the production of any book, paper or document being pertinent thereto.

(Ord. of 5-15-11, § 4)

Sec. 8-44. Administering oaths; false swearing; contempt.

The fire marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him. False swearing in any matter or proceeding aforesaid shall be perjury and shall be punished as such. Any witness who refuses to be sworn, or who refuses to testify or who disobeys any lawful order of the fire marshal or who fails or refuses to produce any book, paper or document touching any matter under investigation, or who is guilty of any contemptuous conduct after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor and it shall be the duty of the fire marshal to make complaint against such person.

(Ord. of 5-15-11, § 4)

Sec. 8-45. Privacy of investigation; separation of witnesses.

All investigations held by or under the direction of the fire marshal may in his discretion be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

(Ord. of 5-15-11, § 4)

Sec. 8-46. Right of entry at location of fire.

The fire marshal shall have the authority at all times of day or night in the performance of the duties imposed upon him by the provisions of this article to enter upon and examine any building or premises when

any fire has occurred, and other buildings and premises adjoining or near the same.
(Ord. of 5-15-11, § 5)

Sec. 8-47. Right of entry for examination generally; discovery of dangerous conditions.

The fire marshal, upon complaint of any person having an interest in any building or property adjacent thereto and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the city; and it shall be his duty, quarterly or more often, to enter upon and make or cause to be entered upon and made, a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto. Whenever he shall find any building or other structure which for want of repair or by reason of age or dilapidated condition, or for any cause, is especially liable to fire and which is so situated as to endanger other buildings or property or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind, whatsoever, including chimneys, flues and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustibles, flammables and refuse materials, or other conditions which in his opinion may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firemen or occupants, he shall order the same to be removed or remedied and such order shall be forthwith complied with by the owner or occupant of said building or premises; provided, however, if the owner or occupant deems himself aggrieved by such order, he may within five (5) days appeal to the city manager, who shall investigate the cause of the complaint, and unless by his authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant.
(Ord. of 5-15-11, § 6)

Secs. 8-48, 8-49. Reserved.

ARTICLE IV.

SUBSTANDARD BUILDINGS OR STRUCTURES*

* **Editors Note:** Section 1 of an ordinance enacted Nov. 19, 1987, amended the provisions of Ch. 8 by replacing former Art. IV, Substandard Buildings or Structures, in its totality and substituting new provisions to read as herein set out. The substantive provisions of former Art. IV, §§ 8-50--8-59, were derived from § 1 of an ordinance adopted Aug. 30, 1983.

Cross References: Additional provisions relating to dangerous buildings, see the building code adopted in § 6-1.

DIVISION 1.

GENERAL PROVISIONS

Sec. 8-50. Purpose of chapter.

(a) The purpose of this chapter is to protect the health, safety and welfare of the citizens of the City of Brenham by establishing standards for the identification, abatement and/or removal of substandard buildings or structures.

(b) This chapter is hereby declared to be remedial and shall be constructed to secure the beneficial interests and purposes thereof--which are public safety, health and general welfare--through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises.
(Ord. of 11-19-87, § 1)

Sec. 8-51. Scope of chapter.

The provisions of this chapter shall apply to all unsafe buildings or structures, as herein defined, and shall apply equally to new and existing conditions.
(Ord. of 11-19-87, § 1)

Sec. 8-52. Alterations, repairs or rehabilitation work.

(a) Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of the building code of the City of Brenham, Texas; provided, that the alteration, repair or rehabilitation work conforms to the requirements of the building code for new construction. The building inspector shall determine, subject to appeal to the building standards commission, the extent, if any, to which the existing building shall be made to conform to the requirements of the building code of the city for new construction.

(b) Alterations, repairs or rehabilitation work shall not cause an existing building to become a substandard building as defined in Section 8-71 of this chapter.

(c) If the occupancy classification of an existing building is changed, the building shall be made to conform to the intent of the building code of the city for the new occupancy classification as established by the building inspector.

(d) Repairs and alterations, not covered by the preceding paragraphs of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of this chapter or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed; but not more than twenty-five (25) percent of the roof covering a building shall be replaced in any period of twelve (12) months unless the entire roof covering is made to conform with the requirements of the building code of the city for new buildings.
(Ord. of 11-19-87, § 1)

Sec. 8-53. Special historic buildings or districts.

The provisions of this chapter relating to the construction, alteration, repair, enlargement, restoration, relocation, or moving buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the building inspector to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts.

(Ord. of 11-19-87, § 1)

Sec. 8-54. Maintenance.

All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the building code of the city in a building when erected, altered or repaired shall be maintained in good working order. The owner shall be responsible for the maintenance of buildings and structures.

(Ord. of 11-19-87, § 1)

Sec. 8-55. Enforcement officer.

The provisions of this chapter shall be enforced by the building inspector of the City of Brenham, Texas.
(Ord. of 11-19-87, § 1)

Sec. 8-56. Restrictions on employees.

An officer or employee of the city connected with the enforcement of this chapter, except one whose only connection is as a member of the building standards commission, shall not have a financial interest in the furnishing of labor, material or appliances for the construction, alteration, demolition, repair or maintenance of a building, or in the making of plans or of specifications therefor, unless he is the owner of such building. Such officer or employee shall not engage in any work which is inconsistent with his duties or with the interests of the city.

(Ord. of 11-19-87, § 1)

Sec. 8-57. Records of enforcement officer.

The building inspector shall keep, or cause to be kept, a record of the business of the city related to the enforcement of this chapter. Such records shall be open to public inspection.

(Ord. of 11-19-87, § 1)

Sec. 8-58. Powers and duties of the enforcement officer.

(a) The building inspector or his authorized representative may enter any building, structure or premises at all reasonable times to make an inspection or enforce any of the provisions of this chapter. When entering a building, structure or premises that is occupied, the building inspector shall first identify himself, present proper credentials and request entry. If the building, structure or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge of the building and demand entry. If entry is refused, the building inspector or his authorized representative shall have recourse to every remedy provided by law to secure entry.

(b) The building inspector, the fire official and other authorized representatives are hereby authorized to make such inspections and to take such actions as may be required to enforce the provisions of this chapter.

(c) Any requirement necessary for the strength or stability of an existing or proposed building or

structure, or for the safety or health of the occupants thereof, not specifically covered by this chapter shall be determined by the building inspector.

(d) The building inspector shall be an ex officio member of the building standards commission, act as secretary and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member participating therein, the absence of a member and any failure of a member to vote.

(Ord. of 11-19-87, § 1)

Sec. 8-59. Building standards commission.

(a) There is hereby created a building standards commission to be composed of three (3) members, each of whom shall be a resident of the City of Brenham. They shall hold office for a period of two (2) years, or until their successors are appointed. As near as practical, they shall be qualified in one or more of the fields of fire prevention, building construction, sanitation, health and public safety.

(b) In addition to said three (3) members, the fire marshal, building inspector and chief sanitary officer of the City of Brenham shall be ex officio, nonvoting members of said building standards commission. Any city employee in the respective department or division of the city, who shall be designated by the city manager, shall be authorized to act as substitute for the respective superior of their respective department or division as ex officio member of said commission. It shall be the duty of the ex officio members of such commission to assist the building inspector in inspecting all buildings or structures reported to be or believed to be substandard buildings and to present a report of such inspection to the building standards commission.

(c) Two (2) members of the building standards commission shall constitute a quorum. In varying the application of any provisions of this chapter or in modifying an order of the building inspector, affirmative votes of not less than two (2) members shall be required. A commission member shall not act in a case in which he has a personal interest.

(d) The building standards commission may establish rules and regulations for its own procedure not inconsistent with the provisions of this chapter. The commission shall meet as determined by the chairman.

(Ord. of 11-19-87, § 1)

Sec. 8-60. Liability.

Any officer or employee of the City of Brenham, Texas, or member of the building standards commission, charged with the enforcement of this chapter, acting for the applicable governing body in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties.

(Ord. of 11-19-87, § 1)

Sec. 8-61. Validity.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. of 11-19-87, § 1)

Secs. 8-62--8-69. Reserved.

DIVISION 2.

DEFINITIONS AND STANDARDS

Sec. 8-70. General definitions.

For the purposes of this chapter, the following words shall have the following meanings unless the context clearly indicates otherwise:

Building means any structure for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for fifty (50) percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." For the purpose of this chapter, each portion of a building separated from other portions by a fire wall shall be considered as a separate building.

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

Owner means a person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to: the holder of fee simple title; the holder of a life estate; the holder of a recorded leasehold estate for an initial term of five (5) years or more; the buyer in a recorded contract for deed; and/or 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.

Premises means a lot, plot or parcel of land, including any structures thereon.

Structure means 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.

(Ord. of 11-19-87, § 1)

Sec. 8-71. 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 in 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) Lack of required electrical lighting.
 - (10) Dampness of habitable rooms.
 - (11) Infestation of insects, vermin or rodents as determined by the building inspector.
 - (12) General dilapidation or improper maintenance.
 - (13) Lack of connection to required sewage disposal system.
 - (14) Lack of adequate garbage and rubbish storage and removal facilities as determined by the building inspector.
 - (15) 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 with 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.
 - (10) Any condition wherein a building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the buildings or structures is less than it was prior to the damage and is less than the minimum requirement established by the building code of the city.
 - (11) Any condition wherein any exterior appendages or portion of a building or structure are not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads.
 - (12) Any condition wherein any building, structure or portion thereof as a result of decay, deterioration, or dilapidation is likely to fully or partially collapse.
- (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.* 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 chapter 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 approved 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 any 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 any city ordinance.
- (k) *Inadequate exits.* All buildings or portion thereof not provided with adequate exit facilities as required by city ordinance 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 firefighting 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 or the building code, 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.

(Ord. of 11-19-87, § 1)

Sec. 8-72. Tense, gender and number.

Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and the plural number includes the singular.

(Ord. of 11-19-87, § 1)

Secs. 8-73--8-79. Reserved.

DIVISION 3.

INSPECTION; NOTICE OF SUBSTANDARD BUILDING; HEARING*

* **Editors Note:** An ordinance of March 29, 1990, § 1, amended Ch. 8, Art. IV, Div. 3, Inspection and Notice of Noncompliance, in its entirety to read as herein set out. The provisions of former Div. 3 were derived from an ordinance of Nov. 19, 1987, § 1.

Sec. 8-80. Abatement of substandard buildings.

All buildings or portions thereof which are determined to be substandard buildings, 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, vacation, rehabilitation, demolition or removal in accordance with the procedures specified in this chapter or by prosecution in municipal court.

(Ord. of 3-29-90, § 1)

Sec. 8-81. Inspection.

The building inspector shall inspect or cause to be inspected any building, structure or portion thereof which is or may be a substandard building.

(Ord. of 3-29-90, § 1)

Sec. 8-82. Action required.

After the building inspector has inspected or caused to be inspected a building, structure or portion thereof and has determined that such building, structure or portion thereof is a substandard building, he shall initiate proceedings to cause the abatement of the unsafe condition by repair, vacation, demolition or combination thereof.

(Ord. of 3-29-90, § 1)

Sec. 8-83. Emergency procedure for abating substandard building.

(a) When it shall appear that a building or structure in the City of Brenham is a substandard building under the terms of this chapter and that such building or structure or the manner of its use constitutes an immediate and serious danger to life or property, the condition shall be deemed a condition justifying the use of emergency measures, and the building standards commission, or a majority of the building standards commission, may, with the consent and approval of the city manager, order any of the following emergency measures to be taken:

- (1) Immediate vacation of such building, structure and/or adjoining buildings or structures;
- (2) Vacation of the danger area around such building or structure;

- (3) Such emergency shoring-up and bracing of walls, roofs and supports as are required to render such building or structure safe;
- (4) The destruction of such walls, roofs, and supports or the entire structure or so much thereof as cannot be braced or made secure with safety; or
- (5) Posting of notices on or near such building or structure, or buildings or structures, notifying the public of such orders and ordering all persons to keep out of such building, buildings, structures or structure and the areas of danger surrounding it or them.

(b) When any of the above-mentioned measures are ordered to be taken, notice of such order shall be given as follows:

- (1) Such order shall be directed to the owner of such substandard building or structure, or the owner's authorized representative, if the same shall be known. Where notification can be accomplished without increasing the danger to life or property, notice shall be given by personal service on the owner of the building or structure, or the owner's representative or by certified mail, return receipt requested;
- (2) In the event that such notification would create such a delay as would materially increase the danger of life or property, then such notice need not be given.

(Ord. of 3-29-90, § 1)

Sec. 8-84. Standard procedure for abating substandard building.

(a) When it appears that a building or structure in the City of Brenham is a substandard building, but that no necessity exists for instituting emergency procedures under Section 8-83 of this chapter, the building inspector shall prepare and issue a notice of substandard building directed to the owner, mortgagee and any lienholder of the building or structure. The notice shall contain, but not be limited to, the following information:

- (1) The street address or legal description of the building, structure or premises.
- (2) A statement indicating the building or structure has been declared a substandard building by the building inspector, and a detailed report documenting the conditions determined to have rendered the building or structure a substandard building under the provisions of this chapter.
- (3) The action required to be taken as determined by the building inspector.
- (4) A notice of the date, place and time that the notice of substandard building is set for public hearing before the building standards commission. The hearing notice shall include, but not be limited to, the following information:

"You are hereby notified that on the _____ day of _____, 19_____, at _____ o'clock, at _____, a hearing will be held before the Building Standards Commission to consider the Notice of Substandard Building of the building inspector regarding the property located at _____. You may choose to be represented by

counsel. You may present evidence and will be given an opportunity to cross-examine all witnesses. You may request the issuance of subpoenas to compel witnesses to appear and for the production of other supporting data or documentation by filing a written request therefor with Building Standards Commission."

(5) A notice providing as follows:

"According to the Real Property Records of Washington County, you own or claim an interest in the real property described in this notice. If you no longer own or claim an interest in the property, you must execute an affidavit stating that you no longer own or claim an interest in the property and stating the name and last known address of the person who acquired the property or an interest in the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the building inspector of the City of Brenham not later than the 20th day after the date that you received this notice. If you do not send the affidavit, it will be presumed, pursuant to TEX. LOCAL GOV'T. CODE ANN. § 54.005, as amended, that you own or claim an interest in the property described in this notice, even if you do not."

(b) The notice of substandard building and all attachments thereto shall be served upon the owner, mortgagee and lienholder of record, and posted on the premises in a conspicuous location. A copy of the notice of substandard building and all attachments thereto shall also be served on any person determined from official public records to have a legal interest in the premises. Failure of the building inspector to serve any person herein required to be served other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person served from any obligation imposed on that person.

(c) The notice of substandard building shall be served either personally or by certified mail, postage prepaid, return receipt requested, to each person at the last known address of the person. If addresses are not available on any person required to be served the notice, the notice addressed to such person shall be mailed to the address of the building or structure involved in the proceedings. The failure of any person to receive notice, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

(Ord. of 3-29-90, § 1; Ord. of 11-7-91, § 1)

Sec. 8-85. Hearings before the building standards commission.

(a) Failure of any person to appear at the hearing set in accordance with the provisions of this chapter shall constitute a waiver of that person's right to a hearing on the notice of substandard building.

(b) The hearing shall offer all interested persons reasonable opportunity to be heard.

(c) A person may appear at the hearing in person or through an attorney or other designated representative.

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

- (1) Find that the building or structure is not a substandard building and refer the matter to the building inspector 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, grant an exception to any provision of this chapter to avoid the imposition of an unreasonable hardship;
 - (4) Find that the building or structure is a substandard building and order the repair or other suitable remedy within a specified period of time and/or demolition of the structure if the repair and other suitable remedies are not timely effected; or
 - (5) Order the demolition of the building or structure within a specified period of time.
- (Ord. of 3-29-90, § 1)

Sec. 8-86. Order of building standards commission.

- (a) The final decision of the building standards commission shall be in writing and contain all findings of fact.
- (b) After receipt of all competent evidence presented at a hearing, if the building standards commission shall find a building or structure to be a substandard building, the building standards commission shall enter its written order containing, but not limited to, the following information:
 - (1) The street address or legal description of the building, structure or premises.
 - (2) A statement indicating the building or structure has been declared a substandard building by the building standards commission, and an account giving the conditions determined to have rendered the building or structure a substandard building under the provisions of this chapter.
 - (3) The action required to be taken as determined by the building standards commission.
 - a. If the building or structure is to be repaired, the notice shall require that all necessary permits be secured and the work commenced within sixty (60) days and continued to completion within such time as the building standards commission determines. The notice shall also indicate the degree to which the repairs must comply with the provisions of the building code of the city.
 - b. If the building or structure is to be demolished, the notice shall indicate the time within which vacation is to be completed.
 - c. If the building or structure is to be demolished, the notice shall require that the premises be vacated within sixty (60) days, that all required permits for demolition be secured, and that the demolition be completed within such time as determined reasonable by the

building standards commission.

- (4) A statement of additional reasonable time for the ordered action to be taken by a mortgagee or lienholder in the event the owner fails to timely take the ordered action.
- (5) A statement advising that if the required action is not commenced within or completed by the time specified, the building will be ordered vacated and posted to prevent further occupancy until the work is completed, and the building inspector may cause the work to be done and all costs incurred charged against the premises or the owner.
- (6) A statement advising that any person having any legal interest in the premises may appeal the order by the building standards commission to the city commission; and that such appeal shall be in writing in the form specified by this chapter and shall be filed with the building inspector within thirty (30) days from the date of the order, and that failure to appeal in the time specified will constitute a waiver of all rights to an appeal.

(c) The final order of the building standards commission shall be served on all persons entitled to receive the notice of substandard building in the proceeding, and shall be served on such parties in the same manner specified for service of the notice of substandard building all as specified in Section 8-84 of this chapter.

(Ord. of 3-29-90, § 1)

Sec. 8-87. Recording.

(a) A record may be made of all hearings and proceedings. The method of recording shall be designated by the building standards commission.

(b) The record of any hearing may, upon payment of the prescribed fees, be made available to any person on request.

(Ord. of 3-29-90, § 1)

Sec. 8-88. Reasonable dispatch.

The building standards commission shall proceed with reasonable dispatch to conclude any matter before it, with due regard to the convenience and necessity of the parties involved.

(Ord. of 3-29-90, § 1)

Sec. 8-89. Subpoenas.

(a) The building standards commission may obtain the issuance and service of subpoenas for the attendance of witnesses or the production of evidence at the hearings. Subpoenas may be issued upon the request of any member of the building standard commission or of an interested party.

(b) The issuance and service of subpoenas shall be in accordance with established law.

(c) Any person who refuses without legal excuse to respond to any subpoena lawfully issued and

served may be prosecuted to the extent established by law.
(Ord. of 3-29-90, § 1)

Sec. 8-90. Procedural rules.

(a) Hearings shall not be required to be conducted in accordance with the technical rules relating to evidence and testimony.

(b) The building standards commission may grant continuance for good cause.
(Ord. of 3-29-90, § 1)

Sec. 8-91. Evidence.

(a) In any proceedings under this chapter any member of the building standards commission shall have the power to administer oaths and affirmations and to certify official acts.

(b) Oral evidence shall be taken only on oath or affirmation.

(c) Relevant evidence shall be admitted if it is the type on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil courts.
(Ord. of 3-29-90, § 1)

Sec. 8-92. Inspections.

The building standards commission may inspect any building, structure or premises involved in the proceeding during the course of the hearing, provided the following are complied with:

(1) Notice of such inspection is given to the parties prior to making the inspection;

(2) The parties are allowed to be present during the inspection; and

(3) The commission shall state for the record, upon completion of the inspection, the facts observed and any conclusions drawn therefrom.

(Ord. of 3-29-90, § 1)

Sec. 8-93. Recording of notice.

If the notice is not complied with nor an appeal filed within the allotted time, the building inspector shall file in the office of the County Clerk of Washington County a certificate describing the premises, certifying that the building or structure is a substandard building and that the owner of record and any mortgagee or lienholders have been served, and stating the restrictions on the disposal of premises set out in Section 8-94 of this chapter. This certificate shall remain on file until such time as the conditions rendering the building or structure a substandard building have been abated. At such time, the building inspector shall file a new certificate indicating that corrective action has been taken and the building or structure is no longer a substandard building.

(Ord. of 3-29-90, § 1)

Sec. 8-94. Restriction on the disposal of premises.

No owner of any building or structure upon whom a notice has been served that violations of this chapter exist in such building or structure or on its premises shall sell, transfer, grant, mortgage, lease or otherwise dispose of such premises 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 inspector 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.

(Ord. of 3-29-90, § 1)

DIVISION 4.

APPEALS*

* **Editors Note:** Section 2 of an ordinance adopted March 20, 1990, amended Div. 4 to Art. IV of Ch. 8 in its entirety to read as herein set out. The former provisions of Div. 4 were derived from an ordinance of Nov. 19, 1987, § 1.

Sec. 8-95. Requirements for appeal.

(a) Any person entitled to notice in accordance with the provisions of Division 3 of this chapter may appeal any action of the building standards commission under this chapter to the city commission. Such appeal must be filed in writing with the building inspector within thirty (30) days from the date of service and must contain at least the following information:

- (1) Identification of the building or structure concerned by street address or legal description.
- (2) A statement identifying the legal interest of each appellant.
- (3) A statement identifying the specific order or section being appealed.
- (4) A statement detailing the issues on which the appellant desires to be heard.
- (5) The legal signature of all appellants and appellants' official mailing addresses.

(b) Upon receipt of an appeal, the city commission shall as soon as practicable fix a date, time and location for the hearing of the appeal. The hearing date shall not be more than sixty (60) days from the date the appeal was filed with the building inspector. Written notice of the time and location of the hearing shall be delivered personally or mailed to each appellant at the address on the appeal by certified mail, postage prepaid and return receipt requested.

- (c) The hearing notice shall include, but not be limited to, the following information:

"You are hereby notified that on the _____ day of _____, 19_____, at _____ o'clock, at _____, a hearing will be held before the City Commission to consider the appeal from the order of the Building Standards Commission regarding the property located at _____. You may choose to be represented by counsel. You may present evidence and will be given an opportunity to cross-examine all witnesses. You may request the issuance of subpoenas to compel witnesses to appear and for the production of other supporting data or documentation by filing a written request therefor with the City Commission."

(Ord. of 3-29-90, § 2)

Sec. 8-96. Staying of order under appeal.

Enforcement of any order issued by the building standards commission under the provisions of this chapter shall be held in abeyance during the course of an appeal.

(Ord. of 3-29-90, § 2)

Sec. 8-97. Procedural and evidentiary rules.

The procedural and evidentiary rules to be observed before the city commission shall be the same as those specified for proceedings before the building standards commission by this chapter.

(Ord. of 3-29-90, § 2)

Sec. 8-98. Order of city commission.

(a) The final decision of the city commission shall be in writing and shall contain the findings of fact and detailed requirements of an order of the building standards commission by this chapter. A copy of the order shall be delivered to the appellant either personally or by certified mail return receipt requested.

(b) The effective date of the city commission's order shall be as stated therein.

(Ord. of 3-29-90, § 2)

Sec. 8-99. Recourse.

If the appellant is aggrieved by the decision of the city commission, nothing in the chapter shall be construed to deprive the appellant of seeking redress in the civil or other applicable court. Said appeal must be filed within fifteen (15) days from the effective date of the city commission's final decision.

(Ord. of 3-29-90, § 2)

Sec. 8-100. Reserved.

DIVISION 5.

ENFORCEMENT

Sec. 8-101. Failure to commence work.

(a) Whenever the required repair, vacation or demolition is not commenced within thirty (30) days

after the effective date of any order, the building, structure or premises shall be posted as follows:

**UNSAFE BUILDING
DO NOT OCCUPY**

It shall be punishable by law to occupy this building or remove or deface this Notice (Specify the applicable ordinance and the penalty for violation thereof)

Building Inspector
City of Brenham

(b) Subsequent to posting the building, the building inspector may cause the building to be repaired to the extent required to render it safe, or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premises. The cost of repair or demolition shall constitute a lien on the premises as provided in Section 8-104 of this chapter.

(c) Any monies received from the sale of a building or from the demolition thereof, over and above the cost incurred, shall be paid to the owner of record or other persons lawfully entitled thereto.
(Ord. of 11-19-87, § 1)

Sec. 8-102. Extension of time.

The building inspector may approve one or more extensions of time as he may determine to be reasonable to complete the required repair or demolition. Such requests for extensions shall be made in writing stating the reasons therefor. If the extensions of time, in total, exceed one hundred twenty (120) days, they must also be approved by the building standards commission which may act without further public hearing.
(Ord. of 11-19-87, § 1)

Sec. 8-103. Assessment of expenses.

In any case where the building standards commission orders a substandard building or structure repaired or demolished and cleared or removed, and the owner of any such premises or building or structure which is a substandard building fails to correct, remedy or remove such condition, and the owner, or duly authorized representative of the owner, shall have exhausted his rights and remedies under this chapter, the commission may order such work or make such improvements as are necessary to correct, remedy or remove such conditions, or cause the same to be done, and pay therefor, and charge the expenses incurred thereby to the owner of such lot or premises. Such expense shall be assessed against the lot or real estate upon which work was done, the improvements made or the demolishing, cleaning or removal of substandard buildings or structures accomplished. The performance of such work by the city or the ordering of same by the building standards commission shall not relieve such person from prosecution for failure to comply with the notice.
(Ord. of 11-19-87, § 1)

Sec. 8-104. Lien for expenses.

(a) Whenever any work is done or improvements are made or any substandard building or structure is repaired, demolished, cleared or removed by the city under the provisions of this chapter, the building

inspector, on behalf of the city, shall file a statement of the expenses incurred thereby with the county clerk. Such statement shall give the legal description of the affected property, the amount of such expenses, the date or dates on which the work was done, or the expenses incurred, and the costs of demolishing, cleaning, repairing or removing the conditions or substandard building and structure and the amount of expenses then due. When this statement is filed with the county clerk, the City of Brenham shall have a lien on the lot or real estate upon which the work was done, or improvements made, or repairs made, or substandard buildings repaired, removed or demolished and cleared to secure the expenses thereof unless the property is homestead protected by the Texas Constitution. If notice is given and the opportunity to repair, remove or demolish the building is afforded to each mortgagee and lienholder, the lien of the city is a privileged lien, subordinate only to taxes and all previously recorded bona fide mortgage liens attached to the property. The city's lien is superior to any previously recorded judgement liens. The amount of the city's lien shall bear interest at the rate of ten (10) percent per annum from the date the statement was filed with the county clerk. For any such expenditures, expense and interest suit may be instituted against the owner or owners. The statement of expenses for repairs or demolition made herein and filed with the county clerk, or a certified copy thereof, shall be prima facie proof of the amount expended for such work, improvements, repairs, demolition, clearance or removal.

(b) In any judicial proceeding regarding the enforcement of the city's rights under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

(c) A lien acquired by the city under this chapter for repair expenses may not be foreclosed if the property upon which the repairs were made is occupied as a residential homestead by a person sixty-five (65) years of age or older.

(Ord. of 11-19-87, § 1; Ord. of 3-29-90, § 3)

Sec. 8-105. Penalties.

A person commits an offense if:

- (a) The person fails or refuses to respond to the direction of an order of the building inspector or building standards commission after that order becomes final.
- (b) The person shall obstruct or interfere with the implementation of any action required by the final order of the building inspector or the building standards commission after that order becomes final.
- (c) The person willfully refuses to leave or fails to leave a building or structure which has been ordered vacated under the provisions of this chapter.

(Ord. of 11-19-87, § 1)

Secs. 8-106--8-109. Reserved.

ARTICLE V.

FIRE LANES*

* **Editors Note:** Section 1 of an ordinance enacted Nov. 19, 1987, amended Ch. 8 by replacing former Art. V, fire lanes, in its entirety and substituting new provisions to read as set out herein. The substantive provisions of former Art. V, §§ 8-67--8-72, were

derived from § 1 of an ordinance enacted Jan. 19, 1982.

Sec. 8-110. Authority to locate fire lanes.

The location of fire lanes shall be determined by the chief of the fire department, fire marshal, or their designated representative, hereinafter called "the authority," in conformity with the provisions of this article. (Ord. of 11-19-87, § 1)

Sec. 8-111. Fire lanes generally.

(a) *Construction.* No building used for any purpose other than single-family or two-family dwellings shall be constructed so that any part of the perimeter of the structure is greater than one hundred fifty (150) feet from a public street or highway unless the owner constructs and maintains a fire lane having a minimum height throughout of no less than fourteen (14) feet and terminating within one hundred fifty (150) feet from the farthest point of said structure.

(b) *Restrictions.* The following restrictions shall apply to fire lanes:

- (1) Required fire lanes, when not connected at both ends to a public street, shall terminate in a turnaround having a minimum radius of thirty-eight and one-half (38 1/2) feet.
- (2) All required fire lanes shall be all-weather surfaced.
- (3) All required fire lanes shall not be used as loading zones.
- (4) There shall be no parking in any fire lane at any time.

(c) *Maintenance.* All required fire lanes shall be maintained and kept in a good state of repair at all times by the owner or owners of the premises. (Ord. of 11-19-87, § 1)

Sec. 8-112. Posting of signs and markings.

(a) All required fire lanes shall be conspicuously marked and shall have signs posted that read "Fire Lane--No Parking".

(b) All required signs shall have four-inch white letters on a red background along the curb line or, in cases where there is no curb, shall be placed on the side of the building with red letters on a white background or by other approved methods as determined by the authority having jurisdiction.

(c) Required fire lane signs shall be placed no less than thirty (30) feet and no greater than forty (40) feet apart.

(d) All required fire lane signs shall be maintained in good condition and legible at all times, and shall be the responsibility of the owner or owners on whose property such signs are located. (Ord. of 11-19-87, § 1)

Sec. 8-113. Abandonment of fire lanes.

No owner or person in charge of any premises served by a required fire lane shall abandon or close any such fire lane without first complying with the following procedure:

- (1) A request shall be made in writing by the authority having jurisdiction of the enforcement of this article stating his reasons for abandonment of the fire lane.
- (2) Verification shall be obtained by the authority having jurisdiction from the building official that such property is no longer subject to the requirements of this article.

(Ord. of 11-19-87, § 1)

Sec. 8-114. Applicability.

Immediately upon the effective date of this article, all new construction within the city shall be undertaken in conformance with the provisions of this article and only after the approval of authority.

(Ord. of 11-19-87, § 1)

Sec. 8-115. Penalty for violation.

Any person, firm, corporation, company or association who shall violate any of the provisions of this article, or suffer or allow the same to be violated, shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be punished by a fine not to exceed two hundred dollars (\$200.00), and failure to remedy any violation of this article after notice of violation, and each subsequent notice of violation thereafter given prior to the remedy of the violation, shall constitute a separate violation of this article by the person responsible for the remedy of such violation.

(Ord. of 11-19-87, § 1)