ORDINANCE NO. 11345

AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE, CHAPTER 18, ARTICLE VII, SECTION 18-123(h); CHAPTER 21, ARTICLE I, SECTIONS 21-1 THROUGH 21-25; CHAPTER 21, ARTICLE II, SECTIONS 21-26, 21-28, 21-30; CHAPTER 21, ARTICLE III, SECTIONS 21-36 AND 21-40; CHAPTER 21, ARTICLE VII, SECTIONS 21-101 AND 21-123; CHAPTER 24, ARTICLE X, DIV. 3, SECTIONS 24-341(c) AND 24-345(c); CHAPTER 31, ARTICLE I, SECTION 31-2(b); AND CHAPTER 32, ARTICLE VIII, SECTION 32-174, RELATIVE TO NEIGHBORHOOD SERVICES.

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WHEREAS, T.C.A. §§13-21-101 through 13-21-208, power is conferred on municipalities to exercise their police powers to repair, close or demolish certain unfit, dilapidated, defective, unsafe or unsanitary dangerous structures in the manner therein provided; and

WHEREAS, The City Council of the City of Chattanooga finds that there exists in Chattanooga 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, and 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 Chattanooga;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, as follows:

SECTION 1. That Chattanooga City Code, Part II, Chapter 18, Article VII, Section 18-123(h) is amended by deleting “Better Housing Commission” and replacing in lieu thereof “Public Officer of the Department of Neighborhood Services”.

SECTION 2.That Chattanooga City Code Part II, Chapter 21, Article I, Sections 21-1 through 21-25 be and is hereby amended by deleting the same in its entirety and inserting in lieu thereof the following:

**Sec. 21-1.Scope.**

The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitutes minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

This 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 occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety required herein.

**Sec. 21-2.Effect of provisions on other ordinances,** **power**

**of city.**

Nothing in this Article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to their removal or abatement by summary procedures or otherwise. The measures and procedures provided in this Article do not supersede and the Article does not repeal any other measures or procedures which are provided by this Code for the elimination, repair or correction of the conditions referred to in this Article, but the measures and procedure herein provided for shall be in addition to all other powers and authority of the City or inspector.

**Sec. 21-3.General.**

Any requirement not specifically covered by this Code, found necessary for the safety, health and general welfare of the occupants of any dwelling and of the public, shall be determined by the Code Official subject to a hearing before the public officer.

**Sec. 21-4.Definitions.**

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section.

*Accessory Structure* means all structures including detached garages, storage buildings, fences and walls and other similar type structures.

*Alter or Alteration* means change or modification in construction or occupancy.

*Approved* shall mean approved by the building official.

*Basement* shall mean a portion of a building located partly underground but having less than one-half (1/2) or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

*Building* shall mean any structure or part thereof not a dwelling as defined in this Section.

*Building Code* shall mean the building code officially adopted by the legislative body of this jurisdiction, or such other code as may be officially designated by the legislative body of the jurisdiction for the regulation of construction, alteration, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures.

*Building Official* shall mean the officer, or other person, charged with the administration and enforcement of Municipal Building Codes or his duly authorized representative.

*Cellar* shall mean a portion of a building located partly or wholly underground, having one-half (1/2) or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

*Code Official* shall mean the officer, or other person, charged with the administration and enforcement of this code or any duly appointed representative.

*Condemn* shall mean to adjudge unfit for use or occupancy.

*Dwelling* shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and including any accessory structure, outhouse and appurtenances belonging thereto or usually enjoyed therewith.

*Dwelling Unit* shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking or eating.

*Extermination* shall mean the control and extermination of insects, rodents, or other pests, eliminating their harborage places by removing or making inaccessible materials that may serve as their food by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

*Family* shall mean one (1) or more persons living together whether related by blood, marriage or adoption, and having common housekeeping facilities.

*Floor Area* shall mean the total area of all habitable space in a building or structure.

*Garbage* shall mean the animal and vegetable waste resulting from handling, preparation, cooking and consumption of food.

*Habitable Room* shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets and storage spaces.

*Infestation* shall mean the presence within a dwelling of insects, rodents or other pests.

*Inspector* shall mean the code enforcement inspector of the city.

*Multiple Dwelling* shall mean any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of more than two (2) families living independently of each other and doing their own cooking in such building, and shall include flats and apartments.

*Nuisance* - the following shall be defined as nuisances:

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 building, on the premises of a building, 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, fences, debris or vegetation which may prove a hazard for inquisitive minors.

3.Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.

4.Overcrowding a room with occupants.

5.

Insufficient ventilation or illumination.

6.Inadequate or unsanitary sewage or plumbing facilities.

7.Uncleanliness, as determined by the health officer.

8.Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

*Occupant* shall mean any person over one (1) year of age living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

*Openable Area* shall mean that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

*Owner* shall mean any person, agent, operator, firm, or corporation having a legal or equitable interest in the property, or recorded in the official record of the state, county or municipality as holding title to the property, or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

*Operator* shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

*Parties in Interest* shall mean all individuals, associations and corporations who have an interest of record in a dwelling or building or who are in possession thereof.

*Plumbing* shall mean 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 building, structure or conveyance. Also, the practice and materials used in the installation, maintenance, extension or alteration of storm water, liquid waste, or sewerage and water supply systems, or any premises to their connection with any point of public disposal or other acceptable terminal.

*Premises* shall mean a lot, plot or parcel of land including the buildings or structures thereon.

*Public Areas* shall mean an unoccupied open space adjoining a building 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 Officer* shall mean the Administrator of the Department of Neighborhood Services or his designee who is authorized by this to exercise the power prescribed by this ordinance for enforcement of this code or Division 1 of the Municipal Court of the City of Chattanooga.

*Public Record* shall include deeds, deeds of trust and other instruments of record in the register's office of the county.

*Repair* shall mean 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 building, or 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 term "repair" or "repairs" shall not apply to any change of construction.

*Required* shall mean required by some provision of this chapter.

*Rooming House* shall mean any dwelling or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or occupant to three (3) or more persons who are not husband and wife, son or daughter, mother or father, sister or brother of the occupant.

*Rooming Unit* shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

*Rubbish* shall mean combustible and noncombustible waste materials except for garbage, and the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal mineral matter, glass crockery and dust.

*Stairway* shall mean one (1) or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

*Story* shall mean that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

*Structural Alteration* shall mean any change except for repair or replacement in the supporting members of a building, such as bearing walls, columns, beams or girders.

*Structure* shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof".

*Supplied* shall mean paid for, furnished, or provided by or under control of the owner or operator.

*Temporary Housing* shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

*Ventilation* shall mean the process of supplying and removing air by natural or mechanical means to or from any space.

*Workmanlike* shall mean that whenever the words "workmanlike construction" are used in this Code they shall mean that such maintenance and repair be made in a reasonably skillful manner.

*Yard* shall mean an open unoccupied space on the same lot with a building extending along the entire length or a street, or rear or interior lot line.

**Sec. 21-5.Approval**.

Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the Code Official shall have the authority to grant modifications for individual cases, provided the Code Official shall first find that special individual reason(s) makes the strict letter of the code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternate material 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 code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

Requiring testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, 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 jurisdiction.

**Sec. 21-6.Violations**.

Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

Notice of violation. The Code Official shall serve a notice of violation or order in accordance with Sec. 21-20.

Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Sec. 21-20 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to retrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

Violation penalties. Any person, who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal office of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent legal occupancy of a building, structure or premises, or to stop an illegal act, conduct business or utilization of the building, structure or premises.

**Sec. 21-7.Authority relative to unfit dangerous buildings.**

General. The Code Official shall order the owner of any premises upon which is located any structure, which in the Code Official’s judgment is so old, dilapidated or has become so out of repairs as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner’s option; or where there has been cessation of normal construction of any structure for a period of more than two (2) years, to demolish and remove such structure.

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, the owner may be required, within the time specified in the order, to remove or demolish such structure.

**Sec. 21-8.Duties of the Public Officer.**

The public officer shall have the authority to:

(1)Upon receipt of a report of housing inspectors, as provided in Section 21-10) of this Code, the Code Official shall give written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in such dwelling or building, as shown by the public records, ordering them to appear before the public officer on the date specified in the notice or show cause why the dwelling or building reported to be unfit for human habitation or a dangerous building should not be repaired or demolished in accordance with the statement of particulars set forth in the inspector's notice provided for in Section 21-11 of this Code. If a person notified fails to appear in person or through a representative, public officer shall hear testimony and notify such person of its decision. The public officer shall have authority to issue subpoenas for witnesses and administer oaths. Any person duly served with a subpoena failing to appear shall be guilty of a misdemeanor and punishable as such.

(2)Hold a hearing and hear such testimony as the inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in such building, as shown by the public records, shall offer relative to the dwelling or rooming house being unfit for human habitation or dangerous building.

(3)Make written findings of fact from the testimony offered pursuant to subsection (2) of this Section as to whether or not the dwelling or rooming house is unfit for human habitation or the building within the terms and provisions of Section 21-12 of this Code.

(4)Issue an order, based upon the findings of fact made pursuant to subsection (3) of this Section, commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in such dwelling, rooming house or building, as shown by the public records, to repair or demolish any dwelling or rooming house found to be unfit for human habitation or any building found to be a dangerous building within the terms and provisions of this Article; provided that, any person so notified shall have the privilege of either repairing such dwelling, rooming house or building or may demolish such dwelling, rooming house or building at his own risk to prevent the acquiring of a lien against the land upon which the dwelling, rooming house or building stands by the City, as provided in subsection (5) of this Section.

(5)If the owner, occupant, mortgagee, lessee or agent fails to comply with a lawful order provided for in subsection (4) of this Section within ten (10) days, public officer shall cause such dwelling or rooming house or building to be repaired or demolished, as the facts may warrant, under the criteria provided in Section 21-12 of this Code. If after proper notice and a hearing in accordance with T.C.A. § 13-21-103, the public officer finds that the structure under consideration is unfit for human occupation or use, they shall state in writing their findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(a)If the repair, alteration or improvement of the structure can be made at a reasonable cost which is less than 50% of the value of the structure, the owner shall be required within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure as a place of human occupation or use. Prior to reoccupying the premises, the owner shall obtain a certificate of occupancy from the **Code Official**. It shall be illegal for any person to reoccupy a structure found unfit for human occupation or use without first obtaining a certificate of occupancy from the **Code Official,** or,

(b)If the repair, alteration or improvement of the structure cannot be made at a reasonable cost which is less than 50% of the value of the structure, the owner may be required, within the time specified in the order, to remove or demolish such structure; or

(c)That the amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Public officer shall, upon the filing of a notice with the office of the Register of Deeds of the county in which the property lies, be assessed as a municipal 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 in accordance with T.C.A. § 13-21-103(6). This cost shall be placed upon the tax rolls of the municipality as a lien and shall be added to the property tax bills to be collected 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; or

(d)If the structure is removed or demolished by the public officer, it shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court by the public officer and shall be secured in such manner as may be directed by that Court, and shall be disbursed by that Court to the person found to be entitled thereto by final order of decree of such court; or

(e)The proceeds of all demolitions of housing in the City of Chattanooga after collection by the Back Tax Attorney shall be placed in an account which shall be utilized to sustain continuing demolition of substandard housing in the City.

6)Report to the City Attorney the names of all persons not complying with the order provided for in subsection (4) of this Section.

**Sec. 21-9.Emergency measures.**

Imminent danger. When, in the opinion of the Code Official, there is imminent danger of failure or collapse of a building or 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 building 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 order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: “This structure is unsafe and its occupancy has been prohibited by the Code Official.” It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the Code Official, there is imminent danger due to an unsafe condition, 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.

Closing of 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.

Emergency Repairs. For the purpose of this section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

Cost of emergency repairs. 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 premises where the unsafe structure is or was located for the recovery of such costs.

Emergency repair or demolition**.**

In cases where it reasonably appears there is immediate danger to the life or safety of any person unless a dwelling or rooming house unfit for human habitation or a dangerous building as defined in this article is immediately repaired or demolished, the inspector shall place a condemnation sign in the form prescribed by Section 21-13(9), upon such building, and shall immediately report the facts to the Code Official and to the Chief Building Official of the City. The Code Official and/or the Chief Building Official of the City shall cause the immediate repair or demolition of such dwelling, rooming house or building. The cost of such emergency demolition by the City of rooming house or building shall be a lien and be collected, charging the cost thereof as a portion of the real estate taxes for the current year.

(Code 1986, § 21-15; Ord. No. 9808, § 1, 11-12-92)

**Sec. 21-10.Duties of housing code official and housing code inspectors.**

General. The Code Official shall enforce the provisions of this code.

1)Rule-making authority. The Code Official shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climate or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating engineering methods involving public safety.

2)Right of entry. The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

3) It shall be a violation of their ordinance if any owner, occupant or other person in charge of a structure subject to the provisions of this Code 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 administrative authority may seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference.

4)All housing inspectors shall inspect any dwelling, building, rooming house, wall or structure about which complaints are filed by any person to the effect that a dwelling, building, rooming house, wall or structure is, or may be, existing in violation of this article.

5)All housing inspectors shall inspect any dwelling, building, rooming house, wall or structure reported by the fire or police department, department of health or municipal judge as probably existing in violation of the provisions of this article.

6)The Code Official shall notify, in writing, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in such dwelling, building or rooming house, as shown by the public records, found by a housing code inspector to be a dwelling unfit for human habitation or a dangerous building within the standards set forth in this Code that:

(a)The owner shall repair or demolish such dwelling, rooming house or building in accordance with the terms of the notice of this article.

(b)The occupant or lessee must vacate such dwelling, rooming house or building, or must have it repaired in accordance with the notice and remain in possession.

(c)The mortgagee, agent or other person having an interest in such dwelling, rooming house or building, as shown by the public record may, at his own risk, repair or demolish the dwelling, rooming house or building or have such work or act done, provided that any person notified under this subsection to repair or demolish any dwelling, rooming house or building shall commence within a reasonable time, not exceeding thirty (30) days, and complete such work within a reasonable length of time as may be necessary to do, or have done, as required by the notice provided herein.

(d)The above time limits may be extended at the discretion of the Code Official, administrator or his designated appointee.

The Code Official and housing inspectors shall set forth in the notice provided for in subsection (5) of this section a description of the dwelling or building or rooming house deemed unsafe, a statement of the particulars which make the dwelling or rooming house unfit for human habitation, or the building a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this article.

(7)The Code Official and housing inspectors shall appear at hearings or in any court of competent jurisdiction to testify as to the condition of any dwellings or rooming houses unfit for human habitation, and/or dangerous buildings.

(8)The Code Official shall direct a notice to be posted on all dwellings or rooming houses unfit for human habitation and/or dangerous buildings, which shall contain the following language:

"*THIS BUILDING HAS BEEN FOUND TO BE UNFIT FOR HUMAN HABITATION AND A DANGEROUS BUILDING BY THE INSPECTOR. THIS NOTICE IS TO REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED OR DEMOLISHED IN ACCORDANCE WITH THE NOTICE, WHICH HAS BEEN GIVEN THE OWNER, OCCUPANT, LESSEE, MORTGAGEE OR AGENT OF THIS BUILDING. IT IS UNLAWFUL TO REMOVE THIS NOTICE UNTIL SUCH NOTICE IS COMPLIED WITH*."

(9)The powers and duties conferred upon housing inspectors by this article shall be in addition and supplemental to the powers conferred upon the inspector by any other ordinance or code provision of the City.

Code 1986, § 21-9; Ord. No. 9808, § 1, 11-12-92)

**Sec. 21-11.Condemnation standards.**

General. When a structure, equipment or property is found by the Code Official to be unsafe, or when a structure or property is found unfit for human occupancy, or use, or is found unlawful, such structure or property shall be condemned pursuant to the provisions of this code.

Unsafe structure. An unsafe structure is one thaCopyright and DisclaimerThe State of South Carolina owns the copyright to the Code of Laws of South Carolina, 1976, as contained herein. Any use of the text, section headings, or catchlines of the 1976 Code is subject to the terms of federal copyright and other applicable laws and such text, section headings, or catchlines may not be reproduced in whole or in part in any form or for inclusion in any material which is offered for sale or lease without the express written permission of the Chairman of the South Carolina Legislative Council or the Code Commissioner of South Carolina.This statutory database is current through the 2001 Regular Session and the 2001 Extra Session of the South Carolina General Assembly. Changes to the statutes enacted by the 2002 General Assembly, which will convene in January 2002, will be incorporated as soon as possible. Some changes enacted by the 2002 General Assembly may take immediate effect. The State of South Carolina and the South Carolina Legislative Council make no warranty as to the accuracy of the data, and users rely on the data entirely at their own risk.The Legislative Council by law is charged with compiling and publishing the 1976 Code and it is maintained in a database which may be accessed for commercial purposes by contacting the Legislative Council or the office of Legislative Printing, Information and Technology Systems.CHAPTER 15. DWELLINGS UNFIT FOR HUMAN HABITATIONARTICLE 1. IN MUNICIPALITIES OF OVER 1,000SECTION 311510. Definitions. The following terms whenever used or referred to in this article shall have the following respective meanings for the purposes of this article, unless a different meaning clearly appears from the context: (1) “Municipality” shall mean any city or town regardless of population; (2) “Governing body” shall mean the council or other legislative body charged with governing a municipality; (3) “Public officer” shall mean the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinances and by this article; (4) “Public authority” shall mean any housing authority or any officer who is in charge of any department or branch of the government of the municipality or State relating to health, fire or building regulations or to other activities concerning dwellings in the municipality; (5) “Owner” shall mean the holder of the title in fee simple and every mortgagee of record; (6) “Parties in interest” shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof; and (7) “Dwelling” shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. SECTION 311520. Repairing, closing or demolishing unfit dwellings. Whenever any municipality of this State finds that there exist in such municipality dwellings which are unfit for human habitation due to (a) dilapidation, (b) defects increasing the hazards of fire, accidents or other calamities, (c) lack of ventilation, light or sanitary facilities or (d) other conditions rendering such dwellings unsafe or insanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of such municipality, such municipality may exercise its police powers to repair, close or demolish any such dwelling in the manner herein provided. SECTION 311530. Provisions permitted to be included in ordinances relating to unfit dwellings. Upon the adoption of an ordinance finding that dwelling conditions of the character described in Section 311520 exist within a municipality, the governing body of such municipality may adopt ordinances relating to the dwellings within such municipality which are unfit for human habitation. Such ordinances may include the following provisions: (1) That a public officer be designated or appointed to exercise the powers prescribed by the ordinances; (2) That whenever a petition is filed with the public officer by a public authority or by at least five residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and all parties in interest in such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than thirty days after the serving of such complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer; (3) That if, after such notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order (a) if the repair, alteration or improvement of the t is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundations, that partial or complete collapse is possible.

Unsafe equipment. Unsafe equipment includes, but is not limited to, 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 public or occupants of the premises or structure.

Unsafe property. Unsafe property is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the property.

Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the Code Official finds that such structure is unsafe, unlawful, or unsanitary because of the degree to which the structure is in disrepair or lacks maintenance, is vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to laws, or where activities by the occupants of the structure are in violation of established state or local laws.

**Sec. 21-12.Defects constituting unfitness or dangerousness.**

All dwellings, dwelling units and/or buildings, which have any or all of the following defects shall be deemed unfit for human habitation or shall be deemed dangerous buildings:

(1)Those 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 shall fall outside of a distance of its base equal to one-third (1/3) the thickness of such member.

(2)Those which, exclusive of the foundation, have support members which have deteriorated to such an extent as to be unable to safely support the applied loads or which have forty (40) percent damage or deterioration of the non-supporting enclosing or outside walls or covering.

(3)Those which have 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.

(4)Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the City.

(5)Those which have parts thereof which are so attached that they may fall and injure persons or property.

(6)Those which do not have an unobstructed means of egress leading to an open space at ground level.

(7)Those which do not have the window area for each habitable room equal to at least eight (8) percent of the total floor area of such room.

(8)Those which do not have ventilation provided by windows equal to a minimum of 45% of the openable window area size of each room, except where there is supplied some device affording adequate ventilation and approved by the inspector.

(9)Those having habitable rooms with a ceiling height less than seven (7) feet throughout one-half (1/2) of the area of such room. Any portion of a room having a ceiling height less than five (5) feet high shall not be considered in computing the total floor area for such room.

(10)Those which do 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.

(11)Those which do not have an installed tub or shower and lavatory properly connected to the water pipes and sewer system.

(12)Those which do not have a flush-type water closet located in a room affording privacy and properly connected to the water pipes and sewer system.

(13)Those which do 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 Electrical Code of the City.

(14)Those which, where heat is not furnished from a central heating plant, do not have fireproof chimney flues so that heating habitable rooms can be operated. Heating equipment, whether installed by the owner or occupant, must be properly vented and maintained in good order and repair.

(15)Those dwellings or buildings or rooming houses existing in violation of any of the building, plumbing or health codes or other ordinances or codes of the City.

(Code 1986, § 21-11; Ord. No. 9808, § 1, 11-12-92)

**Sec. 21-13.Unfit,** **dangerous** **buildings** **declared** **nuisances; repair, demolition.**

All dwellings or rooming houses unfit for human habitation and/or all dangerous buildings within the terms of Section 21-14 of this Code are hereby declared to be public nuisances and shall be repaired or demolished and debris removed from the site as provided in this Article. The following criteria shall be used by the housing inspectors and the Code Official in ordering repair or demolition.

(1)If the dwelling or rooming house unfit for human habitation or dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this Article or other ordinances of the City, it shall be ordered repaired.

(2)In any case where a dwelling or rooming house unfit for human habitation or a dangerous building is found by the Code Official to be fifty percent (50%) damaged or decayed or deteriorated, it shall be demolished. In all cases where it is found by the Code Official that a dwelling or a building or a rooming house cannot be repaired so that it will no longer exist in violation of the terms of this Article, it shall be demolished. In all cases where it is found by the Code Official that a dwelling or a dangerous building or rooming house is a fire hazard, existing or erected in violation of the provisions of this Article or any ordinance of the City or statute of the state, it shall be demolished.

(3)In all cases of demolition, each structure is to be completely demolished, 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.

(Code 1986, § 21-12; Ord. No. 9808, § 1, 11-12-92)

### Sec. 21-14.Posting record of condemnation and certificate

**of occupancy.**

All structures condemned under this Code shall be registered in the office of the Building Official for the City of Chattanooga. Any owners or interested party desiring to rehabilitate a structure or satisfy the requirements of this provision shall be required to secure a permit from the Building Official for the City of Chattanooga. Upon satisfactory completion of the provisions of this Article a certificate of occupancy shall be issued by the Building Official. A certificate of occupancy is required before renting, leasing or occupying a condemned structure.

(Ord. No. 9808, § 1, 11-12-92)

**Sec. 21-15.Renting buildings unfit for habitation prohibited.**

It shall be unlawful for any owner or party in interest of a dwelling or of a building to rent or offer for rent any dwelling or building or rooming unit which is unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, and due to other conditions rendering such dwelling or building or rooming unit 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. A certificate of occupancy shall be obtained from the Building Official of the City of Chattanooga before renting, leasing or occupying any condemned structure. (Code 1986, § 21-10; Ord. No. 9808, § 1, 11-12-92)

**Sec. 21-16.Transfer of ownership.**

It shall be unlawful for the owner of any dwelling unit or structure who has received compliance order, or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order, or notice of violation has been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation 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 compliance order or notice of violation for making the corrections or repairs required by such compliance order or notice of violation.

(Ord. No. 9808, § 1, 11-12-92)

**Sec. 21-17.Mailing, posting of notices and orders.**

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the City, all notices or orders provided for herein shall be sent by certified mail, return receipt requested to the last known address of any owner, occupant, mortgagedwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation or (b) if the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to remove or demolish such dwelling; (4) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered or improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: “This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful”; (5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished; and (6) That the amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and shall be collectible in the same manner as municipal taxes. (7) If a municipality in demolishing unfit dwellings as permitted by this article contracts with a third party not employed by the municipality to do the work, it must bid the work in conformity with the procurement code applicable to the municipality. SECTION 311540. Power of municipality to declare nuisances not impaired. Nothing in Section 311530 shall be construed to impair or limit in any way the power of a municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. SECTION 311550. Standards in ordinances for determining fitness of dwelling for human habitation. An ordinance adopted by a municipality under this article shall provide that a public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of such municipality. Such conditions may include the following (without limiting the generality of the foregoing): Defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanliness. The ordinance may provide additional standards to guide the public officer or his agents in determining the fitness of a dwelling for human habitation. SECTION 311560. Service of complaints or orders; posting and filing copies. Complaints or orders issued by a public officer pursuant to an ordinance adopted under this article shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing it once each week for two consecutive weeks in a newspaper printed and published in the municipality or, in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of the county in which the dwelling is located and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. SECTION 311570. Rights of persons affected by orders. Any person affected by an order issued by a public officer may within sixty days after the posting and service of the order petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause. Hearings shall be had by the court on such petitions within twenty days or as soon thereafter as possible and shall be given preference over other matters on the court’s calendar. The 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 compliance by such person with any ordee, lessee and all other persons having an interest in the dwelling, rooming house or building, as shown by the public records, to the last known address of each, and a copy of such notice shall also be posted in a conspicuous place on the dwelling, rooming house or building to which it relates.

(Code 1986, § 21-16; Ord. No. 9808, § 1, 11-12-92)

**Sec. 21-18.General cleanliness, freedom from infestation.**

It shall be the duty of an inhabitant of any dwelling or rooming house or occupant of any building to keep that portion of the property which he occupies, or over which he has exclusive control, clean and free from any accumulation of dirt, filth, rubbish, garbage or similar matter, and free from rodent or vermin infestation. If an occupant shall fail to keep his portion of the property clean, a housing inspector shall send a written notice to the occupant to abate the nuisance within the time specified in such notice. Failure of an occupant to comply with such notice shall be deemed a violation of this Article and shall constitute a public nuisance.

(Code 1986, § 21-18; Ord. No. 9808, § 1, 11-12-92)

**Sec. 21-19.Workmanlike construction.**

All repairs, maintenance work, alterations or installations which are required for compliance with this Code shall be executed and installed in a workmanlike and acceptable manner so as to secure the results intended by this Code.

(Ord. No. 9808, § 1, 11-12-92)

**Secs. 21-20 -- 21-25. Reserved.**

SECTION 3.BE IT FURTHER ORDAINED, That Chattanooga City Code, Chapter 21, Article II, Section 21-26 is deleted in its entirety and inserting in lieu thereof the following.

**Sec. 21-26.Grading and drainage.**

The premises shall be graded and maintained so as to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Stagnant water shall be determined as any accumulation that has not dispersed within seven (7) days of the last recorded local rainfall.

SECTION 4BE IT FURTHER ORDAINED, That Chattanooga City Code, Chapter 21, Article II, Section 21-28 is deleted in its entirety and inserting in lieu thereof the following.

**Sec. 21-28.Accessory structures.**

Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.

Swimming pools shall be maintained in a clean and sanitary condition, in good repair and to prevent the accumulation of stagnant water.

SECTION 5.BE IT FURTHER ORDAINED, That Chattanooga City Code, Chapter 21, Article II, Section 21-30 is deleted in its entirety and inserting in lieu thereof the following:

**Sec. 21-30(a)**

Every person owning or having charge or control of any unsecured building shall remove all combustible waste and refuse therefrom and lock, barricade or otherwise secure all windows, doors and openings in the building to prohibit entry by unauthorized persons.

**Sec. 21-30(b)**

An unsecured vacant building that is barricaded pursuant to this section shall be barricaded by using one half (1/2) inch plywood board. Any board placed on an unsecured, vacant building 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 building.

SECTION 6.BE IT FURTHER ORDAINED, That Chattanooga City Code, Chapter 21, Article II, Section 21-36 is amended by deleting “thirty-four” and replacing in lieu thereof “forty (40).”

SECTION 7.BE IT FURTHER ORDAINED, That Chattanooga City Code, Chapter 21, Article II, Section 21-40 is deleted in its entirety and inserting in lieu thereof the following:

**Sec. 21-40.Defacement of Property.**

1.All supporting structural members of all buildings shall be kept structurally sound, free of deterioration and maintained capable of safely bearing the dead and live loads imposed upon them.

2.Every exterior wall shall be free of holes, breaks, loose or rotten boards or timbers. The exterior walls of all dwellings or buildings shall be substantially weather-tight, and shall be made impervious to the adverse effects of weather and shall be maintained in sound condition and good repair.

3.No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

4.It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

SECTION 8.BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 21, Article VII, Section 21-101 be and is hereby amended by deleting “Better Housing Commission” and replacing in lieu thereof “Department of Neighborhood Services”.

SECTION 9.BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 21, Article VII, Section 21-123 be and is hereby amended by deleting the same in its entirety and inserting in lieu thereof the following:

**Sec. 21-123.Vacant property review commission established.**

(a)There is hereby created and established a Vacant Property Review Commission referred to in this Division hereafter as the “Commission”. The “Commission” shall serve as a vacant property review commission which shall certify properties as blighted or detracted to the City Council.

(b)The “Commission” shall consist of five (5) persons who are qualified voters of the city, to be appointed by the mayor and confirmed by the City Council. They shall hold office for a term of three (3) years and until their successors are appointed. Provided, however, no officer of employee of the city whose duties include enforcement of local housing, building, plumbing, fire or related codes shall be appointed to the commission.

The members of the “Commission” shall serve without compensation.Three (3) members shall constitute a quorum for the transaction of business.

(c)The “Commission” shall meet in the assembly room at the City Hall at least as my be necessary. Special meetings may be called by the Chairman or by five (5) members upon giving notice to all members. The “Commission” shall keep a record of their proceeding.

SECTION 10.BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 24, Article X, Section 24-341(c) is deleted in its entirety and substituted in lieu thereof the following “*Discarded vehicle* shall mean any vehicle or part hereof which: is inoperative, wrecked, dismantled, partially dismantled or discarded for a period of more than ten (10) days.

SECTION 11.BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 24, Article X, Section 24-345(c) is amended by deleting “Better Housing Commission” and replacing in lieu thereof “Public Officer of the Department of Neighborhood Services”.

SECTION 12.BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 31, Article I, Section 31-2(b) is amended by deleting “inspector for the Better Housing Commission” and replacing in lieu thereof “Public Officer of the Department of Neighborhood Services”.

SECTION 13.BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 32, Article VIII, Section 32-174 is amended by deleting “an authorized inspector of the Better Housing Division” and replacing in lieu thereof “Inspector of the Department of Neighborhood Services”.

SECTION 14.BE IT FURTHER ORDAINED, That the provisions of this Ordinance are hereby declared to be severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 15.BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage, as provided by law.

PASSED on Third and Final Reading

November 12, 2002.S/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CHAIRPERSON

APPROVED: X DISAPPROVED: \_\_\_\_\_\_\_

DATE: November 15 , 2002

S/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR

Reviewed By: s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

KC/cw/pm*James S. Boney*