

**First Reading: March 5, 2019**  
**Second Reading: March 12, 2019**

ORDINANCE NO. 13442

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 21, BY RENAMING THE CHAPTER "PROPERTY MAINTENANCE"; DELETING ARTICLES I THROUGH VIII RELATIVE TO HOUSING IN THEIR ENTIRETY AND REPLACING THEM WITH NEW ARTICLES I THROUGH VI RELATIVE TO PROPERTY MAINTENANCE; AND DELETING CHAPTER 18, SECTIONS 18-158 THROUGH 18-170, RELATIVE TO LITTER AND OVERGROWTH.

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SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby amending the Chattanooga City Code, Part II, Chapter 21, by deleting current Articles I, II, III, IV, V, VI, VII and VIII in their entirety and inserting the following new Articles I, II, III, IV, V and VI:

**CHAPTER 21 – PROPERTY MAINTENANCE**

**ARTICLE I. SCOPE, APPLICATION AND DEFINITIONS**

**DIVISION 1. SCOPE AND APPLICATION**

**Sec. 21-1. Scope; intent.**

This Chapter shall be known as the Property Maintenance Code. The provisions of this Chapter shall apply to all existing residential Structures and all existing Premises and shall constitute minimum requirements and standards for (1) Premises, Structures, equipment, and facilities for light, Ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and safe and sanitary maintenance; (2) the responsibility of Owners, Operators and Occupants; (3) the occupancy of existing Structures and Premises; and (4) administration, enforcement and penalties.

This Property Maintenance Code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued maintenance of Structures and Premises. Existing Structures and Premises that are in violation of this Chapter must be brought into compliance as required herein to provide a minimum level of health and safety.

**Sec. 21-2. Adoption of International Property Maintenance Code; application of this Chapter and other codes.**

Repairs, additions or Alterations to a Structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of this Chapter. To the extent that this Chapter is silent on any relevant aspect, the International Property Maintenance Code, 2015 Edition, including Appendix A, as prepared and adopted by the International Code Council, is hereby adopted, with the modifications, additions, insertions and deletions set forth in this Chapter. One (1) copy of the International Property Maintenance Code, 2015 Edition, is on file in the Office of the Clerk of the Chattanooga City Council and has been on file for more than fifteen (15) days.

If the Chattanooga City Code (“City Code”) and the International Property Maintenance Code, 2015 Edition, are silent on a particular aspect, Repairs, additions or Alterations to a Structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Residential Code, and NFPA 70: National Electrical Code (“NFPA 70”) as adopted in the City Code. Nothing in this Chapter shall be construed to cancel, modify or set aside any provision of the International Zoning Code.

**Sec. 21-3. Conflicts with other laws or code provisions.**

Where a conflict exists between a provision of this Chapter and a provision of the International Property Maintenance Code, the stricter provision shall apply, as determined by the Code Official. Where a conflict exists between a general requirement and a specific requirement in this Chapter, the specific requirement shall govern. Where, in a specific case, different sections of this Chapter specify different requirements, the most restrictive shall govern.

**Sec. 21-4. Fair housing requirements.**

It shall be a violation for any Person to engage in any conduct proscribed by T.C.A. §§ 4-21-601 *et seq.* or 42 U.S.C. §§ 3601 *et seq.*

**Sec. 21-5. Requirements not covered by the Property Maintenance Code.**

Requirements necessary for the strength, stability or proper operation of an existing fixture, Structure or equipment or for the public safety, health and general welfare, not specifically covered by this Chapter, shall be determined by the Code Official.

**Sec. 21-6. Maintenance of equipment and systems.**

Equipment, systems, devices and safeguards required by this Chapter or a previous regulation or code under which the Structure or Premises was constructed, Altered or Repaired shall be maintained in good working order. No Owner, Operator, or Occupant shall cause any service, facility, equipment or utility which is required under this Section to be removed from or shut off from or discontinued for any occupied Structure, except for such temporary interruption

as necessary while Repairs or Alterations are in progress. The requirements of this Chapter are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing Structures. Except as otherwise specified herein, the Owner or the Owner's authorized agent shall be responsible for the maintenance of Structures and Premises.

**Sec. 21-7. Repairs.**

Repairs to existing mechanical, plumbing and electrical systems shall not make the Structure less conforming than it was before the Repair was undertaken.

**Sec. 21-8. Workmanship.**

Repairs, maintenance work, Alterations or installations which are covered by this Chapter or caused directly or indirectly by the enforcement of this Chapter shall be executed and installed in a Workmanlike manner and installed in accordance with the manufacturer's instructions.

**Sec. 21-9. Historic Structures.**

The provisions of this Chapter shall not be mandatory for existing Structures designated as historic Structures pursuant to federal, state or local laws or regulations when such Structures are judged by the Code Official to be safe and in the public interest of health, safety and welfare.

**Secs. 21-10 – 21-20. Reserved.**

DIVISION 2. DEFINITIONS

**Sec. 21-21. General.**

(a) Where terms are not defined in this Chapter and are defined in the Building Code, such terms shall have the meanings ascribed to them as stated in the Building Code. Where terms are not defined in this Chapter or the Building Code and are defined in the International Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Residential Code, International Zoning Code or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

(b) Whenever the words "Structure," "Premises," "story," "Dwelling," "Dwelling Unit," "Rooming House," "Rooming Unit," "Housekeeping Unit" or "Sleeping Unit" are stated in this Chapter, they shall be construed as though they were followed by the words "or any portion or part thereof."

**Sec. 21-22. Definitions.**

Unless otherwise expressly stated, the following terms shall, for the purposes of this Chapter, have the meanings shown in this Section.

*Abandoned Vehicle:* A Vehicle or part thereof that is left unattended on public property for more than ten (10) days.

*Abate:* To correct, remove or terminate.

*Accessory Structure:* All Structures on the Premises other than the primary Structure, including Detached garages, storage buildings, swimming pools, hot tubs, fences, walls, gates and other similar type Structures.

*Accessory Use:* A use conducted on the same lot as the primary use of the Structure to which it is related and that is clearly incidental to, and customarily found in connection with, such primary use.

*Alter or Alteration:* Change or modification in construction or occupancy.

*Anchored:* Secured in a manner that provides positive connection.

*Apartment House:* A residential Structure designed or used for three (3) or more Dwelling Units.

*Approved:* Acceptable to the Code Official, in accordance with the standards provided in Section 21-56.

*Basement:* That portion of a Structure that is partly or completely below grade.

*Bathroom:* A room containing plumbing fixtures including a bathtub or shower.

*Bedroom:* Any room or space used or intended to be used for sleeping purposes in either a Dwelling or Sleeping Unit.

*Building Code:* The building code officially adopted in the City Code or such other code as may be officially designated by the Chattanooga City Council ("City Council") for the regulation of construction, Alteration, repair, removal, demolition, use, location, occupancy and maintenance of Structures.

*Building Official:* The City employee who is certified under T.C.A. § 68-120-133 and charged with the administration and enforcement of the Building Code, or said employee's duly authorized representative.

*Certificate of Occupancy:* A document issued by the City's building department certifying a Structure's compliance with the Building Code and other applicable laws, thereby indicating the Structure is in a livable condition and suitable for occupancy.

*Code Official:* The Administrator of the Department of Economic and Community Development for the City of Chattanooga, who is charged with the administration and enforcement of this Chapter, or said employee's duly authorized representative.

*Condemn or Condemnation:* To adjudge unfit for occupancy or use.

*Condemned Structure:* Any Unsafe Structure, within the terms of this Code, that has been Condemned pursuant to this Chapter.

*Condominium:* Any individually owned single units of a multiple Structure or Structures with common elements, including, but not limited to, the land, foundations, main, wells, roofs, halls, lobbies, stairways, entrances and exits, Basements, yards and gardens.

*Detached:* When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

*Deteriorate or Deterioration:* To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

*Dwelling:* Any Structure used and occupied for human habitation, or intended to be so used, and including any Accessory Structure, outhouse or appurtenances belonging thereto or usually enjoyed therewith. "Dwelling" includes the following:

- *Dwelling Unit:* A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- *Multiple Dwelling:* A Structure or portion thereof designed for occupancy by three (3) or more families living independently in which they may or may not share common entrances and/or other spaces. Individual Dwelling Units may be owned as Condominiums or offered for rent.
- *Single Family Dwelling:* A Detached Dwelling Unit with kitchen and sleeping facilities, designed for occupancy by one (1) family.
- *Two Family Dwelling:* A Structure designed or arranged to be occupied by two (2) families living independently, with the Structure having only two (2) Dwelling Units.

*Easement:* That portion of land or property reserved for present or future use by a Person or agency other than the legal fee Owner(s) of the property. The Easement shall be permitted to be for use under, on or above a said lot or lots.

*Guard:* A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

*Habitable Space:* Space in a Structure for living, sleeping, cooking or eating. Bathrooms, Toilet Rooms, closets, halls, storage or utility spaces, and similar areas are not considered Habitable Spaces.

*Housekeeping Unit:* A room or group of rooms forming a single Habitable Space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

*Imminent Danger:* A condition that could cause serious or life-threatening injury or death at any time.

*Infestation:* The presence, within or contiguous to a Structure or Premises, of insects, rats, vermin or other pests.

*Inoperable Vehicle:* A vehicle or part thereof that meets one (1) or more of the following conditions:

- (1) Is incapable of moving under its own power;
- (2) Is in an obvious state of disrepair;
- (3) Lacks major or essential mechanical or body parts;
- (4) Is junked or partially dismantled;
- (5) Is without one (1) or more wheels or fully inflated tires;
- (6) Has been burned or flooded throughout;
- (7) Has one (1) or more broken windows; or
- (8) Cannot be driven legally on public streets under state or local laws.

*Inspector:* A Code Enforcement Inspector for the City. Synonymous with Code Enforcement Officer.

*Labeled:* Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, approved agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

*Let For Occupancy or Let:* To permit, provide or offer possession or occupancy of a Structure or Premises by a Person who is or is not the legal Owner of record thereof, pursuant to

a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

*Litter:* Combustible and noncombustible waste materials, including household garbage, paper, rags, cartons, boxes, wood, rubber, leather, tin cans, metals, glass, crockery, dust, building materials not in use, tree branches, fallen trees and limbs, Yard trimmings and other similar materials.

*Neglect:* The lack of proper maintenance for a Structure or Premises.

*Nuisance:* Any condition that is dangerous to human life or is detrimental to the health, safety or welfare of the public, as determined by the Code Official, including, but not limited to, the following:

- (1) Any public nuisance known at common law or in equity jurisprudence;
- (2) Any attractive nuisance, which may prove detrimental to children whether in a Structure, on the Premises of a Structure, or upon an unoccupied lot. This includes any abandoned wells, shafts, Basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or Structures; or any lumber, trash, debris or vegetation which may prove a hazard for inquisitive minors;
- (3) Any Unsafe Structure, as defined in this Chapter;
- (4) Insufficient Ventilation or illumination;
- (5) Inadequate or unsanitary sewage or plumbing facilities;
- (6) Uncleanliness, as determined by the Code Official in accordance with this Chapter;
- (7) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings; or
- (8) Inoperable Vehicles and Abandoned Vehicles.

*Occupant:* Any individual living or sleeping in a Structure or having possession of a space within a Structure.

*Openable Area:* That part of a window, skylight or door which is available for unobstructed Ventilation and which opens directly to the outdoors.

*Operator:* Any Person who has charge, care or control of a Structure or Premises that is offered or Let for Occupancy.

*Owner:* Any Person holding title to the property, as stated in the records of the Hamilton County Property Assessor's Office.

*Parties In Interest:* All Persons who have an interest of record.

*Person:* An individual, corporation, partnership, organization or any other group acting as a unit.

*Pest Elimination:* The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that serve as their food or water and/or by other Approved methods of eliminating pests.

*Plumbing:* The practice, materials and fixtures used in the installation, maintenance, extension and Alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any Structure or conveyance. "Plumbing" also includes the practice of and materials used in the installation, maintenance, extension or Alteration of stormwater, liquid waste, or sewerage and water supply systems, or their connection with any point of public disposal or other acceptable terminal.

*Premises:* A lot, plot or parcel of land, Easement or Public Way, including any Structures thereon.

*Public Area:* An unoccupied open space adjoining a Structure and on the same property that is permanently maintained accessible to the fire department and free of all encumbrances that might interfere with its use by the fire department.

*Public Way:* Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

*Repair:* The replacement of existing work with an Approved material similar to that used in the existing work, not including additional work that would change the structural safety of the Structure, that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installation, or that would be in violation of a provision of law or ordinance. The terms "Repair" and "Repairs" shall not apply to any change of construction.

*Rooming House:* A Structure arranged or occupied for lodging, with or without meals, for compensation and not occupied as a Single Family Dwelling or a Two Family Dwelling.

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



*Sleeping Unit:* A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a Dwelling Unit are not Sleeping Units.

*Structure:* That which is built or constructed or a portion thereof.

*Tenant:* A Person, whether or not the legal Owner of record, occupying a Structure or portion thereof as a unit.

*Toilet Room:* A room containing a water closet or urinal but not a bathtub or shower.

*Ultimate Deformation:* The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to eighty percent (80%) or less of the maximum strength.

*Vehicle:* A machine that is propelled by power other than muscular power and that is designed to travel along the ground by use of wheels, treads, runners or slides and to transport persons or property or to pull machinery, and shall include, without limitation, automobiles, trucks, trailers, travel trailers, motorcycles, tractors, buggies and wagons.

*Ventilation:* The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

*Workmanlike:* Executed in a skilled manner, such as generally plumb, level, square, in line, undamaged and without marring adjacent work.

*Yard:* An open space on the same lot with a Structure.

**Secs. 21-23 – 21-30. Reserved.**

## **ARTICLE II. ADMINISTRATION**

### **Sec. 21-31. Authority to administer and enforce Chapter.**

The authority for the administration and enforcement of this Chapter shall rest with the Code Enforcement Office of the Department of Economic and Community Development (“ECD Department”).

### **Sec. 21-32. Duties and powers of the Code Official; interpretation of provisions.**

The Code Official is authorized and directed to enforce the provisions of this Chapter. The Code Official shall have the authority to render interpretations of this Chapter and to adopt policies and procedures to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Chapter and shall not have the effect of waiving requirements specifically provided for in this Chapter.

**Sec. 21-33. Code Enforcement inspectors.**

(a) City employees designated as Code Enforcement inspectors shall assist the Code Official in the enforcement of the provisions of this Chapter, in accordance with the prescribed policies and procedures of the City. Inspectors shall have the powers delegated by the Code Official, consistent with the provisions and intent of this Chapter.

(b) Inspectors shall be appointed as special police officers of the City only after written request by the Code Official, successful completion of a background investigation, and approval by resolution of the City Council. After being sworn by a judge of the Chattanooga City Court ("City Court"), the holders of such special police commissions shall have, possess and exercise every power granted by such commissions, but such special police officers shall not be treated or classified as regular police officers of the City.

**Sec. 21-34. Inspections.**

The Code Official shall make all required inspections and may accept reports of inspection by Approved agencies or individuals, provided that such reports are in writing and certified by a responsible officer of such Approved agency or by the responsible individual. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

The Code Official shall inspect any Structure, Accessory Structure or Premises about which complaints are filed by any Person to the effect that said item is or may be existing in violation of this Chapter.

The Code Official shall inspect any Structure, Accessory Structure or Premises reported by the fire or police department, department of health or municipal judge as probably existing in violation of the provisions of this Chapter.

The Code Official shall inspect any Structure, Accessory Structure or Premises that the Code Official has reasonable cause to believe is in violation of this Chapter.

**Sec. 21-35. Right of entry.**

Where it is necessary to make an inspection to enforce the provisions of this Chapter, or whenever the Code Official has reasonable cause to believe that there exists in or on a Structure or upon a Premises a condition in violation of this Chapter, the Code Official is authorized to enter the Structure or Premises at reasonable times to inspect or perform the duties imposed by this Chapter, provided that if such Structure or Premises is occupied, the Code Official shall present credentials to the Occupant and request entry. If such Structure or Premises is unoccupied and secured, the Code Official shall first make a reasonable effort to locate the Owner, Owner's authorized agent or other Person having charge or control of the Structure or Premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry, including seeking an Administrative Inspection

Warrant in accordance with T.C.A. § 68-120-117. If such Structure or Premises is unoccupied and unsecured, the Code Official is authorized to enter the Structure or Premises to enforce the provisions of this Chapter without seeking permission from or attempting to locate the Owner or Owner's authorized agent.

**Sec. 21-36. Identification.**

The Code Official and Inspectors shall carry proper identification when inspecting Structures or Premises in the performance of duties under this Chapter.

**Sec. 21-37. Interference with enforcement.**

It is a violation if any Owner, Occupant or other Person refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to any part of the Structure or Premises where inspection authorized by this Code is sought. The Code Official may issue a citation to City Court for violation of this Section or may seek, in a court of competent jurisdiction, an order that such Owner, Occupant or other Person cease and desist with such interference.

**Sec. 21-38. Fees.**

The fees for activities and services performed by the Code Enforcement Office shall be in accordance with the fee schedule duly adopted by the City Council.

**Sec. 21-39. Official records.**

The Code Official shall keep official records of all business and activities of the Code Enforcement Office related to the enforcement of this Chapter. Such records shall be retained in the official records for the period required by law for retention of public records.

**Secs. 21-40 – 21-55. Reserved.**

**ARTICLE III. ENFORCEMENT**

**DIVISION 1. VIOLATIONS AND PROSECUTION THEREOF; LIENS**

**Sec. 21-56. Approval by the Code Official.**

The Code Official shall apply the following standards in determining whether to grant Approval, for purposes of this Chapter:

(a) **Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this Chapter, the Code Official shall have the authority to grant modifications for individual cases upon application of the Owner or Owner's authorized agent, provided the Code Official shall first find that special individual reason makes the strict letter of this Chapter impractical and that the modification is in compliance with the intent and purpose of this Chapter

and does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the Code Enforcement Office files.

(b) **Alternative materials, design and methods of construction and equipment.**

The provisions of this Chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Chapter, provided that any such alternative has been Approved. An alternative material, design or method of construction shall be Approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Chapter and that the material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this Chapter in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not Approved, the Code Official shall respond in writing, stating the reasons why the alternative was not Approved.

(c) **Required testing.** Whenever there is insufficient evidence of compliance with the provisions of this Chapter, or evidence that a material or method does not conform to the requirements of this Chapter, or in order to substantiate claims for alternative materials or methods, the Code Official shall have the authority to require tests to be made as evidence of compliance at no expense to the City.

- (1) **Test methods.** Test methods shall be as specified in this Chapter or by other recognized test standards. In the absence of recognized and accepted test methods, the Code Official shall be permitted to approve appropriate testing procedures performed by an Approved agency.
- (2) **Test reports.** Reports of tests shall be retained by the Code Official for the period required by law for retention of public records.

(d) **Used material and equipment.** The use of used materials which meet the requirements of this Chapter for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and Approved by the Code Official.

(e) **Approved materials and equipment.** Materials, equipment and devices Approved by the Code Official shall be constructed and installed in accordance with such approval.

(f) **Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Chapter, shall consist of valid research reports from Approved sources.

**Sec. 21-57. Violations generally; prosecution, penalties and appeals.**

(a) **Unlawful acts.** It shall be unlawful for any Person to be in conflict with or in violation of any of the provisions of this Chapter.

(b) **Notice regarding a violation.** In the event of a violation of this Chapter, the Code Official shall send a notice or summons describing the violation.

(c) **Prosecution of violation.** Any Person who violates a provision of this Chapter or fails to comply with any of the requirements thereof shall be prosecuted within the limits provided by state or local laws. Such violations may result in being referred to:

- (1) City Court;
- (2) An Administrative Hearing Officer; or
- (3) The Public Officer for demolition of a Structure.

(d) **Violation penalties.** Violations of this Chapter may result in the following penalties:

- (1) For matters referred to City Court, each violation may result in a fine not to exceed fifty dollars (\$50.00), plus court costs. Each day that a violation continues after due notice has been provided shall be deemed a separate offense, subject to an additional fine and court costs.
- (2) Penalties for violations referred to the Administrative Hearing Officer are provided in Article VI.
- (3) Cases referred to the Public Officer may result in demolition of the Structure.

(e) **Abatement of violation.** The imposition of penalties for violations shall not preclude the City from instituting appropriate action to Abate a violation, to prevent illegal occupancy of a Structure or Premises, or to stop an illegal act, conduct, business or utilization of a Structure or Premises.

(f) **Means of Appeal.** Appeal of a City Court judgment shall be to the Hamilton County Circuit Court within ten (10) days thereafter, Sundays exclusive, as provided by law.

**Sec. 21-58. Notices and orders; form; method of service.**

(a) **Notice to Owner and/or Person responsible.** Whenever the Code Official determines that there has been a violation of this Chapter or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in this Section to the Owner and/or Person responsible for the violation.

(b) **Form.** Notice shall be in accordance with the following:

- (1) Be in writing;

- (2) Include a description of the real property sufficient for identification;
- (3) Include a statement of the violation or violations and a deadline allowing a reasonable time to make the Repairs and improvements required to bring the Structure or Premises into compliance with the provisions of this Chapter; and
- (4) Include a statement of the City's right to file a lien if the City Abates the violation.

(c) **Method of service.** Such notice shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally;
- (2) Sent by certified or first-class mail addressed to the Owner and/or Person responsible for the violation; or
- (3) Posted in a conspicuous place on the real property affected by such notice.

**Sec. 21-59. Unauthorized tampering with City documents or signs.**

Signs or placards posted or affixed by the Code Official shall not be mutilated, destroyed, tampered with or removed without authorization from the Code Official. It is a violation to engage in such conduct.

**Sec. 21-60. Owner responsible for violations on Owner's property.**

Although a Person responsible for a violation may be notified of and/or cited for a violation, the Owner of the real property where the violation exists is ultimately responsible for ensuring that the Structure and Premises are maintained in compliance with the provisions of this Chapter.

**Sec. 21-61. Transfer of ownership of property under violation notice.**

It shall be unlawful for the Owner of any Structure or Premises who has received a violation notice to sell, transfer, mortgage, lease or otherwise dispose of such Structure or Premises to another until all violations have been corrected or until such Owner or the Owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of each violation notice issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee acknowledging the receipt of such violation notice and fully accepting the responsibility, without condition, for making the corrections or Repairs required by such violation notice. For purposes of this Section, a violation notice includes a Notice of Violation, a summons, an Emergency Order to Comply or a Demolition Order. If the Owner refuses, neglects or fails to comply with the provisions of this

Section, the Owner may be referred to City Court or the Administrative Hearing Officer for a hearing on the matter.

**Sec. 21-62. Municipal lien for costs; collection of liens.**

(a) Pursuant to the authority granted under T.C.A. §§ 13-21-101 *et seq.*, the amount of the cost of Repairs, Alterations or improvements, or of vacating and closing, or of demolishing and removing a Structure, as well as administrative fees, shall be assessed against the Owner and shall be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected.

(b) If the Owner fails to pay the costs and administrative fees, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in T.C.A. §§ 67-5-2010 and 67-5-2410.

(c) In addition, the municipality may collect the costs assessed against the Owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the Owners of properties against whom the costs have been assessed, and the fact that multiple Owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties.

**Secs. 21-63 – 21-75. Reserved.**

DIVISION 2. CONDEMNATION

**Sec. 21-76. Unsafe Structure defined.**

For purposes of this Chapter, the term “Unsafe Structure” shall include any of the following:

(a) **Unsound Structure.** An unsound Structure is one that is found to be dangerous to the life, health, property or safety of the public or Occupants of the Structure because it does not provide minimum safeguards to protect or warn Occupants in the event of fire or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is possible.

(b) **Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the Premises or within the Structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the Occupants of the Structure or Premises or to the public.

(c) **Structure unfit for human occupancy.** A Structure is unfit for human occupancy when, because of the degree to which it is in disrepair or lacks maintenance, such Structure is unsanitary, vermin- or rat-infested, contains filth and contamination, or lacks Ventilation, illumination, sanitary or heating facilities, or other essential equipment required by this Chapter or because the location of the Structure constitutes a hazard to the Occupants of the Structure or to the public.

(d) **Unlawful Structure.** An unlawful Structure is one found in whole or in part to be occupied by more persons than permitted under this Chapter or that was erected, Altered or occupied contrary to law.

(e) **Dangerous Structure or Premises.** For the purposes of this Chapter, any Structure or Premises that has any of the conditions or defects described below shall be considered dangerous:

- (1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the Building Code or the City's fire codes as related to the requirements for existing buildings.
- (2) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
- (3) Any portion of a Structure that has been damaged by fire, earthquake, wind, flood, Deterioration, Neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse or to become Detached or dislodged.
- (4) Any portion of a Structure that is not of sufficient strength or stability or is not so Anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
- (5) The Structure, because of dilapidation, Deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for support or for any other reason, is likely to partially or completely collapse or some portion of the foundation or underpinning of the Structure is likely to fail or give way.
- (6) The Structure is clearly unsafe for its use and occupancy.
- (7) The Structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the Structure to their danger or become a harbor for Persons to commit a nuisance or an unlawful act.



- (8) Any Structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition of the Building Code or the City's fire codes or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life or safety.
- (9) A Structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, Ventilation, mechanical or plumbing system, or otherwise, is determined by the Code Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- (10) Any Structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the Code Official to be a threat to life or health.
- (11) A Structure, used or intended to be used for dwelling purposes, which does not have an installed kitchen sink in each Dwelling Unit properly connected to the hot and cold potable water supply pipes and the sewer system.
- (12) A Structure, used or intended to be used for dwelling purposes, which does not have an installed tub or shower and lavatory properly connected to the water pipes and sewer system.
- (13) A Structure which does not have a flush-type water closet located in a room affording privacy and properly connected to the water pipes and sewer system.
- (14) A Structure which does not have installed electric lighting facilities consisting of at least two (2) separate wall type convenience outlets or one (1) ceiling type fixture and one (1) wall type outlet for every habitable room, to be installed in accordance with the City's electrical code.
- (15) A Structure wherein heat is not furnished from a central heating plant does not have fireproof chimney flues so that habitable rooms can be heated. Heating equipment must be permanently installed, properly vented and maintained in good order and repair.
- (16) A Structure whose walls or other vertical members list, lean or buckle to such an extent that a plumb line suspended from the top edge of such a member falls outside of a distance of its base equal to one-third (1/3) the thickness of such member.

- (17) A Structure which, exclusive of the foundation, has support members which have deteriorated to such an extent as to be unable to safely support the applied loads or which have forty percent (40%) damage or Deterioration of the non-supporting enclosing or outside walls or covering.
- (18) A Structure which has improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (19) A Structure which has parts thereof which are so attached that they may fall and injure persons or property.
- (20) A Structure which does not have an unobstructed means of egress leading to an open space at ground level.
- (21) A Structure which does not have the window area for each habitable room equal to at least eight percent (8%) of the total floor area of such room.
- (22) A Structure which does not have Ventilation provided by windows equal to a minimum of forty-five percent (45%) of the openable window area size of each room, except where there is supplied some device affording adequate Ventilation and Approved by the Code Official.
- (23) Any portion of a Structure remains on a site after the demolition or destruction of the Structure or whenever any Structure is abandoned so as to constitute an attractive nuisance or hazard to the public.

**Sec. 21-77. Condemnation of Unsafe Structures.**

All Unsafe Structures within the terms of this Division are deemed public Nuisances and are subject to Condemnation pursuant to the provisions of this Division. For purposes of this Chapter, such Unsafe Structures that have been Condemned may be referred to herein as "Condemned Structures."

**Sec. 21-78. Emergency Order to Comply; failure to comply.**

(a) Within one (1) business day of Condemning a Structure, the Code Official shall issue an Emergency Order to Comply to the Owner, Owner's authorized agent or Person responsible for the Condemned Structure stating the nature of the violation and the date by which the Structure must be brought into compliance.

(b) Failure to comply with the Emergency Order to Comply may result in the Owner's being issued a citation to City Court.

**Sec. 21-79. Request for hearing on Condemnation.**

The Owner of a Condemned Structure may, within fifteen (15) days of said Structure being Condemned, seek a hearing in City Court to contest the Condemnation by directing a request for a hearing to the Code Official. The Code Official shall schedule a hearing, to be held within a reasonable time, with the City Court.

**Sec. 21-80. Occupancy of Condemned Structure prohibited.**

(a) Upon being Condemned, an occupied Structure shall be vacated immediately.

(b) Any Person who occupies a Condemned Structure or Premises or operates placarded equipment, and any Owner or Person responsible for a Structure or Premises who allows anyone to occupy a Condemned Structure or Premises or to operate placarded equipment, shall be in violation of this Chapter. Such conduct also may constitute a Class B misdemeanor under T.C.A. § 13-21-110.

(c) No Person shall keep, harbor, maintain or allow any Companion Animal, as defined in Chapter 7 of the City Code, within or upon a Condemned Structure or Premises.

(d) A Person may enter a Condemned Structure only during daylight hours and solely for the purpose of removing their possessions, securing the Structure, making the required Repairs, removing the hazardous condition or demolishing the Structure.

**Sec. 21-81. Placard of Condemnation; unauthorized removal of placard prohibited.**

(a) Whenever the Code Official has Condemned a Structure or Premises, the Code Official shall post, in a conspicuous place on or about said Structure or Premises, a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the Structure or Premises or removing the placard. The posting of said placard is in addition to issuance of an Emergency Order to Comply.

(b) The Code Official shall remove the Condemnation placard, or authorize the removal of said placard, whenever the defects upon which the Condemnation action were based have been eliminated and the Owner of the Condemned Structure fully complies with Section 21-82.

(c) Any Person who defaces, destroys or removes a Condemnation placard without the authorization of the Code Official is in violation of this Chapter.

**Sec. 21-82. Certificate of Occupancy required before re-occupancy.**

(a) Prior to the reoccupation of a Condemned Structure, the Owner shall correct all code violations, bring the Structure and Premises into compliance with this Chapter and, where relevant, the Building Code, and obtain a Certificate of Occupancy from the City's building department.

(b) Notwithstanding Subsection (a), if a Structure is Condemned for a violation that may legally be repaired without a permit from the City's building department, then the Code Official may lift the Condemnation without the Owner first obtaining a Certificate of Occupancy.

**Sec. 21-83. Renting Unsafe or Condemned Structures prohibited.**

It shall be unlawful for any Person to rent or offer for rent any Unsafe Structure or Condemned Structure. A Certificate of Occupancy shall be obtained before any such Structure is rented, leased or Let for Occupancy.

**Sec. 21-84. Repair or demolition of Unsafe Structures.**

(a) All Condemned Structures shall be Repaired or demolished as provided in this Chapter. The following criteria shall be used by the Code Official in ordering Repair or demolition:

- (1) A Condemned Structure shall be ordered Repaired if it can reasonably be Repaired so that it will no longer exist in violation of this Chapter or other provisions of the City Code.
- (2) A Condemned Structure shall be ordered demolished if the Code Official finds that one (1) or more of the following conditions exists with respect to said Structure:
  - (i) It is fifty percent (50%) or more damaged, decayed or deteriorated;
  - (ii) It cannot be Repaired so as to comply with the terms of this Chapter;
  - (iii) It is a fire hazard; or
  - (iv) It exists or was erected in violation of the provisions of this Chapter or any provision of the City Code or state statute.

(b) Work to Repair or demolish the Condemned Structure shall commence within a reasonable time, not to exceed thirty (30) days, after issuance of the Emergency Order to Comply and shall be completed within a reasonable time, not to exceed the time provided in the Emergency Order to Comply.

(c) In all cases of demolition, each Structure is to be completely demolished, and debris removed from the site, including footings, Basement walls and floors at or below ground level (unless otherwise specified) with all areas below ground level to be completely filled in a manner to insure proper drainage across the filled and unfilled areas. All wells, cisterns, septic tanks and cesspools shall be properly filled to grade with the existing terrain in a manner that will insure proper drainage across same without causing erosion. Vegetation, with the exception

of trees (unless otherwise specified), will be cut to a height of no more than three (3) inches and the Premises raked clean.

**Sec. 21-85. Authority to disconnect service utilities.**

The Code Official shall have the authority to authorize disconnection of utility service to a Structure or system regulated by this Chapter in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The Code Official shall notify the serving utility and, whenever possible, the Owner and Occupant of the Structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection, the Owner or Occupant of the Structure or service system shall be notified in writing as soon as practical thereafter.

**Sec. 21-86. Condemnation of vacant Unsafe Structures; duty to secure; liens.**

(a) **Condemnation.** If an Unsafe Structure is vacant and is not in danger of structural collapse, the Code Official is authorized to post a placard of Condemnation on the Structure or Premises and to order the Structure closed up as provided in this Division so as not to be an attractive nuisance.

(b) **Duty to secure; lien.** Upon failure of the Owner or the Owner's authorized agent to close up the vacant Condemned Structure or Premises within the time specified in the order, the Code Official shall cause the Structure and/or Premises to be closed and secured through any available public agency or by contract or arrangement by private persons, and the cost thereof, plus administrative fees, shall be charged against the real estate upon which the Structure is located and shall be a lien upon such real estate.

**Sec. 21-87. Closing of vacant Structures.**

(a) **Duty to remove waste and secure Structure.** Every Person owning or responsible for any vacant Structure shall remove all combustible waste from the Structure, then lock, barricade or otherwise secure all windows, doors and openings in the Structure to prohibit entry by unauthorized persons.

(b) **Boarding procedures.** Initial boarding of a vacant Structure may follow boarding guidelines as described below in either Subsection (1) or (2). If a Structure becomes open and unsecured after the initial boarding, the Structure shall be secured in accordance with the boarding requirements in Subsection (2). Additional details may be found in Appendix A of the International Property Maintenance Code, 2015 Edition.

- (1) An unsecured vacant Structure that is barricaded pursuant to this Subsection (1) shall be barricaded by using one-half inch (1/2") plywood board or performance-rated OSB secured with screws at least three inches (3") long that have a security star pattern drive head requiring a Torx security star drive screwdriver. Any board placed on an unsecured vacant Structure shall be painted a color that is consistent with the color of the

Structure and shall be cut to fit into any windows, doors or other openings on such unsecured vacant Structure.

- (2) An unsecured vacant Structure that is barricaded pursuant to this Subsection (2) shall be barricaded by using plywood that is no less than one-half inch (1/2") thick or performance-rated OSB and boarding framing material that is a minimum nominal two inch (2") by four inch (4") solid sawn lumber. Interior boarding fasteners are required to be a minimum of three-eighths inch (3/8") diameter carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Fasteners attached from the exterior and used to close the access door should be a minimum of three-eighths inches (3/8") in diameter and have a security star pattern drive head requiring a Torx security star drive screwdriver and be a minimum of three inches (3") long. Any board placed on an unsecured vacant Structure shall be painted a color that is consistent with the color of the Structure and shall be cut to fit into any windows, doors or other openings on such unsecured vacant Structure.

(c) **Continued maintenance.** Boarding and cleaning of a Structure shall not relieve the Owner of the responsibility to Repair and maintain the property in conformity with provisions of this Chapter, the Building Code and the City Code.

(d) **Boarding not to exceed one (1) year.** No Structure shall remain boarded for a period of more than one (1) year. If a Structure remains boarded in excess of one (1) year without work starting and proceeding in a timely manner to bring the property into compliance and return it to habitable condition, the Owner shall be required to demolish the Structure. If the Owner does not demolish the Structure, the City may demolish the Structure and place a lien against the property for the cost of demolition as provided by this Chapter.

#### **Sec. 21-88. Emergency Measures.**

(a) **Imminent Danger.** When, in the opinion of the Code Official, there is Imminent Danger of failure or collapse of a Structure which endangers life, or when any Structure or part of a Structure has fallen and life is endangered by the occupation of the Structure, or when there is actual or potential danger to the Occupants or those in the proximity of any Structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code Official is hereby authorized and empowered to Condemn the Structure and to order and require the Occupants to vacate the Premises forthwith. The Code Official shall order the necessary work to be done, including the boarding up of openings, to render such Structure temporarily safe whether or not the legal procedure herein described has been instituted and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.

(b) **Closing streets.** When necessary for public safety, the Code Official shall temporarily close Structures and close, or order the authority having jurisdiction to close,

sidewalks, streets, Public Ways and places adjacent to unsafe Structures and prohibit the same from being utilized.

(c) **Emergency Repairs or demolition and costs thereof.** When a Structure is Condemned due to Imminent Danger, the Code Official or the Building Official shall cause the immediate Repair or demolition of such Structure as reasonably necessary.

- (1) If emergency Repairs are to be made, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the Owner of the Structure and/or Premises or the Owner's authorized agent for the recovery of such costs.
- (2) If the Structure is to be demolished, the cost of demolition by the City shall be a lien on the real property. (Code 1986, § 21-15; Ord. No. 9808, § 1, 11-12-92; Ord. No. 11345, §2, 11-12-02)

(d) **Hearing.** Any Person ordered to take emergency measures pursuant to this Section shall comply with such order forthwith. Said Person shall thereafter, upon petition directed to the Code Official within three (3) days of said order, be afforded a hearing on the matter in City Court.

**Sec. 21-89. Stop Work Order.**

(a) **Authority.** Whenever the Code Official finds any work regulated by this Chapter being performed in a manner contrary to the provisions of this Chapter or in a dangerous, unsafe or unlawful manner, the Code Official is authorized to issue a Stop Work Order.

(b) **Issuance.** A Stop Work Order shall be in writing and shall be given to the Owner of the property, to the Owner's agent, or to the person doing the work. Upon issuance of a Stop Work Order, the cited work shall immediately cease. The Stop Work Order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

(c) **Emergencies.** Where an emergency exists, the Code Official shall not be required to give a written notice prior to stopping the work.

(d) **Failure to comply.** Any Person who continues any work after having been given a Stop Work Order, except such work as that Person is directed to perform to remove a violation or unsafe condition, may be cited to City Court and liable for a fine not to exceed fifty dollars (\$50.00) for each day that the violation continues.

**Secs. 21-90 – 21-100. Reserved.**

DIVISION 3. DEMOLITION

**Sec. 21-101. Purpose.**

The City finds that there exists, within its limits, Structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such Structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the City. Therefore, the City exercises its police powers pursuant to T.C.A. §§ 13-21-101 *et seq.* to Repair, close or demolish the aforementioned Structures in the manner herein provided.

**Sec. 21-102. Appointment of Public Officer.**

The Mayor of the City (“Mayor”) shall designate a Public Officer to exercise the powers prescribed in this Division.

**Sec. 21-103. Powers of the Public Officer.**

The Public Officer shall have authority to hear and decide demolition cases. To that end, the Public Officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Division, including the power to:

- (a) Administer oaths and affirmations, conduct hearings, examine witnesses and receive evidence;
- (b) Decide whether a Structure shall be demolished in accordance with this Division and issue findings of fact and conclusions of law explaining the basis for the decision; and
- (c) Enter upon Premises for the purpose of making examinations where necessary, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the Person in lawful possession thereof.

**Sec. 21-104. Cases referred to Public Officer; criteria to be applied.**

- (a) The Code Official shall refer to the Public Officer cases involving Unsafe Structures that the Code Official deems appropriate for demolition under this Chapter.
- (b) The Public Officer shall apply the following criteria in determining whether a Structure shall be Repaired or demolished:
  - (1) If Repair, Alteration or improvement of the Structure can be made at a reasonable cost which is less than fifty percent (50%) of the value of the Structure, then the Owner shall be required, within a reasonable time established by the Public Officer, to Repair, Alter or improve the Structure so that it complies with the provisions of this Chapter.



- (2) If Repair, Alteration or improvement of the Structure cannot be made at a reasonable cost which is less than fifty percent (50%) of the value of the Structure, then the Owner shall be required, within a reasonable time established by the Public Officer, to remove or demolish such Structure.

(c) For the purposes of this Division, the value of the Structure shall be assumed to be that established by the Hamilton County Property Assessor's Office.

**Sec. 21-105. Notice, evidence and orders related to demolition hearings.**

(a) **Notice.** The Code Official shall provide written notice of the demolition hearing to the Owner of and Parties in Interest of the Structure proposed for demolition, stating the date, time and location of the hearing. Such notice shall be issued not less than ten (10) days before said hearing.

(b) **Hearing.** The Public Officer shall preside over the demolition hearing. At said hearing, the Public Officer shall:

- (1) Hear testimony by the Code Official explaining the basis for the City's request for an order to demolish the Structure;
- (2) Hear testimony, if any, from the Owner and Parties in Interest relative to the Structure;
- (3) Exercise the Public Officer's discretion to decide whether to hear testimony from any other Persons relative to the Structure.
- (4) Weigh the evidence presented. However, the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Public Officer.

(c) **Written order.** If, after notice and hearing, the Public Officer determines that the Structure under consideration meets the demolition criteria set forth in this Division, the Public Officer shall state in writing the Public Officer's findings of fact in support of such determination and shall issue and cause to be served upon the Owner thereof an order requiring the Owner, within the time specified in the order:

- (1) To Repair, Alter or improve the Structure so that it complies with the provisions of this Chapter; or
- (2) To demolish and remove the Structure in accordance with the provisions of this Chapter.

**Sec. 21-106. Service of notices and orders.**

Notices and orders issued pursuant to this Division shall be served upon Persons either personally or by registered mail. However, if the whereabouts of such Persons are unknown and the same cannot be ascertained in the exercise of reasonable diligence, then the serving of such notice or order upon such Persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the City, or in the absence of such newspaper, in one printed and published in Hamilton County and circulating in the City. A copy of such notice or order also shall be posted in a conspicuous place on the Structure or Premises affected by the notice or order.

A copy of the Public Officer's written order to demolish a Structure also shall be filed for record in the Hamilton County Register of Deeds Office, and such filing shall have the same force and effect as other *lis pendens* notices provided by law.

**Sec. 21-107. Authorization for City to demolish Structure; salvage materials.**

(a) If the Owner or the Owner's authorized agent fails to comply with an order by the Public Officer to remove or demolish the Structure within the time specified in the order, the Code Official shall cause the Structure to be demolished and removed, either through an available public agency or by contract or arrangement with private Persons. The costs of the demolition and removal shall be charged against the real estate upon which the Structure is located and shall be a lien upon such real estate.

(b) If the Structure is removed or demolished by order of the Public Officer, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials, with the proceeds of such sale credited against the cost of the removal or demolition.

**Sec. 21-108. Enjoining enforcement of order.**

(a) Any Owner or Party in Interest affected by an order issued by the Public Officer may file a bill in the chancery court for an injunction restraining the City from carrying out the provisions of the order, and the court may, upon the filing of such bill, issue a temporary injunction restraining the City pending the final disposition of the cause; provided, that within sixty (60) days after the posting and service of the order of the Public Officer, such Person shall file such bill in the court, as set forth in T.C.A. § 13-21-106.

(b) The chancery court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the Public Officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies, and no Person affected by an order of the Public Officer shall be entitled to recover any damages for action taken pursuant to any order of the Public Officer, or because of noncompliance by such Person with any order of the Public Officer.

**Secs. 21-109 – 21-125. Reserved.**

## ARTICLE IV. EXTERIOR REQUIREMENTS

### DIVISION 1. GENERAL REQUIREMENTS

#### Sec. 21-126. General exterior requirements.

(a) **Scope.** The provisions of this Article shall govern the minimum conditions and requirements for maintenance of the exterior of Structures and the Premises.

(b) **Responsibility.** The Owner of a Structure or Premises shall maintain the Structure, including its exterior, and the Premises in compliance with these requirements, except as otherwise provided for in this Chapter. A Person shall not occupy as Owner-Occupant, or permit another Person to occupy, Structures or Premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Chapter. Occupants of a Dwelling Unit, Rooming Unit or Housekeeping Unit are responsible for keeping in a clean, sanitary and safe condition that part of the Dwelling Unit, Rooming Unit, Housekeeping Unit or Premises which they occupy and control.

(c) **Vacant Structures and land.** All vacant Structures and Premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition so as not to cause a blighting problem or adversely affect public health, safety or welfare.

#### Sec. 21-127. Exterior property areas.

(a) **Sanitary condition.** All exterior property and Premises shall be maintained in a clean, safe and sanitary condition. The Occupant shall keep that part of the exterior property which such Occupant occupies or controls in a clean and sanitary condition.

(b) **Grading and drainage.** All Premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon or within any Structure located thereon. Approved retention areas and reservoirs are exempt from this requirement.

(c) **Sidewalks and driveways.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.

(d) **Exhaust vents.** Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another Tenant.

(e) **Defacement of property.** All exterior surfaces of any Structure on any private or public property shall be free from any marking, carving or graffiti. It shall be the responsibility of the Owner to restore said surface to an Approved state of maintenance and repair.

(f) **Rodent harborage.** All Structures and exterior property shall be kept free from rodent harborage and Infestation. Where rodents are found, they shall be promptly exterminated by Approved processes which are not injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

## DIVISION 2. EXTERIOR OF STRUCTURE

### Sec. 21-128. Exterior of Structure.

(a) **General.** The exterior of a Structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(b) **Basements and crawl spaces.** Every Basement and/or crawl space access way shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface drainage water into the Structure. Basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or Deterioration of the Structure.

(c) **Chimneys and towers.** All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(d) **Decorative features.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(e) **Exterior walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials and shall be maintained weatherproof and properly surface coated where required to prevent Deterioration.

(f) **Foundation walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

(g) **Handrails and Guards.** Every handrail and Guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(h) **Overhang extensions.** All overhang extensions, including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts, shall be maintained in good repair and be properly Anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(i) **Piers.** Piers shall not be leaning or buckling out of plumb from top to bottom more than 1/3 the thickness of the wall. Piers should be free of large cracks that weaken their bearing capacity. Loose or missing masonry units and mortar shall be properly replaced.

(j) **Premises identification.** Structures shall have Approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (4") in height with a minimum stroke width of one-half inch (0.5").

(k) **Protective treatment.** All exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking or chipped paint shall be eliminated, and surfaces repainted. All siding and masonry joints, as well as those between the Structure envelope and the perimeter of windows, doors and skylights, shall be maintained weather-resistant and watertight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(l) **Roofs and drainage.** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or Deterioration in the walls or interior portion of the Structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a nuisance.

(m) **Stairways, decks, porches and balconies.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(n) **Structural members.** All structural members shall be maintained free from Deterioration and shall be capable of safely supporting the imposed dead and live loads.

(o) **Structure security.** Doors, windows and hatchways for Dwelling Units, Rooming Units or Housekeeping Units shall be provided with devices designed to provide security for the Occupants and property within.

- (1) **Doors.** Doors providing access to a Dwelling Unit, Rooming Unit or Housekeeping Unit that is rented, leased or Let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of one inch (1"). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For purposes of this Section, a sliding bolt shall not be considered an acceptable deadbolt lock.

- (2) **Windows.** Operable windows located in whole or in part within six feet (6') above ground level or a walking surface below that provide access to a Dwelling Unit, Rooming Unit or Housekeeping Unit that is rented, leased or Let shall be equipped with a window sash locking device.
  - (3) **Basement hatchways.** Basement hatchways that provide access to a Dwelling Unit, Rooming Unit or Housekeeping Unit that is rented, leased or Let shall be equipped with devices that secure the units from unauthorized entry.
- (p) **Windows, doors and screens.**
- (1) Every window, skylight, exterior door, and basement or cellar door and hatchway shall be substantially watertight and rodent-proof and shall be kept in sound working condition. Window panes or an Approved substitute shall be maintained without cracks or holes. The window sash shall be properly fitted and weathertight within the window frame.
  - (2) Every window required for light and Ventilation for habitable rooms shall be capable of being easily opened and secured in any position by the window hardware. Every exterior door shall be provided with proper hardware, be maintained in good condition, and fit reasonably well within its frame so as to substantially exclude rain and wind from entering the Structure. All windows and doors shall be provided with acceptable, standard and operable locking devices.
  - (3) Every Structure, Dwelling Unit, Rooming Unit and Housekeeping Unit shall have an unobstructed means of egress leading to an open space at ground level.
  - (4) Every Dwelling Unit shall have screens to effectively cover all openable windows and doors. Every door opening to an outdoor space shall have screens and a self-closing device. Every window opening to an outdoor space, used or intended to be used for Ventilation, shall have screens. Structures containing central heating furnaces and air conditioning equipment for mechanical Ventilation year-round are not required to have screens. Window-type air conditioning units are not included in this exception. Screens shall be fastened to removable frames and have a mesh with a maximum gauge of fourteen (14) by eighteen (18).

**Sec. 21-129. Unsafe conditions.**

- (a) The following conditions shall be deemed unsafe and shall be Repaired or replaced to comply with the Building Code as required for existing buildings:
  - (1) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;

- (2) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations, is not capable of resisting all nominal loads or load effects;
- (3) Structures or components thereof that have reached their limit state;
- (4) Siding and masonry joints, including joints between the building envelope and the perimeter of windows, doors and skylights, are not maintained, weather-resistant or watertight;
- (5) Structural members that have evidence of Deterioration or that are not capable of safely supporting all nominal loads and load effects;
- (6) Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly Anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (7) Exterior walls that are not Anchored to supporting and supported elements, are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly Anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (8) Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of Deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
- (9) Flooring and flooring components with defects that affect serviceability or flooring components that show signs of Deterioration or fatigue, are not properly Anchored or are incapable of supporting all nominal loads and resisting all load effects;
- (10) Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly Anchored or that are Anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (11) Overhang extensions or projections, including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts, not properly Anchored or that are Anchored with connections not capable of supporting all nominal loads and resisting all load effects;

- (12) Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including Guards and handrails, that are not structurally sound, not properly Anchored or that are Anchored with connections not capable of supporting all nominal loads and resisting all load effects; or
- (13) Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly Anchored or that are Anchored with connections not capable of supporting all nominal loads and resisting all load effects.

### DIVISION 3. SWIMMING POOLS AND OTHER ACCESSORY STRUCTURES

#### **Sec. 21-130. Accessory Structures.**

All Accessory Structures shall be maintained structurally sound and in good repair.

#### **Sec. 21-131. Swimming pools, spas and hot tubs**

(a) Swimming pools shall be maintained in a clean and sanitary condition and in good repair.

(b) Private swimming pools, hot tubs and spas, containing water more than twenty-four inches (24") in depth, shall be completely surrounded by a fence or barrier at least forty-eight inches (48") in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is a minimum of fifty-four inches (54") above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches (6") from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this Section.

### DIVISION 4. LITTER AND OVERGROWTH

#### **Sec. 21-132. Accumulation of litter prohibited, deemed nuisance.**

(a) All exterior property and Premises, and the interior of every Structure, shall be free from any accumulation of Litter or garbage.

(b) Every Occupant of a Structure shall dispose of all Litter and garbage in a clean and sanitary manner by placing such matter in an appropriate receptacle.

(c) The maintenance of any real property in a littered condition by any Owner or Person responsible for such property is hereby declared to be a Nuisance.



**Sec. 21-133. Litter on occupied or vacant property.**

(a) No Person shall throw or deposit Litter on any occupied real property within the City, whether owned by such Person or not, except that the Owner or Person responsible for said property may maintain appropriate receptacles for collection in such a manner that Litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(b) No Person shall throw or deposit Litter on any open or vacant real property within the City, whether owned by such Person or not.

**Sec. 21-134. Appliances not allowed on exterior Premises.**

Appliances and similar equipment, whether operable or not, shall not be used, discarded or stored on the exterior Premises.

**Sec. 21-135. No indoor furniture allowed on exterior Premises.**

No indoor furniture shall be stored, abandoned or used on the exterior Premises.

**Sec. 21-136. Overgrowth.**

(a) All Premises and exterior property shall be maintained free from grass, weeds or underbrush in excess of ten inches (10"). All noxious weeds shall be prohibited. Bushes, shrubs, vines, groundcover and decorative landscaping shall be properly maintained.

(b) The Owner or Person responsible for the Premises who allows an overgrowth violation to occur may be subject to prosecution. In addition, the City, acting through authorized employees or a contractor hired by the City, shall be authorized to enter upon the property and cut and remove the overgrowth growing thereon, with the costs of abating the violation, plus administrative fees, assessed against the Owner.

**Sec. 21-137. Abatement by City and lien for costs thereof; notice; hearing; appeal.**

(a) **Notice to correct violation:** If it is determined by the Code Official that any Owner of real property has created, maintained or permitted to be maintained on such property the growth of weeds, vines, grass or underbrush or the accumulation of debris, trash, litter or garbage, or any combination of the preceding elements, so as to endanger the health, safety or welfare of other citizens or to encourage the infestation of rats and other harmful animals, the Code Official shall provide notice to the Owner to remedy the condition immediately.

(b) **Form of notice:** The notice shall include the following elements:

- (1) A brief statement of this Section, which shall contain the consequences of failing to remedy the noted condition;

- (2) The person, office, address and telephone number of the department or person giving notice;
- (3) A cost estimate for remedying the noted condition; and
- (4) A statement that the Owner is entitled to a hearing and the method for requesting said hearing.

(c) **Service of notice:** The notice shall be sent by United States mail, addressed to the last known address of the Owner. When an attempt at notification by United States mail fails or no valid last known address for the Owner exists, the Code Official may publish the notice in a newspaper of general circulation in Hamilton County for no less than two (2) consecutive issues. Such publication shall constitute receipt of notice effective on the date of the second publication of the notice.

(d) **Abatement and costs:** If the Owner fails or refuses to remedy the condition within ten (10) days after receiving the notice, the Code Official shall immediately cause the condition to be Abated or removed and the cost thereof assessed against the Owner. Under the authority granted in T.C.A. § 6-54-113, the municipality may collect the costs assessed against the Owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the Owners against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the Hamilton County Register of Deeds Office, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(e) **Owner-occupied property:** When the Owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the Code Official shall immediately cause the condition to be Abated or removed, with the costs to be assessed against the Owner. Subsection (d) shall apply to the collection of costs against the owner of an owner-occupied residential property, except that the municipality shall wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500) before filing the notice with the Hamilton County Register of Deeds Office and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in Subsection (d) for these charges.

(f) **Hearing and appeal:** A Person aggrieved by the determination made in Subsection (a) may request a hearing within ten (10) days following the receipt of the notice. Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing. A request for a hearing shall be directed to the Code Official, who shall

schedule a hearing in City Court within a reasonable time. Any Person aggrieved by an order of the City Court may seek judicial review in Hamilton County Circuit Court of said order within ten (10) days, excluding Sundays. The time period established in Subsection (d) shall be stayed during the pendency of a hearing.

**Secs. 21-138 –21-150. Reserved.**

#### DIVISION 5. ABANDONED AND INOPERABLE VEHICLES

**Sec. 21-151. Abandoned Vehicles prohibited; towing authorized.**

(a) No Person shall park, store or leave, or permit the parking, storing or leaving of, within the city an Abandoned Vehicle or any Vehicle for such time and under such circumstances so as to reasonably appear to have been abandoned.

(b) Whenever it appears that a violation of this Section has occurred, the Code Official shall provide written notice of the violation to the Owner of the Vehicle. The notice shall include a statement that the Vehicle must be moved to a place of lawful storage within ten (10) days. Notice may be provided by leaving a copy of such notice on the Vehicle.

(c) If the Owner of the Vehicle fails, neglects or refuses to move the Vehicle in accordance with the notice given pursuant to this Section, the Owner shall be in violation and may be subject to penalties as provided by law. In addition, the Code Official may seek an order from the City Court authorizing the towing of said Vehicle at the expense of the Owner of the Vehicle.

**Sec. 21-152. Inoperable Vehicles on private property prohibited; permission for removal; citation to City Court; towing authorized.**

(a) No Person shall park, store or leave, or permit the parking, storing or leaving of, an Inoperable Vehicle on any private Premises within the city.

(b) Whenever it appears that a violation of this Section has occurred, the Code Official shall provide written notice of the violation to the Owner and/or Occupant of the Premises where the violation is occurring, to the Owner of the Vehicle, and/or to the Person responsible for the violation. The notice shall include a statement that the Vehicle must be brought into compliance or moved to a place of lawful storage within ten (10) days. Notice may be provided by leaving a copy of such notice in a conspicuous place on the Premises.

(c) Within ten (10) days of the Code Official's providing notice of the violation, the Owner or Occupant of the Premises upon which the violation exists may give written permission to the Code Official for removal of an Inoperable Vehicle from the Premises at the expense of said Owner or Occupant. The giving of such permission shall be considered compliance with the provisions of this Section.

(d) If the Owner and/or Occupant of the Premises and/or the Person responsible for the violation fails, neglects or refuses to bring the Vehicle into compliance or to move the Vehicle in accordance with the notice given pursuant to this Section, said Person shall be in violation and may be issued a citation to City Court and, upon conviction, subject to a fine not to exceed fifty dollars (\$50.00) for each violation. Each day of continuing violation constitutes a separate offense. In addition, the Code Official may seek an order from the City Court authorizing the removal of said Vehicle and entry onto the Premises for that purpose. The removal of the Vehicle shall be at the expense of the Owner of the Vehicle and/or Premises.

**Sec. 21-153. Automotive Repair.**

(a) It is unlawful for any Person to engage in, or permit others to engage in, repair or maintenance of a vehicle in any residential areas under any of the following circumstances:

- (1) Using tools not normally found in a residence;
- (2) Conducted on vehicles registered to Persons not currently residing on the Premises; or
- (3) Conducted outside a fully enclosed garage and resulting in any vehicle being inoperable for a period in excess of twenty-four (24) hours.

(b) Whenever it appears that a violation of this Section has occurred, the Code Official shall provide written notice of the violation to the Owner and/or Occupant of the Premises where the violation is occurring and/or to the Person responsible for the violation. The notice shall include a statement that the Vehicle at issue must be brought into compliance or moved to a place of lawful storage within ten (10) days. Notice may be provided by leaving a copy of such notice in a conspicuous place on the Premises.

(c) If the Owner and/or Occupant of the Premises and/or the Person responsible for the violation fails, neglects or refuses to stop the unlawful conduct and to move or cause the removal of the Vehicle in accordance with the notice given pursuant to this Section, said Person shall be in violation and may be issued a citation to City Court and, upon conviction, subject to a fine not to exceed fifty dollars (\$50.00) for each violation. Each day of continuing violation constitutes a separate offense for each vehicle. In addition, the Code Official may seek an order from the City Court authorizing the removal of said Vehicle and entry onto the Premises for that purpose.

**Sec. 21-154. Removal, storage and disposition of Vehicles by City; collection of costs.**

(a) Nothing in this Division shall affect the City's power to permit the immediate removal of a Vehicle left on public property that constitutes an obstruction to traffic.

(b) Any Inoperable Vehicle or Abandoned Vehicle that is removed by the Code Official shall be stored and/or disposed of in accordance with state law and City laws, policies and procedures.

(c) When the City Abates any nuisance as provided in this Division, the Administrator of the ECD Department or a duly authorized representative shall certify the amount of the expense incurred to Abate the nuisance to the Office of the City Attorney, who shall bring suit by attachment or otherwise take action to collect the same, and the City shall have a lien on the property to secure the amount expended to Abate such nuisance, which shall be superior to all other contractual liens.

**Sec. 21-155. Court's authority to issue orders and warrants.**

The City Court shall have the authority to issue all orders and warrants necessary to enforce this Division.

**Secs. 21-156 – 21-170. Reserved.**

**ARTICLE V. INTERIOR REQUIREMENTS**

**DIVISION 1. GENERAL REQUIREMENTS**

**Sec. 21-171. General requirements for interior of Structure.**

(a) **General.** The interior of a Structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the Structure which they occupy or control in a clean and sanitary condition. Every Owner of a Structure containing a Rooming House, Housekeeping Unit, hotel, dormitory, two (2) or more Dwelling Units or two (2) or more nonresidential occupancies shall maintain, in a clean and sanitary condition, the shared areas or Public Areas of the Structure and exterior property.

(b) **Structural members.** All structural members shall be maintained structurally sound and be capable of supporting the imposed loads.

(c) **Interior surfaces.** All interior surfaces, including windows and doors, shall be maintained in good repair and clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be Repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

(d) **Stairs and walking surfaces.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

(e) **Handrails and Guards.** Every handrail and Guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(f) **Interior doors.** Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

(g) **License Requirements:** No corporation, limited liability company or other entity holding five (5) or more Dwelling Units for rent or lease shall offer same without obtaining a valid business license from the City.

**Sec. 21-172. Unsafe conditions.**

(a) The following conditions shall be deemed unsafe and shall be Repaired or replaced to comply with the Building Code:

- (1) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
- (2) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations, is not capable of resisting all nominal loads or load effects;
- (3) Structures or components thereof have reached their limit state;
- (4) Structural members are incapable of supporting nominal loads and load effects;
- (5) Stairs, landings, balconies and all similar walking surfaces, including Guards and handrails, are not structurally sound, not properly Anchored or are Anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (6) Foundation systems are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly Anchored or are not capable of supporting all nominal loads and resisting all load effects.

**Sec. 21-173. Pest elimination.**

(a) **Infestation.** All Structures shall be kept free from insect and rodent Infestation. All Structures in which insects or rodents are found shall be promptly exterminated by Approved processes that are not injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

(b) **Owner.** The Owner of any Structure shall be responsible for pest elimination within the Structure prior to renting or leasing the Structure.

(c) **Single Family Dwelling.** The Occupant of a Single Family Dwelling or of a single-tenant nonresidential Structure shall be responsible for pest elimination on the Premises, unless a lease or other agreement between the parties specifies otherwise.

(d) **Multiple Occupancy Dwelling.** The Owner of a Structure containing two (2) or more Dwelling Units, a multiple occupancy, a Rooming House or a nonresidential Structure shall

be responsible for pest elimination in the public or shared areas of the Structure and exterior property. If Infestation is caused by failure of an Occupant to prevent such infestation in the area occupied, the Occupant shall be responsible for pest elimination.

(e) **Exception for defects in Structure.** Despite the assignment of responsibility set forth in this Section, where the Infestation is caused by defects in the Structure, the Owner shall be responsible for pest elimination.

**Sec. 21-174. Handrails and guardrails.**

(a) Every exterior and interior flight of stairs having more than four (4) risers shall have a handrail on one side of the stair, and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than thirty inches (30") above the floor or grade below shall have Guards. Handrails shall not be less than thirty inches (30") in height or more than forty-two inches (42") in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than thirty inches (30") in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface. Guards shall not be required where exempted by the Building Code.

(b) Every stair, porch, fire escape, balcony and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the anticipated loads and shall be maintained in sound condition and good repair. Every stair, porch and fire escape shall be maintained free of hazardous conditions.

DIVISION 2. COMPONENT SERVICEABILITY

**Sec. 21-175. Component serviceability.**

(a) **General.** The components of a Structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

(b) **Unsafe conditions.** Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be Repaired or replaced to comply with the Building Code as required for existing buildings:

- (1) Soils that have been subjected to any of the following conditions:
  - (i) Collapse of footing or foundation system;
  - (ii) Damage to footing, foundation, concrete or other structural element due to soil expansion;
  - (iii) Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;

- (iv) Inadequate soil as determined by a geotechnical investigation;
  - (v) Where the allowable bearing capacity of the soil is in doubt; or
  - (vi) Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
- (2) Concrete that has been subjected to any of the following conditions:
- (i) Deterioration;
  - (ii) Ultimate Deformation;
  - (iii) Fractures;
  - (iv) Fissures;
  - (v) Spalling;
  - (vi) Exposed reinforcement; or
  - (vii) Detached, dislodged or failing connections.
- (3) Aluminum that has been subjected to any of the following conditions:
- (i) Deterioration;
  - (ii) Corrosion;
  - (iii) Elastic deformation;
  - (iv) Ultimate Deformation;
  - (v) Stress or strain cracks;
  - (vi) Joint fatigue; or
  - (vii) Detached, dislodged or failing connections.
- (4) Masonry that has been subjected to any of the following conditions:
- (i) Deterioration;
  - (ii) Ultimate Deformation;



- (iii) Fractures in masonry or mortar joints;
  - (iv) Fissures in masonry or mortar joints;
  - (v) Spalling;
  - (vi) Exposed reinforcement; or
  - (vii) Detached, dislodged or failing connections.
- (5) Steel that has been subjected to any of the following conditions:
- (i) Deterioration;
  - (ii) Elastic deformation;
  - (iii) Ultimate Deformation;
  - (iv) Metal fatigue; or
  - (v) Detached, dislodged or failing connections.
- (6) Wood that has been subjected to any of the following conditions:
- (i) Ultimate Deformation;
  - (ii) Deterioration;
  - (iii) Damage from insects, rodents or other vermin;
  - (iv) Fire damage beyond charring;
  - (v) Significant splits and checks;
  - (vi) Horizontal shear cracks;
  - (vii) Vertical shear cracks;
  - (viii) Inadequate support;
  - (ix) Detached, dislodged or failing connections; or
  - (x) Excessive cutting and notching.

DIVISION 3. LIGHT, VENTILATION AND SPACE FOR OCCUPANCY

**Sec. 21-176. General requirements for light, Ventilation and space for occupying a Structure.**

(a) **Scope.** The provisions of this Division shall govern the minimum conditions and standards for light, Ventilation and space for occupying a Structure.

(b) **Responsibility.** The Owner of the Structure shall provide and maintain light, Ventilation and space conditions in compliance with these requirements. A Person shall not occupy as Owner-Occupant, or permit another Person to occupy, any Premises that do not comply with the requirements of this Division.

(c) **Alternative devices.** In lieu of the means for natural light and Ventilation herein prescribed, artificial light or mechanical Ventilation complying with the Building Code shall be permitted.

**Sec. 21-177. Light.**

(a) **Habitable spaces.** Every Habitable Space shall have at least one (1) window of Approved size facing directly to the outdoors or to a court. The minimum total glazed area for every Habitable Space shall be eight percent (8%) of the floor area of such room. Wherever walls or other portions of a Structure face a window of any room and such obstructions are located less than three feet (3') from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

**Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent (8%) of the floor area of the interior room or space, but a minimum of twenty-five (25) square feet. The exterior glazing area shall be based on the total floor area being served.

(b) **Common halls and stairways.** Every common hall and stairway in residential occupancies, other than in one- and two-family Dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each two hundred (200) square feet of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than thirty feet (30'). For egress purposes, in other than residential occupancies, all stairways shall be illuminated at all times the Structure is occupied. The minimum lighting requirement is one (1) footcandle (11 lux) at floors, landings and treads.

(c) **Other spaces.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

**Sec. 21-178. Ventilation.**

(a) **Habitable Spaces.** Every Habitable Space shall have at least one (1) operable window. The total operable area of the window in every room shall be equal to at least forty-five percent (45%) of the minimum glazed area required.

**Exception:** Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent (8%) of the floor area of the interior room or space, but a minimum of twenty-five (25) square feet. The Ventilation openings to the outdoors shall be based on the total floor area being ventilated.

(b) **Bathrooms and Toilet Rooms.** Every Bathroom and Toilet Room shall comply with the Ventilation requirements for Habitable Spaces, except that a window shall not be required in such spaces equipped with a mechanical Ventilation system. Air exhausted by a mechanical Ventilation system from a Bathroom or Toilet Room shall discharge to the outdoors and shall not be recirculated.

(c) **Cooking facilities.** Unless Approved through the Certificate of Occupancy, cooking shall not be permitted in any Rooming Unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the Rooming Unit or dormitory unit. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances. The requirements set forth in this Subsection shall not apply where specifically Approved in writing by the Code Official.

(d) **Process ventilation.** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust Ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

(e) **Clothes dryer exhaust.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the Structure in accordance with the manufacturer's instructions.

#### **Sec. 21-179. Occupancy limitations.**

(a) **Privacy.** Dwelling Units, hotel units, Housekeeping Units, Rooming Units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

(b) **Minimum room widths.** A habitable room other than a kitchen shall be a minimum of seven feet (7') in any plan dimension. Kitchens shall have a minimum clear passageway of three feet (3') between counterfronts and appliances or counterfronts and walls.

(c) **Minimum ceiling heights.** Habitable Spaces, hallways, corridors, laundry areas, Bathrooms, Toilet Rooms and habitable Basement areas shall have a minimum clear ceiling height of seven feet (7').

**Exceptions:** The following exceptions shall apply to the requirements for minimum ceiling heights set forth in this Subsection:

- (1) In Single-Family Dwellings and Two-Family Dwellings, beams or girders spaced a minimum of four feet (4') on center and projecting a maximum of six inches (6") below the required ceiling height.
- (2) Basement rooms in one- and two-family Dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of six feet eight inches (6'8") with a minimum clear height of six feet four inches (6'4") under beams, girders, ducts and similar obstructions.
- (3) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of seven feet (7') over a minimum of one-third (1/3) of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of five feet (5') shall be included.

(d) **Bedroom and living room requirements.** Every Bedroom and living room shall comply with the following requirements:

- (1) **Room area.** Every living room shall contain at least one hundred twenty (120) square feet and every bedroom shall contain a minimum of seventy (70) square feet and every bedroom occupied by more than one (1) person shall contain a minimum of fifty (50) square feet of floor area for each Occupant thereof.
- (2) **Access from Bedrooms.** Bedrooms shall not constitute the only means of access to other Bedrooms or Habitable Spaces and shall not serve as the only means of egress from other Habitable Spaces. An exception to this requirement is for units that contain fewer than two (2) Bedrooms.
- (3) **Water closet accessibility.** Every Bedroom shall have access to at least one (1) water closet and one (1) lavatory without passing through another Bedroom. Every Bedroom in a Dwelling Unit shall have access to at least one (1) water closet and lavatory located in the same story as the Bedroom or an adjacent story.
- (4) **Prohibited occupancy.** Kitchens and nonhabitable spaces shall not be used for sleeping purposes.
- (5) **Other requirements.** Bedrooms shall comply with the applicable provisions of this Chapter, including, but not limited to, the light, Ventilation, room area, ceiling height and room width requirements; the

plumbing facilities and water-heating facilities requirements; the heating facilities and electrical receptacle requirements; and the smoke detector and emergency escape requirements.

(e) **Efficiency unit.** Nothing in this Section shall prohibit an efficiency living unit from meeting the following requirements:

- (1) A unit occupied by not more than one Occupant shall have a minimum clear floor area of one hundred twenty (120) square feet. A unit occupied by not more than two (2) Occupants shall have a minimum clear floor area of two hundred twenty (220) square feet. A unit occupied by three Occupants shall have a minimum clear floor area of three hundred twenty (320) square feet. These required areas shall be exclusive of the areas required by Items 2 and 3 of this Subsection.
- (2) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of thirty inches (30") in front. Light and Ventilation conforming to this Chapter shall be provided.
- (3) The unit shall be provided with a separate Bathroom containing a water closet, lavatory and bathtub or shower.
- (4) The maximum number of Occupants shall be three (3).

(f) **Food preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and other litter, including facilities for temporary storage.

#### DIVISION 4. PLUMBING

##### **Sec. 21-180. General requirements for plumbing facilities and fixtures.**

(a) **Scope.** The provisions of this Division shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

(b) **Responsibility.** The Owner of the Structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A Person shall not occupy as Owner-Occupant or permit another Person to occupy any Structure or Premises that does not comply with the requirements of this Division.

##### **Sec. 21-181. Required facilities.**

(a) **Dwelling Units.** Every Dwelling Unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink, all of which shall be maintained in a sanitary, safe

working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

(b) **Rooming Houses.** At least one (1) water closet, lavatory and bathtub or shower shall be supplied for each four (4) Rooming Units.

**Sec. 21-182. Toilet Rooms.**

(a) **Privacy.** Bathrooms and Toilet Rooms shall provide privacy and shall not constitute the only passageway to a hall or other space or to the exterior. A door and interior locking device shall be provided for all common or shared Bathrooms and Toilet Rooms in a multiple Dwelling.

(b) **Location.** Bathrooms and Toilet Rooms serving hotel units, Rooming Units or dormitory units or Housekeeping Units shall be accessible from a common hall or passageway and by traversing a maximum of one (1) flight of stairs.

**Sec. 21-183. Plumbing systems and fixtures.**

(a) **General.** All plumbing fixtures shall be properly installed, maintained in working order, kept free from obstructions, leaks and defects, and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

(b) **Fixture clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning.

(c) **Plumbing system hazards.** Where it is found that a plumbing system in a Structure constitutes a hazard to the Occupants or the Structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard.

**Sec. 21-184. Water system.**

(a) **General.** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an Approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the City's plumbing code.

(b) **Contamination.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are

attached and left in place shall be protected by an Approved atmospheric-type vacuum breaker or an Approved permanently attached hose connection vacuum breaker.

(c) **Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

(d) **Water heating facilities.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be located in any Bathroom, Toilet Room, Bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An Approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

(e) **Nonpotable water reuse systems.** Nonpotable water reuse systems and rainwater collection and conveyance systems shall be maintained in a safe and sanitary condition. Where such systems are not properly maintained, the systems shall be repaired to provide for safe and sanitary conditions, or the system shall be abandoned in accordance with this Section.

(1) **Abandonment of systems.** Where a nonpotable water reuse system or a rainwater collection and distribution system is not maintained or the owner ceases use of the system, the system shall be abandoned in accordance with the City's plumbing code, or if silent, with the International Plumbing Code.

#### **Sec. 21-185. Sanitary drainage system.**

(a) **General.** All plumbing fixtures shall be properly connected to either a public sewer system or to an Approved private sewage disposal system.

(b) **Maintenance.** Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

#### **Sec. 21-186. Storm drainage.**

Drainage of roofs, paved areas, Yards, courts and other open areas on the Premises shall not be discharged in a manner that creates a public Nuisance.

### **DIVISION 5. MECHANICAL AND ELECTRICAL SYSTEMS**

#### **Sec. 21-187. Mechanical and electrical requirements.**

(a) **Scope.** The provisions of this Division shall govern the minimum mechanical and electrical facilities and equipment to be provided.

(b) **Responsibility.** The Owner of the Structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A Person shall not occupy as Owner-Occupant or permit another Person to occupy any Premises which does not comply with the requirements of this Division.

**Sec. 21-188. Heating facilities.**

(a) **Facilities required.** Heating facilities shall be provided in Structures as required by this Division.

(b) **Residential occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, Bathrooms and Toilet Rooms based on the winter outdoor design temperature. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

(c) **Heat supply.** Every Owner and Operator of any Structure who rents, leases or Lets one (1) or more Dwelling Units or Sleeping Units shall supply heat to the Occupants to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, Bathrooms and Toilet Rooms.

**Exceptions:** The following exceptions apply to this Subsection:

- (1) When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required, provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in the City's plumbing code.
- (2) In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

(e) **Room temperature measurement.** The required room temperatures shall be measured three feet (3') above the floor near the center of the room.

**Sec. 21-189. Mechanical equipment.**

(a) **Mechanical equipment and appliances.** Mechanical equipment, appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition and shall be capable of performing the intended function.



(b) **Removal of combustion products.** All fuel-burning equipment and appliances shall be connected to an Approved chimney or vent. However, fuel-burning equipment and appliances which are Labeled for unvented operation are exempt from this requirement.

(c) **Clearances.** All required clearances to combustible materials shall be maintained.

(d) **Safety controls.** All safety controls for fuel-burning equipment shall be maintained in effective operation.

(e) **Combustion air.** A supply of air for complete combustion of the fuel and for Ventilation of the space containing the fuel-burning equipment shall be provided.

(f) **Energy conservation devices.** Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom shall not be installed unless Labeled for such purpose and the installation is specifically Approved.

#### **Sec. 21-190. Electrical facilities.**

(a) **Facilities required.** Every occupied Structure shall be provided with an electrical system in compliance with the requirements of this Division.

(b) **Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. Dwelling Units shall be served by a three (3) wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

(c) **Electrical system hazards.** Where it is found that the electrical system in a Structure constitutes a hazard to the Occupants or the Structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, Deterioration or damage or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard.

(d) **Abatement of electrical hazards associated with water exposure.** The provisions of this Section shall govern the Repair and replacement of electrical systems and equipment that have been exposed to water.

(1) **Electrical equipment.** Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors, and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the Building Code.

(2) **Exception:** The following equipment shall be allowed to be Repaired where an inspection report from the equipment manufacturer or Approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

- (i) Enclosed switches rated a maximum of 600 volts or less;
- (ii) Busway rated a maximum of 600 volts;
- (iii) Panelboards rated a maximum of 600 volts;
- (iv) Switchboards rated a maximum of 600 volts;
- (v) Fire pump controllers rated a maximum of 600 volts;
- (vi) Manual and magnetic motor controllers;
- (vii) Motor control centers;
- (viii) Alternating current high-voltage circuit breakers;
- (ix) Low-voltage power circuit breakers;
- (x) Protective relays, meters and current transformers;
- (xi) Low- and medium-voltage switchgear;
- (xii) Liquid-filled transformers;
- (xiii) Cast-resin transformers;
- (xiv) Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
- (xv) Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
- (xvi) Luminaires that are listed as submersible;
- (xvii) Motors; and
- (xviii) Electronic control, signaling and communication equipment.

(e) **Abatement of electrical hazards associated with fire exposure.** The provisions of this Section shall govern the Repair and replacement of electrical systems and equipment that have been exposed to fire.

- (1) **Electrical equipment.** Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire shall be replaced in accordance with the provisions of the Building Code.
- (2) **Exception:** Electrical switches, receptacles and fixtures shall be allowed to be Repaired where an inspection report from the equipment manufacturer or Approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

**Sec. 21-191. Electrical equipment.**

(a) **Installation.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and Approved manner.

(b) **Receptacles.** Every Habitable Space in a Dwelling shall contain at least two (2) separate and remote receptacle outlets. Every laundry area shall contain at least one (1) grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every Bathroom shall contain at least one (1) receptacle. Any new Bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

(c) **Luminaires.** Every public hall, interior stairway, Bathroom, Toilet Room, kitchen, laundry room, boiler room and furnace room shall contain at least one (1) electric luminaire. Pool and spa luminaries over 15 V shall have ground fault circuit interrupter protection.

(d) **Wiring.** Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

**Sec. 21-192. Elevators, escalators and dumbwaiters.**

(a) **General.** Elevators, escalators and dumbwaiters shall be maintained in compliance with ASME A 17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the Structure Operator or be posted in a publicly conspicuous location Approved by the Code Official. The inspection and tests shall be performed at not less than the periodic intervals as required.

(b) **Elevators.** In Structures equipped with passenger elevators, at least one (1) elevator shall be maintained in operation at all times when the Structure is occupied. However, Structures equipped with only one (1) elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

**Sec. 21-193. Duct systems.**

Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

## DIVISION 6. FIRE SAFETY

### **Sec. 21-194. General fire safety requirements.**

(a) **Scope.** The provisions of this Division shall govern the minimum conditions and standards for fire safety relating to Structures and exterior Premises, including fire safety facilities and equipment to be provided.

(b) **Responsibility.** The Owner of the Premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A Person shall not occupy as Owner-Occupant or permit another Person to occupy any Premises that do not comply with the requirements of this Division.

### **Sec. 21-195. Means of egress.**

(a) **General.** A safe, continuous and unobstructed path of travel shall be provided from any point in a Structure to the Public Way. Means of egress shall comply with the City's fire code.

(b) **Aisles.** The required width of aisles in accordance with the City's fire code shall be unobstructed.

(c) **Locked doors.** All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the Building Code.

(d) **Emergency escape openings.** Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the Building Code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

### **Sec. 21-196. Fire-resistance ratings.**

(a) **Fire-resistance-rated assemblies.** The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

(b) **Opening protectives.** Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

**Sec. 21-197. Fire protection systems.**

(a) **General.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the City's fire code.

(b) **Sprinkler systems.** Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

(c) **Smoke alarms.** Single- or multiple-station smoke alarms shall be installed and maintained in Dwellings at each of the following locations:

- (1) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of Bedrooms.
- (2) In each room used for sleeping purposes.
- (3) In each story within a Dwelling Unit, including Basements and cellars but not including crawl spaces and uninhabitable attics. In Dwellings or Dwelling Units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(d) **Power source.** Single-station smoke alarms shall receive their primary power from the Structure wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

**Exception:** Smoke alarms are permitted to be solely battery operated in Structures where no construction is taking place, Structures that are not served from a commercial power source and in existing areas of Structures undergoing Alterations or Repairs that do not result in the removal of interior wall or ceiling finishes exposing the Structure, unless there is an attic, crawl space or Basement available which could provide access for Structure wiring without the removal of interior finishes.

(e) **Interconnection.** Where more than one (1) smoke alarm is required to be installed within a Dwelling, the smoke alarms shall be interconnected in such a manner that the activation of one (1) alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all Bedrooms over background noise levels with all intervening doors closed.

**Exceptions:** The following exceptions shall apply to this requirement:

- (1) Interconnection is not required in Structures which are not undergoing Alterations, Repairs or construction of any kind.
- (2) Smoke alarms in existing areas are not required to be interconnected where Alterations or Repairs do not result in the removal of interior wall or ceiling finishes exposing the Structure, unless there is an attic, crawl space or Basement available which could provide access for interconnection without the removal of interior finishes.

**Secs. 21-198 – 21-230. Reserved.**

## **ARTICLE VI. - OFFICE OF ADMINISTRATIVE HEARING OFFICER**

### **Sec. 21-231. Creation of Office of Administrative Hearing Officer; number of officers; compensation; interlocal agreements.**

(a) Pursuant to Tennessee Code Annotated, Title 6, Chapter 54, Part 10, there is hereby created the Office of Administrative Hearing Officer to hear violations of building and property maintenance codes as provided herein. The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in T.C.A. §§ 6-54-1001 *et seq.*

(b) The City may appoint up to two (2) administrative hearing officers.

(c) The amount of compensation for the administrative hearing officers shall be approved by the City Council.

(d) Clerical and administrative support for the Office of Administrative Hearing Officer shall be provided as determined by the Mayor or the Mayor's designee.

(e) The City may enter into an interlocal agreement with one (1) or more other municipalities to employ administrative hearing officers in accordance with T.C.A. § 6-54-1001.

(f) The utilization of the administrative hearing officer shall be at the discretion of the Code Official and shall be an alternative to other enforcement mechanisms included in the City Code.

(g) No provision in this Article diminishes or terminates any existing municipal power or authority.

### **Sec. 21-232. Jurisdiction of Office of Administrative Hearing Officer; restrictions on authority.**

(a) The Office of the Administrative Hearing Officer has jurisdiction to hear cases involving violations of municipal ordinances regulating building and property maintenance, including:

- (1) Locally adopted building codes;
- (2) Locally adopted residential codes;
- (3) Locally adopted plumbing codes;
- (4) Locally adopted electrical codes;
- (5) Locally adopted gas codes;
- (6) Locally adopted mechanical codes;
- (7) Locally adopted energy codes;
- (8) Locally adopted property maintenance codes;
- (9) Locally adopted zoning codes; and
- (10) Ordinances regulating any subject matter commonly found in the codes mentioned in Subsections (a)(1)-(9).

(b) Administrative hearing officers are not authorized to hear violations of codes adopted by the state fire marshal pursuant to T.C.A. § 68-120-101(a) enforced by a deputy building inspector pursuant to T.C.A. § 68-120-101(f).

**Sec. 21-233. Communications by administrative hearing officer and parties.**

(a) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.

(b) Notwithstanding Subsection (a), an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the city attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.

(c) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.

(d) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in Subsection (e).

(e) An administrative hearing officer who receives an ex parte communication in violation of this Section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication.

**Sec. 21-234. Appearance by parties; representation by counsel.**

(a) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(b) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by any provision of law, other representative.

**Sec. 21-235. Prehearing conferences and orders.**

(a) (1) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:

- (i) The simplification of issues;
- (ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
- (iii) The limitation of the number of witnesses; and
- (iv) Such other matters as may aid in the disposition of the action.

(2) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.



(b) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a prehearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, on any question of law.

(c) In the discretion of the administrative hearing officer, all or part of the prehearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(d) If a prehearing conference is not held, the administrative hearing officer may issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

**Sec. 21-236. Appointment of administrative hearing officer; use of administrative law judge.**

(a) Each administrative hearing officer shall be appointed by the City Council for a four (4) year term and shall serve at the pleasure of the City Council. Such administrative hearing officer may be reappointed.

(b) An administrative hearing officer shall be one (1) of the following:

- (1) Licensed building inspector;
- (2) Licensed plumbing inspector;
- (3) Licensed electrical inspector;
- (4) Licensed attorney;
- (5) Licensed architect; or
- (6) Licensed engineer.

(c) The City may also contract with the Administrative Procedures Division of the Office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the requirements of Subsections (a) and (b).

**Sec. 21-237. Training and continuing education.**

(a) Each person appointed to serve as an administrative hearing officer shall, within the six-month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Service ("MTAS"). MTAS shall issue a certificate of participation to each person whose attendance is satisfactory.

(b) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. The education required by this Section shall be in addition to any other continuing education requirements required for other professional licenses held by the administrative hearing officer. No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year.

(c) The City shall bear the cost of the fees for the training and continuing education requirements set forth in this Section for each administrative hearing officer serving the City.

(d) Costs pursuant to this Section shall be offset by fees enacted.

**Sec. 21-238. Citations for violations; written notice.**

(a) Upon the issuance of a citation for a violation of a building or property maintenance code referenced in this Article, the issuing officer shall provide written notice of:

- (1) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, upon timely, written application a more definite and detailed statement shall be furnished ten (10) business days prior to the time set for the hearing;
- (2) A short and plain description of the administrative hearing process including references to state and local statutory authority;
- (3) Contact information for the Office of the Administrative Hearing Officer; and
- (4) Time frame in which the administrative hearing officer will review the citation and determine the fine and remedial period, if any.

(b) Citations issued for a violation of a building or property maintenance code referenced in this Article shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not admission of guilt.

(c) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.

(d) Citations issued for a violation of a building or property maintenance code referenced in this Article shall be transmitted to an administrative hearing officer within two (2) business days of issuance.

**Sec. 21-239. Review of citation; levy of fines.**

(a) Upon receipt of a citation issued pursuant to this Article, an administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the administrative hearing officer has the authority to levy a fine upon the alleged violator in accordance with this Section. Any fine levied by an administrative hearing officer must be reasonable based upon the totality of the circumstances.

- (1) For violations occurring upon residential property, an administrative hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For purposes of this part, "residential property" means a single family dwelling principally used as the property owner's primary residence and the real property upon which it sits.
- (2) For violations occurring upon nonresidential property, an administrative hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. For purposes of this part, "nonresidential property" means all real property, structures, buildings and dwellings that are not residential property.

(b) If a fine is levied pursuant to Subsection (a), the administrative hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) nor greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.

(c) Upon the levy of a fine pursuant to Subsection (a), the administrative hearing officer shall within seven (7) business days provide via certified mail notice to the alleged violator of:

- (1) The fine and remedial period established pursuant to Subsections (a) and (b);
- (2) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and
- (3) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.

(d) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the administrative hearing officer within seven (7) business days of receipt of the notice required in Subsection (c).

(e) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to Subsection (a) shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled.

**Sec. 21-240. Party in default.**

(a) If a party fails to attend or participate in a prehearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

(b) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default.

**Sec. 21-241. Petitions for intervention.**

(a) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

- (1) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;
- (2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and
- (3) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(b) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

- (1) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
- (2) Limiting the intervenor's participation so as to promote the orderly and prompt conduct of the proceedings; and
- (3) Requiring two (2) or more intervenors to combine their participation in the proceedings.

(c) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties.

**Sec. 21-242. Regulating course of proceedings; full disclosure; hearing open to public.**

(a) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the prehearing order, if any.

(b) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the prehearing order.

(c) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.

(d) The hearing shall be open to public observation pursuant to Tennessee Code Annotated, Title 8, Chapter 44, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any.

**Sec. 21-243. Evidence and affidavits; notice.**

(a) In administrative hearings:

- (1) The administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious;
- (2) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in Subsection (b). Unless the opposing party,

within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affiant, the opposing party's right to cross-examination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as provided in this Subsection, the affidavit shall not be admitted into evidence. "Delivery," for purposes of this Section, means actual receipt;

- (3) The administrative hearing officer may admit affidavits not submitted in accordance with this Section where necessary to prevent injustice;
- (4) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the City. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available; and
- (5) (i) Official notice may be taken of:
  - (A) Any fact that could be judicially noticed in the courts of this state;
  - (B) The record of other proceedings before the agency; or
  - (C) Technical or scientific matters within the administrative hearing officer's specialized knowledge; and
- (ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material noticed, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

(b) The notice referred to in Subsection (a) shall contain the following information and be substantially in the following form:

The accompanying affidavit of \_\_\_\_\_ (here insert name of affiant) will be introduced as evidence at the hearing in \_\_\_\_\_ (here insert title of proceeding). \_\_\_\_\_ (here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify \_\_\_\_\_ (here insert name of the proponent or the proponent's attorney) at \_\_\_\_\_ (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to \_\_\_\_\_ (here insert name of proponent or the proponent's attorney) on or before

\_\_\_\_\_ (here insert a date seven (7) business days after the date of mailing or delivering the affidavit to the opposing party).

**Sec. 21-244. Rendering of final order; findings of fact; submission of proposed findings.**

(a) An administrative hearing officer shall render a final order in all cases brought before said officer.

(b) A final order shall include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.

(c) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

(d) If an individual serving or designated to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any existing record and may conduct any further proceedings as is appropriate in the interest of justice.

(e) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(f) A final order rendered pursuant to Subsection (a) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.

(g) The administrative hearing officer shall cause copies of the final order under Subsection (a) to be delivered to each party.

**Sec. 21-245. Final order effective date.**

(a) All final orders shall state when the order is entered and effective.

(b) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order.

**Sec. 21-246. Collection of fines, judgments and debts.**

The City may collect a fine levied pursuant to this Article by any legal means available to a municipality to collect any other fine, judgment or debt.

**Sec. 21-247. Judicial review of final order.**

(a) A person who is aggrieved by a final decision in a contested case is entitled to judicial review as provided in T.C.A. § 6-54-1017, which shall be the only available method of judicial review.

(b) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court for Hamilton County. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.

(c) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.

(d) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

(f) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this Article. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.

(g) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.



(h) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the administrative hearing officer;
- (3) Made upon unlawful procedure;
- (4) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (5) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

(i) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

(j) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record.

**Sec. 21-248. Appeal to court of appeals.**

(a) An aggrieved party may obtain a review of any final judgment of the chancery court by appeal to the court of appeals of Tennessee.

(b) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to Title 24 shall become a part of the record.

(c) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure.

**Sec. 21-249 – 21-260. Reserved.**

SECTION 2. BE IT FURTHER ORDAINED, That it is hereby amending the Chattanooga City Code, Part II, Chapter 18, Sections 18-158 through 18-170, by deleting same

in their entirety.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect ninety (90) days from and after its passage.

Passed on second and final reading: March 12, 2019

  
\_\_\_\_\_  
CHAIRPERSON

APPROVED:  DISAPPROVED:

  
\_\_\_\_\_  
MAYOR

MJF/mem/v13/2.27.19