



# City of Rowlett

## Official Copy

4000 Main Street  
Rowlett, TX 75088  
www.rowlett.com

Ordinance: ORD-013-21

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**AN ORDINANCE OF THE CITY OF ROWLETT, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF ROWLETT, TEXAS, BY AMENDING DIVISION 3 (“BOARD OF ADJUSTMENT”) OF ARTICLE II (“BOARDS, COMMITTEES, COMMISSIONS”) OF CHAPTER 2 (“ADMINISTRATION”) TO REPEAL AND REPLACE SECTION 2-75 WITH A NEW SECTION 2-75, DESIGNATING THE BOARD OF ADJUSTMENT OF THE CITY AS THE CITY’S BUILDING AND STANDARDS COMMISSION; PROVIDING FOR POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT WHEN SITTING AS THE BUILDING AND STANDARDS COMMISSION; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of Adjustment (“Board”) of the City of Rowlett has been delegated additional responsibilities that include, among others, serving as the City’s Board of Appeals under the international and uniform building and construction codes adopted by the City; and

**WHEREAS**, the City Council finds and determines that the members of the Board have the qualifications and expertise needed to serve as members of the Building and Standards Commission created herein; and

**WHEREAS**, the Council finds that a building and standards commission should be established as provided for in state law and that the Board is best suited to serve as the building and standards commission; and

**WHEREAS**, the Council finds that the designation of the Board of Adjustment as a Building and Standards Commission, to hear and decide matters authorized by State law regarding substandard structures and other matters, is in the best interest of the public health, safety and welfare, and of the citizens of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:**

**SECTION 1:** That Division 3 (“Board of Adjustment”) of Article II (“Boards, Committees, Commissions”) of Chapter 2 (“Administration”) of the Code of Ordinances, City of Rowlett, Texas, be and is hereby amended by repealing and replacing Section 2-75 with a new Section 2-75, such that Section 2-75 shall read in its entirety as follows:

**“CHAPTER 2  
ADMINISTRATION**

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**ARTICLE II  
BOARDS, COMMITTEES, COMMISSIONS**

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**DIVISION 3. BOARD OF ADJUSTMENT**

**Sec. 2-75. Building and standards commission; Board of appeals.**

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a. The board of adjustment shall serve as both the board of appeals and the building and standards commission of the City. When acting as the board of appeals, the board shall have the powers and perform those duties as are delegated to a board of appeals as provided for in chapters 26 and 78 of this Code, as amended, and the international and uniform building, construction and fire codes adopted therein.

b. When acting as the board of appeals or the building and standards commission, a quorum shall consist of a simple majority. Matters coming before the board may be approved or denied, as the case may be, by a simple majority of those members present.

c. In appointing regular and alternate members, the city council may give preference to those persons who are qualified by experience and training to pass upon matters pertaining to building construction.

d. The building and standards commission.

1. The city hereby implements subchapter C of chapter 54, as amended, of the Texas Local Government Code by appointing the board of adjustment to serve as a building and standards commission to hear and determine cases involving the alleged violation of city ordinances:

A. for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

B. relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

C. relating to dangerously damaged or deteriorated buildings or improvements;

D. relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; and,

E. relating to a building code or to the condition, use, or appearance of property in the city.

2. The building and standards commission shall have quasi-judicial authority as authorized by the Texas Local Government Code to enforce the health and safety ordinances of the city. The commission may:

A. order the repair, within a fixed period, of buildings found to be in violation of city ordinance;

B. declare a building substandard in accordance with the powers granted by state law;

C. order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions

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exist on the property that constitute a violation of a city ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;

D. issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the city, to enforce and carry out the lawful orders or directives of the commission; and

E. determine the amount and duration of the civil penalty the city may recover against the owner or owner's representative with control over the premises on proof that such party was actually notified of the provisions of the ordinance, and after receiving notice of the ordinance provisions, said party committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance, such civil penalty not to exceed \$1,000.00 a day for violation of such ordinance.

3. The chief building official of the city shall present all cases before the commission.

4. Notice.

A. Notice of all proceedings before the commission must be given:

i. by personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk; and

ii. to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.

B. The notice must be posted and either personally delivered or mailed on or before the 10th day before the date of the hearing before the commission and must state the date, time, and place of the hearing. In addition, the notice must be published in a newspaper of general circulation in the city on one occasion on or before the 10th day before the date fixed for the hearing.

C. The chief building official must exercise due diligence to determine the identity and address of a property owner, lienholder, or registered agent to whom notice must be given.

5. The commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. The commission shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the office of the commission or city secretary as public records.

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6. A copy of the final decision of the commission must be mailed by first class mail, certified, return receipt requested, to all persons to whom notice is required to be sent. The commission shall mail such copy promptly after the decision becomes final. In addition, an abbreviated copy shall be published one time in a newspaper of general circulation in the city within ten calendar days after the date of the delivery or mailing of the copy as herein provided, including the street address or legal description of the property; the date of the hearing, a brief statement indicating the results of the order, and an instruction stating where a complete copy of the order may be obtained, and a copy shall be filed in the office of the city secretary.

7. A determination by the commission imposing a civil penalty shall be final and binding and constitute prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the city for final judgment in accordance with the established penalty. The city secretary shall file with the district clerk of the county in which the affected property is situated a certified copy of the order of the commission establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty.

8. Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision of the commission may appeal the decision in accordance with the procedures and rules established by state law. If no appeals are taken from the decision of the commission within the required period, the decision of the commission shall, in all things, be final and binding.

e. Action taken by the city under this section shall not affect the ability of the city to proceed under the jurisdiction of the city's municipal court."

**SECTION 2:** That all ordinances of the City of Rowlett, Texas, in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Rowlett not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3:** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 4:** That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provide.

At a meeting of the City Council on March 16, 2021 this Resolution be adopted. The motion carried by the following vote:

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**Ayes: 6** Mayor Dana-Bashian, Deputy Mayor Pro Tem Bell, Councilmember Margolis, Councilmember Sherrill, Councilmember Laning and Councilmember Brown

**Absent: 1** Mayor Pro Tem Grubisich

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Approved by Tommy Davis - Bassman Date March 16, 2021  
Mayor

Approved to form by [Signature] Date March 16, 2021  
City Attorney

Certified by Saura Hallmark Date March 16, 2021  
City Secretary

