

TITLE 13**PROPERTY MAINTENANCE REGULATIONS****CHAPTER**

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CHAPTER 1**MISCELLANEOUS****SECTION**

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13-101. Contagious or infectious diseases. When any contagious or infectious disease is known or suspected to exist in any household of the city, it shall be the duty of the head of same, and also of the attending physician, if any, to immediately notify the city manager thereof, who shall in turn notify the city physician, and if he has any doubt in the matter, to investigate and report back to him without delay. It shall then be the duty of the city manager and city physician to take immediate steps looking to the quarantining of such house and in connection therewith notify the county public health director, for such assistance as may be required, and under whose direction the matter shall be taken. The city manager shall also notify the superintendent of schools that no child from any house where such disease exists shall be permitted to attend the public schools, until furnished with a clean health certificate from the county public health director. (1985 Code, § 12-1)

13-102. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations 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.

(2) Designation of public officer or department. The board of commissioners designates the director of development services and his/her subordinates in the department of development services to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the director of development services to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-102 of the Code of the City of Johnson City, Tennessee, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays, the director of development services shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties 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 office of the register of deeds in Washington, Carter, or Sullivan

County, as the case may be, 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 placed on the tax rolls of the municipality as a lien and shall be added to 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.

(5) Clean-up of 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 (excluding Saturdays, Sundays, and legal holidays), the director of development services shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds 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 (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the director of development services may appeal the determination and order to the board of commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of commissioners under subsection (6) above may seek judicial review of, the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (Ord. #3024, Oct. 1991, as replaced by Ord. #4282-07, Jan. 2008, and amended by Ord. #4500-13, Aug. 2013)

13-103. Control of excessive vegetation. (1)(a) Except as otherwise described in this section, it is unlawful for any person or other legal entity owning, leasing, occupying or having control or management of any developed land or premises within the city limits to allow grass, vines, underbrush, or other vegetation (excluding cultivated flowers and gardens, ornamental grasses, cultivated trees, or cultivated shrubs) to exceed an overall height of twelve inches (12") above the ground, including that area up to and along the traveled portion of the street or public right-of-way adjacent to the respective parcel of land. Properties found to be in said condition will henceforth be declared a public nuisance, the public health, safety, and welfare requiring it. Each day's continuance of the condition above prescribed after written notice to the aforementioned person or legal entity from the city manager or his designee to abate the same shall constitute a separate offense.

(b) Except as otherwise described in this section, it is unlawful for any person or other legal entity owning, leasing, occupying or having control or management of any undeveloped land or premises within the city limits to allow grass, vines, underbrush, or other vegetation (excluding cultivated flowers and gardens, ornamental grasses, cultivated trees, or cultivated shrubs) to exceed a height of twenty-four inches (24") above the ground. Properties found to be in violation of this section will henceforth be declared a public nuisance, the public health, safety, and welfare requiring it. Each day's continuance of the condition above prescribed after written notice to the aforementioned person or legal entity from the city manager or his designee to abate the same shall constitute a separate offense.

(c) The following shall be exempt from the provisions of this section: undeveloped wooded areas where tree growth is in excess of ten feet (10') in height; lands specifically zoned or otherwise legally and actively used for agricultural purposes, including the cutting of hay, gardening, or growing of field crops; stream beds or banks, as well as all slopes covered with vegetation per the recommendation of the State of Tennessee for the purpose of erosion control; heavily wooded parcels of land where motorized equipment cannot safely maneuver; land that, because of its steepness and/or a prevalence of rocky outcroppings or wetlands, cannot be safely mowed using motorized equipment.

(2) As used in this section, the following phrases shall have the following meanings:

(a) "Developed land" means any privately owned parcel or portion thereof that contains (or has contained in the past) any building, structure, dwelling, or house used either wholly or in part for human occupation or habitation, either on a temporary or continuous basis, that is currently inhabited, vacant, or that has been previously removed, or that has located upon it (or has had located upon it in the past) any

parking area or driveway (whether paved or unpaved), or any other type of improvement. Subdivisions where streets have been constructed and a minimum of fifty percent (50%) of the subdivision lots have homes constructed or under construction shall also be classified as developed land.

(b) "Undeveloped land" means any privately owned parcel or portion thereof which does not contain, nor has in the past ever had located upon it any building, structure, dwelling or house, or parking area or driveway (whether paved or unpaved), or any other type of improvement. Subdivisions where streets have been constructed and less than fifty percent (50%) of the subdivision lots have homes constructed or under construction shall also be classified as undeveloped land.

(3) Pursuant to the general penalty as found in title 1, § 1-104 of the Code of the City of Johnson City, Tennessee, a violation of § 13-103 shall be punished by a fine of not more than fifty dollars (\$50.00) for each separate violation. Each day any violation of this section shall continue shall constitute a separate offense. (Ord. #3023, Oct. 1991, as replaced by Ord. #4370-09, Feb. 2010, and amended by Ord. #4520-13, Feb. 2014)

13-104. Blighted areas and dilapidation defined. (1) Blighted areas are areas (including slum areas) with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use, or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

(2) As used in this title, dilapidation means: extreme deterioration and decay due to lack of repairs or the care of the area. (Ord. #3343, Dec. 1995)

CHAPTER 2

HOUSING--IN GENERAL

SECTION

- 13-201. Definitions.
- 13-202. Construction.
- 13-203. Findings.
- 13-204. Provisions remedial.
- 13-205. Scope.
- 13-206. Impairment of other powers.

13-201. Definitions. The following words or expressions, whenever used in chapters 2-5 of this title, shall have for the purpose of those chapters the following respective meanings, unless a different meaning clearly appears from the context. Whenever the words “dwelling,” “dwelling unit,” “rooming house,” “rooming unit,” “premises” and “structure” are used in chapters 2-5 of this title, they shall be construed as though they were followed by the words “or any part thereof.”

(1) “Abandoned motor vehicle” is a motor vehicle that is in a state of disrepair and incapable of being moved under its own power.

(2) “Addition” is an extension or increase in floor area or height of a building or structure.

(3) “Alter” or “alteration” means any change or modification in construction or occupancy.

(4) “Apartment” means a dwelling unit as defined in this section.

(5) “Apartment house” is any building or portion thereof used as a multiple dwelling for the purpose of providing three (3) or more separate dwelling units which may share means of egress and other essential facilities.

(6) “Approved” means approved by the public authority or other authority having jurisdiction.

(7) “Basement” means that portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling, provided however, that the distance from grade to ceiling shall be at least four (4) feet six (6) inches.

(8) “Board of dwelling standards” shall mean the public officer or officers authorized by chapters 2-5 of this title to exercise the powers prescribed hereunder and by Tennessee Code Annotated, title 13, chapter 21, as it now reads or as it may hereafter be amended.

(9) “Building” means any structure, including modular and mobile homes, having a roof supported by columns or by walls and intended for the

shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" is construed as if followed by the words "or part thereof." (For the purpose of chapters 2-5 of this title, each portion of a building separated from other portions by a fire wall shall be considered as a separate building.)

(10) "Cellar" means that portion of a building, the ceiling of which is entirely below grade or less than four (4) feet six (6) inches above grade.

(11) "Dormitory" is a space in a unit where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room, or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks and ski lodges.

(12) "Dwelling" shall mean any building or structure or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging hereto or usually enjoyed therewith.

(13) "Dwelling unit" is a single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

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

(15) "Family" means one (1) or more persons occupying a single dwelling unit, whether related by blood, marriage or adoption, and having common housekeeping facilities.

(16) "Floor area" means the total area of all habitable space in a building or structure.

(17) "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(18) "Habitable room" is a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

(19) "Health officer" shall mean the person designated by the city to perform the functions of a health officer under this code and other laws or ordinances.

(20) "Hotel" is any building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

(21) "Infestation" means the presence, within or around a dwelling, of any insects, rodents or other pests.

(22) "Multiple dwelling" means any building, or portion thereof designed, constructed or reconstructed to be used as more than two (2) dwelling units, each independent of the other, including cooking facilities, and shall include flats and apartments.

(23) "Nuisances" include:

(a) Any public nuisance known as common law or in equity jurisprudence;

(b) Any attractive nuisance which may prove detrimental to children whether in building, on the premises of a building or upon an unoccupied lot. This includes unprotected (unscreened or unfenced) swimming pools; any abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors;

(c) Whatever is dangerous to human life or is detrimental to health, as determined by the health officer;

(d) Overcrowding a room with occupants;

(e) Insufficient ventilation or illumination;

(f) Inadequate or unsanitary sewage or plumbing facilities;

(g) Uncleanliness, as determined by the health officer; and

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

(24) "Openable area" or "window" shall mean that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

(25) "Owner" means the holder of any freehold estate, every mortgagee or trustee of record and every beneficiary of a trust deed.

(26) "Parties in interest" means all individuals, associations, partnerships, corporations and others who have interests of record in a dwelling and any who are in possession or occupancy thereof, but shall not include the United States of America on account of a tax lien.

(27) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(28) "Plumbing" means the practice, material 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 sewage,

and water-supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

(29) "Premises" means a lot, plot or parcel of land, including the buildings or structures thereon.

(30) "Public areas" means 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 incumbrances that might interfere with its use by the fire department.

(31) "Public authority" shall mean the chief building official of the city or his designee.

(32) "Public board" shall mean the board of dwelling standards.

(33) "Repair" means the replacement of existing work with the same kind of material 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 installations 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.

(34) "Required" means required by some provision of chapters 2-5 of this title..

(35) "Residential buildings" or "residential occupancy" means buildings in which families or households live or in which sleeping accommodations are provided, and all dormitories. Such buildings include, among others, the following: dwellings, multiple dwellings and rooming houses.

(36) "Rooming house" means any dwelling or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to not more than five (5) persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

(37) "Rooming unit" means 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.

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

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

(40) "Story" is that portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

(41) “Structure” shall mean any dwelling or place of public accommodation.

(42) “Supplied” means paid for, furnished or provided by or under control of, the owner or operator.

(43) “Temporary housing” means 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.

(44) “Value” shall mean that value stated as the “appraised” value on the tax assessment rolls of the City of Johnson City.

(45) “Ventilation” means the process of supplying and removing air by natural or mechanical means to or from any space.

(46) “Yard” means an open unoccupied space on the same lot with a building extending along the entire length of a street, or rear, or interior lot line. (1985 Code, § 13-1)

13-202. Construction. Should any question arise in the construction of chapters 2-5 of this title, it shall be determined in accordance with the state law authorizing the enactment of chapters 2-5. (1985 Code, § 13-2)

13-203. Findings. The board of commissioners finds that there exist in the city 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. (1985 Code, § 13-3)

13-204. Provisions remedial. Chapters 2-5 of this title are hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof--which are public safety, health and general welfare--through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of residential buildings. (1985 Code, § 13-4)

13-205. Scope. (1) The provisions of chapters 2-5 of this title shall apply to all buildings or portions thereof used, or designed or intended to be used, for human occupation or use, regardless of when such building may have been constructed.

(2) Chapters 2-5 of this title establish minimum standards for occupancy, and does not replace or modify standards otherwise established for

construction, replacement or repair of buildings except such as are contrary to the provisions of chapters 2-5.

(3) Buildings or structures moved into or within the jurisdiction shall comply with the requirements in the city's building code for new buildings. (1985 Code, § 13-5)

13-206. Impairment of other powers. Nothing in chapters 2-5 of this title shall be construed to abrogate or impair the powers of any department of this city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof. (1985 Code, § 13-6)

CHAPTER 3

HOUSING--PROCEDURES

SECTION

- 13-301. Creation of public board.
- 13-302. Petition procedures.
- 13-303. Conditions of unsuitability for human occupation or use.
- 13-304. Powers of public board.
- 13-305. Findings of fact.
- 13-306. Repair of conforming structures.
- 13-307. Repair or removal--nonconforming structures.
- 13-308. Repair or removal--structures containing nonconforming residential uses.
- 13-309. Letter of compliance.
- 13-310. Failure to comply--structure closed.
- 13-311. Failure to comply--board may effect remedy.
- 13-312. Remedy by board--lien.
- 13-313. Remedy by board--inspections.
- 13-314. Hardships; appeals.
- 13-315. Service of complaints or orders.

13-301. Creation of public board. A board of dwelling standards shall be designated and appointed by the board of commissioners to exercise the powers prescribed by this chapter. The board of dwelling standards shall consist of five (5) members who shall be qualified voters of the city and who shall serve at the pleasure of the board of commissioners. A majority of all its members shall constitute a quorum, which quorum shall be authorized to exercise the powers conferred on said public board by this chapter. (1985 Code, § 13-23)

13-302. Petition procedure. Whenever a petition is filed in writing with the board of dwelling standards by the public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupation or use, or whenever it appears to the board of dwelling standards or any of its members on its or his own motion that any structure is unfit for human occupation or use, the public board shall, if its preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest of such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the board of dwelling standards, or its designated agent, at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the 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 board. (1985 Code, § 13-24)

13-303. Conditions of unsuitability for human occupation or use.

The public board may determine that a structure is unfit for human occupation or use if it finds that conditions exist in structures which are dangerous or injurious to the health, safety or morals of the occupants of neighboring structures or other residents of the city; such conditions include defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. The public board also shall be guided by the minimum standards for base equipment and facilities contained in chapter 4 herein, and by titles 7 and 12 of this code. (1985 Code, § 13-25)

13-304. Powers of public board. The public board shall have and may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of chapters 2-5 of this title, including the following powers:

- (1) To investigate conditions in the city in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses, and receive evidence;
- (3) To enter upon premises for the purpose of making examinations, allowed by law, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession; and
- (4) To delegate any of its functions and powers under chapters 2-5 of this title to such officers and agents as it may designate. (1985 Code, § 13-26)

13-305. Findings of fact. If, after such notice and hearing as described hereinabove, the public board determines that the structure in consideration is unfit for human occupation or use, the board shall state in writing findings of fact in support of its determination and shall issue and cause to be served upon the owner an order:

- (1) If the repair, alteration, or improvement of the structure can be made at a reasonable cost in relation to the value of the structure requiring the owner, 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; or
- (2) If the repair, alteration, or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, requiring the

owner, within the time specified in the order, to remove or demolish such structure. (1985 Code, § 13-27)

13-306. Repair of conforming structures. (1) The provisions of chapters 2-5 of this title shall apply to any structure conforming to the provisions of the zoning code irrespective of when said structure was constructed, altered, or repaired.

(2) If, within any period of twelve (12) months, alterations or repairs costing in excess of fifty (50) percent of the replacement cost of the structure prior to any alterations are made to any existing structure, such structure shall be made to conform to the requirements of the building code of the city for new structures.

(3) If an existing structure is damaged by fire or otherwise in excess of fifty (50) per cent of its replacement cost at time of destruction, it shall be made to conform to the requirements of the building code of the city for new structures.

(4) If the cost of such alterations or repairs within any twelve-month period or the amount of such damage as referred to in subsection (3) is more than fifty (50) per cent of the replacement cost of the structure, the portions to be altered or repaired shall be made to conform to the requirements of the building code of the city for new structures to the extent that the public board may determine.

(5) Repairs and alterations not covered by the preceding subsections, and which will not extend or increase a hazard, may be made with the same kind of materials as those of which the structure is constructed, to the extent permitted by the public board.

(6) For the purpose of this section, the “value” of a structure shall be as determined by the public board. (1985 Code, § 13-28)

13-307. Repair or removal–nonconforming structures. Structures not conforming to the zoning code of the city may be repaired under the terms of and to the extent permitted by provisions of that code; otherwise said structures must be demolished and removed. (1985 Code, § 13-29)

13-308. Repair or removal–structures containing nonconforming residential uses. Structures occupied by nonconforming residential uses may be repaired for such uses under the terms of and only to the extent permitted by the provisions of the zoning code of the city; otherwise, the repair of the structure must be conducted to accommodate a use conforming to the zoning code, or else the structure shall be demolished and removed. (1985 Code, § 13-30)

13-309. Letter of compliance. A letter indicating compliance with the provisions of chapters 2-5 of this title may be issued by the public board. (1985 Code, § 13-31)

13-310. Failure to comply--structure closed. If the owner or parties in interest fail to comply with an order to repair, alter, or improve, or an order to vacate and close the structure, the public board may cause such structure to be repaired, altered, or improved, or to be vacated and closed, and may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human occupation or use; the use or occupation of this building for human occupation or use is prohibited and unlawful." The public board shall continue the closure of the structure until the repairs, alterations, or improvements are made. (1985 Code, § 13-32)

13-311. Failure to comply--board may effect remedy. If the owner or parties in interest fail to comply with an order to repair, remove, or demolish the structure, the public board may cause such structure to be repaired, removed, or demolished. (1985 Code, § 13-33)

13-312. Remedy by board--lien. The amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the city shall be a lien against the real property upon which such cost was incurred. If the structure is removed or demolished by the city, the city 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, shall be secured in such a manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court; provided, however, that the power of the city to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, shall not be impaired or limited by this section. (1985 Code, § 13-34)

13-313. Remedy by board--inspections. The public authority shall make or cause to be made inspections to determine the conditions of structures and premises in the interest of safeguarding the health, safety, and welfare of the occupants of said structures and of the general public. For the purpose of making such inspections, the public board and the public authority, or their agents or designees, are authorized to enter, examine, and survey at all reasonable times all structures and premises. The owner or occupant or person in charge of every structure shall give the public board or public authority, or their agents or designees, free access to such structures or premises at all

reasonable times for the purpose of such inspection, examination, or survey. (1985 Code, § 13-35)

13-314. Hardships; appeals. (1) Where the literal application of the requirements of chapters 2-5 of this title may cause undue hardship on an owner or tenant or when it is claimed that the true intent and meaning of chapters 2-5 or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal the allegations contained within the petition in the answer to the complaints at the time of the public hearing before the public board.

(2) All appeals from the decisions of the public board shall be to the chancery court as prescribed by Tennessee Code Annotated, § 13-21-106. (1985 Code, § 13-36)

13-315. Service of complaints or orders. Complaints or orders issued by the public board under chapters 2-5 of this title shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public board or any of its members or the public authority shall make an affidavit to that effect, then the serving of such complaint 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 Washington or Carter County and being circulated in the city. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the register's office of the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices as provided by law. (1985 Code, § 13-37)

CHAPTER 4**HOUSING--MINIMUM STANDARDS FOR BASE EQUIPMENT
AND FACILITIES****SECTION**

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- 13-438. Cleanliness.
- 13-439. Refuse disposal.
- 13-440. Care of premises.
- 13-441. [Deleted.]
- 13-442. Use and operation of supplied plumbing fixtures.

13-401. General. No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the requirements of this chapters 4 and 5 of this title. (1985 Code, § 13-53)

13-402. Sanitary facilities--required. Every dwelling unit shall contain no less than a kitchen sink, lavatory, tub or shower and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions. (1985 Code, § 13-54)

13-403. Sanitary facilities--location. (1) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower and lavatory shall be located in a room affording privacy to the user and such room shall have a minimum floor space of thirty (30) square feet, with no dimension less than four (4) feet.

(2) Bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed areas, not including kitchens or other food preparation areas. (1985 Code, § 13-55)

13-404. Water--generally. Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or shower an adequate supply of both cold water and hot water. All water shall be supplied through an approved distribution system connected to a potable water supply. (1985 Code, § 13-56)

13-405. Water--heating facilities. Every dwelling shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred twenty (120) degrees Fahrenheit. The minimum storage capacity of the water heater shall be thirty (30) gallons. Such water heating facilities shall be capable

of meeting the requirements of this section when the dwelling or dwelling unit heating facilities required under the provisions of chapters 2-5 of this title are not in operation. (1985 Code, § 13-57)

13-406. Cooking; heating. (1) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working conditions and are capable of safely and adequately heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least seventy (70) degrees Fahrenheit at a distance three (3) feet above floor level, under ordinary minimum winter conditions.

(2) Unvented fuel burning heaters shall be prohibited.

(3) All cooking and heating equipment and facilities shall be installed in accordance with the building, mechanical, gas or electrical code and shall be maintained in a safe and good working condition. Portable cooking equipment employing flame is prohibited. (1985 Code, § 13-58)

13-407. Garbage disposal facilities. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, type and location of which facilities or containers are approved by the city commission. (1985 Code, § 13-59)

13-408. Fire protection. A person shall not occupy as owner-occupant or shall let to another for occupancy, any building or structure which does not comply with the applicable provisions of the fire prevention code of the city. (1985 Code, § 13-60)

13-409. Light and ventilation-size. Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight (8) per cent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room. (1985 Code, § 13-61)

13-410. Light and ventilation—habitable rooms. (1) Every habitable room shall have at least one (1) window or skylight which can be easily opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least forty-five (45) per

cent of the minimum window area size or minimum skylight-type window size, as required, or shall have other approved, equivalent ventilation.

(2) Year-round mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes. Window type air-conditioning units are not included in this exception. (1985 Code, § 13-62)

13-411. Light and ventilation--bathroom. Every bathroom shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an approved ventilating system. (1985 Code, § 13-63)

13-412. Electricity--lights and outlets required. Where there is electric service available to the building structure, every habitable room or space shall contain at least two (2) separate and remote convenience outlets, and bedrooms shall have, in addition, at least one (1) wall switch controlled ceiling or wall type light fixture. In kitchens, three (3) separate and remote convenience outlets shall be provided, and a wall or ceiling type light fixture controlled by a wall switch shall be required. Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one (1) electric fixture. In bathrooms the electric light fixture shall be controlled by a wall switch. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one (1) convenience outlet. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in a safe manner. (1985 Code, § 13-64)

13-413. Electricity--public halls; stairways. Every common hall and inside stairway in every building, other than one-family dwellings, shall be adequately lighted at all times with an illumination of at least one (1) foot candle intensity at the floor in the darkest portion of the normally traveled stairs and passageways. (1985 Code, § 13-65)

13-414. Electricity--minimum requirements. Every electrical outlet and fixture required by this chapter shall be installed, maintained and connected to a source of electric power in accordance with the provisions of the city's electrical code. (1985 Code, § 13-66)

13-415. Foundation. The building foundation system shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon. (1985 Code, § 13-67)

13-416. Exterior walls. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All siding material shall be kept in repair. (1985 Code, § 13-68)

13-417. Roofs. Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building. (1985 Code, § 13-69)

13-418. Means of egress. Every dwelling unit shall have safe, unobstructed means of egress with a minimum ceiling height of seven (7) feet leading to a safe and open space at ground level. Stairs shall have a minimum head room of six (6) feet eight (8) inches. (1985 Code, § 13-70)

13-419. Stairs; porches. Every inside and outside stair, porch and any appurtenance thereto shall be safe to use; shall be capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair. (1985 Code, § 13-71)

13-420. Protective railings. Protective railings shall be required on any unenclosed structure over thirty (30) inches from the ground level or on any steps containing four (4) risers or more. (1985 Code, § 13-72)

13-421. Windows; doors. Every window, exterior door and basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair. (1985 Code, § 13-73)

13-422. Windows-glazed. Every window sash shall be fully supplied with glass window panes or an approved substitute which is without open cracks or holes. (1985 Code, § 13-74)

13-423. Windows-sash. Window sash shall be properly fitted and weathertight within the window frame. (1985 Code, § 13-75)

13-424. Windows--openable. Every window required for light and ventilation for habitable rooms shall be capable of being easily opened and secured in position by window hardware. (1985 Code, § 13-76)

13-425. Hardware generally. Every exterior door shall be provided with proper hardware and maintained in good condition. (1985 Code, § 13-77)

13-426. Door frames. Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building. (1985 Code, § 13-78)

13-427. Screens. Every door opening directly from a dwelling unit to outdoor space shall have screen doors with a self-closing device; and every window or other device opening to outdoor space, used or intended to be used for ventilation, shall likewise have screens. (1985 Code, § 13-79)

13-428. Protective treatment. All exterior wood surface, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. (1985 Code, § 13-80)

13-429. Accessory structures. Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition. (1985 Code, § 13-81)

13-430. Interior floor, walls, ceilings. (1) Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(2) Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition. (1985 Code, § 13-82)

13-431. Structural supports. Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon. (1985 Code, § 13-83)

13-432. Protective railings for interior stairs. Interior stairs and stairwells more than four (4) risers high shall have handrails located in accordance with the requirements of the building code. Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in good condition. (1985 Code, § 13-84)

13-433. Space-dwelling unit. Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor area per additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms. (1985 Code, § 13-85)

13-434. Space--sleeping rooms. In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof. (1985 Code, § 13-86)

13-435. Ceiling height. (1) Habitable (space) rooms other than kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than seven (7) feet. Hallways, corridors, bathrooms, water closet rooms and kitchens shall have a ceiling height of not less than seven (7) feet measured to the lowest projection from the ceiling.

(2) If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than five (5) feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof. (1985 Code, § 13-87)

13-436. Occupancy of dwelling unit below grade. No basement or cellar space shall be used as a habitable room or dwelling unit unless:

(1) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness;

(2) The total of window area in each room is equal to at least the minimum window area size as required in § 13-409;

(3) Such required minimum window area is located entirely above the grade of the ground adjoining such window area; and

(4) The total of openable window area in each room is equal to at least the minimum as required under § 13-410 of this chapter except where there is supplied some other device affording adequate ventilation. (1985 Code, § 13-88)

13-437. Sanitation. Every owner of a multiple dwelling shall be responsible for maintaining in a clean and sanitary condition the shared or common areas of the dwelling and premises thereof. (1985 Code, § 13-89)

13-438. Cleanliness. Every tenant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or which is provided for his particular use. (1985 Code, § 13-90)

13-439. Refuse disposal. Every tenant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in

the garbage disposal facilities or garbage or rubbish storage containers.(1985 Code, § 13-91)

13-440. Care of premises. It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items as listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from the public authority. (1985 Code, § 13-92)

13-441. [Deleted]. (1985 Code, § 13-93, as deleted by Ord. #4519-13, Feb. 2014)

13-442. Use and operation of supplied plumbing fixtures. Every tenant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof. (1985 Code, § 13-94)

CHAPTER 5

HOUSING- ROOMING HOUSES

SECTION

13-501. General.

13-502. License required.

13-503. Water closet; lavatory; bath facilities.

13-504. Water heater.

13-505. Floor area for sleeping purposes.

13-506. Exits.

13-507. Sanitation.

13-501. General. No person shall operate a rooming house, or shall occupy or let another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of every section of chapters 2-5 of this title except as these may be superseded by the provisions of this chapter pertaining to rooming houses. (1985 Code, § 13-106)

13-502. License required. No person shall operate a rooming house unless he holds a valid rooming house license. (1985 Code, § 13-107)

13-503. Water closet; lavatory; bath facilities. (1) At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever said facilities are shared.

(2) All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. (1985 Code, § 13-108)

13-504. Water heater. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. (1985 Code, § 13-109)

13-505. Floor area for sleeping purposes. Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (70) square feet of floor space and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (50) square feet of floor space for each occupant thereof. (1985 Code, § 13-110)

13-506. Exits. Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the building code of the city. (1985 Code, § 13-111)

13-507. Sanitation. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house; and he shall be responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator. (1985 Code, § 13-112)

CHAPTER 6**TREE ORDINANCE****SECTION**

- 13-601. Title.
- 13-602. Purpose.
- 13-603. Definitions.
- 13-604. Tree and appearance board.
- 13-605. City forester.
- 13-606. Interference with city forester.
- 13-607. Right to appeal decision of city forester.
- 13-608. Public tree care.
- 13-609. Obstructions.
- 13-610. Permits required.
- 13-611. Utility responsibility on private property.
- 13-612. Dead or diseased tree removal on private property.
- 13-613. Violations declared nuisance.
- 13-614. Notice requiring abatement of violations; abatement by city; lien for costs.
- 13-615. Violation and penalty.
- 13-616. Duty.

13-601. Title. This ordinance shall be known and may be cited as the Johnson City Tree Ordinance. (Ord. #3790, Dec. 2000)

13-602. Purpose. Street trees and plantings on public grounds constitute an important public asset of the City of Johnson City enhancing the attractiveness and environmental health of the city, thereby promoting the general and economic well-being of the city. Urban trees are a fragile public resource and may be damaged or destroyed through malicious, careless, or even well-intentioned actions. This public resource may best be improved and protected by a program of comprehensive management and regulation of planting, maintenance, and removal, administered within the government of the city. The goals for the tree program shall be to establish and maintain maximum tree coverage standards; maintain trees in a healthy condition; establish and maintain the optimum level of age and species diversity in the urban forest; promote the conservation of tree resources; select, situate and maintain, street trees appropriately so as to minimize hazard, nuisance, landscape damage, and maintenance costs; maintain the management of the urban forest under a city forester with the necessary expertise; promote the efficient and cost effective management of the urban forest; and foster

community support for the local urban forest program and encourage good tree management on privately owned properties. This program shall be known as the "Urban Forestry Program," or alternatively as the "Tree Program." (Ord. #3790, Dec. 2000)

13-603. Definitions. For the purpose of this ordinance the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the content, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

(1) "Aggrieved party." The owner of the underlying property or interest in property inclusive of or immediately bordering the site, which becomes the subject matter of a grievance, dispute, or controversy involving a decision of the city forester. This definition also includes any person directly receiving a permit, notice, order, directive, decision, or permit denial.

(2) "City." The City of Johnson City, Tennessee.

(3) "City forester." The city forester or other similarly qualified official designated by the city manager of the City of Johnson City, assigned to carry out the enforcement of this ordinance.

(4) "City property." All real property that is owned, controlled, or leased by the city or which is maintained by it, or any part of any public right of way.

(5) "Diameter at breast height (DBH)." A standard of measure of tree size, consisting of the diameter of the tree at a height of four and one-half (4.5) feet above the ground.

(6) "Governing body of the city." The Board of Commissioners of the City of Johnson City.

(7) "Highway or street." The entire width of every public way or right of way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular or pedestrian traffic.

(8) "Park." Shall include all city public parks.

(9) "Person." Any person, firm, partnership, association, public utility, private company, or organization of any kind.

(10) "Planting plan." A scaled drawing depicting all plant materials, specifications, and any other information required by the city forester for the evaluation of permit applications.

(11) "Property line." Shall mean the outer edge of the right of way of a highway, street, or public property, as the case may be.

(12) "Property owner." Shall mean the property owner of record or any person owning an interest in property.

(13) "Pruning standards." Generally accepted standards for pruning as defined in the current edition of pruning standards by the accredited standards committee, as may be from time to time amended.

(14) "Public trees." Shall include all shade and ornamental trees now or hereafter growing on any street, right of way, highway, park, or any other property owned or controlled by the city, including the term "street trees."

(15) "Right of way." That property located within and adjoining the public streets, roads, highways, and public easements within the city, which are owned, controlled, or otherwise maintained by the city.

(16) "Street trees." Trees, shrubs, bushes, and all other woody vegetation on land lying within the right of way on either side of any streets, avenues, highways, or ways within the city.

(17) "Topping." The severe cutting back of limbs or trunks within the canopy of a tree so as to remove the normal canopy and disfigure the tree.

(18) "Treelawn." That part of a street or highway right of way not covered by sidewalk or other paving, lying between the adjacent property line and that portion of the street or highway usually used for vehicular traffic.

(19) "Urban forestry program." Program for management of trees within the city as a public resource. (Ord. #3790, Dec. 2000)

13-604. Tree and appearance board. (1) The tree and appearance board, with the advice and consultation of the city forester, shall study the problems and the needs of the City of Johnson City in connection with its urban forestry program and recommend from time to time to the governing body of the city potentially desirable legislation concerning the tree program and related activities for the city.

(2) The tree and appearance board and the city forester shall assist the properly constituted officials of the city, as well as the governing body and citizens of the city, in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits, whether they be on private or public property.

(3) The tree and appearance board shall provide regular and special meetings at which the subject of trees, insofar as it relates to the city, may be discussed by the members of the governing body, officers and personnel of the city and its several divisions, and all others interested in the urban forestry program. (Ord. #3790, Dec. 2000)

13-605. Establishment of the position of city forester.

(1) Appointment. The city manager, in his or her sole discretion, has the sole authority to appoint a person to the position of the city forester, who shall be supervised and directed by such person as the city manager may designate.

(2) Authority. General. The city forester, under the supervision and control of the city manager or his designee, shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to promote safety and preserve the aesthetics of such public sites. The city forester shall create and implement with approval of the governing body the rules and regulations which shall be referred to as the Arboricultural Specifications and Standards of Practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets, parks, school grounds, and other public places in the city, and shall direct, regulate, and control the planting, maintenance, and removal of all trees growing now or hereafter in any public area of the city. He or she shall cause the provisions of this ordinance to be enforced. The city forester and the traffic engineer shall seek each other's advice in matters concerning trees, which may be a hazard to traffic safety. The city forester and the manager of operations and construction of the Johnson City Power Board shall seek each other's advice concerning trees that may be a hazard to electrical service. The city forester shall assist in educating the community, agencies, city boards, departments, and divisions of the city by:

- (a) Providing information and public relations to citizens and groups in the city regarding trees;
- (b) Maintaining a list of permitted and prohibited tree species;
- (c) Gathering information and publishing reports as needed about city tree resources;
- (d) Working with city departments to improve the understanding of trees and tree problems; and
- (e) Meeting regularly with the tree and appearance board (established by prior city commission resolution).

(3) Permit authority. The city forester shall have the authority to issue or deny permits for planting, maintenance, trimming, or removal of trees under his or her jurisdiction as authorized. It shall also be his or her duty to supervise or inspect all work done under a permit issued in accordance with the terms of this ordinance.

(4) Master street tree plan. The city forester shall formulate a master street tree plan with the advice of the tree and appearance board for submission to the city's governing body for final approval. The master street tree plan shall specify the species of trees to be planted on each of the streets or other public sites of the city. From and after the effective date of the master street tree plan, or any amendment thereof by the governing body, all planting of public trees shall conform thereto. The city forester, in consultation with the various city departments, shall consider all existing and future traffic, utility and

environmental factors and urban design criteria when selecting a specific species for each of the streets and other public sites of the city. (Ord. #3790, Dec. 2000)

13-606. Interference with city forester. No person shall hinder, prevent, delay, or interfere with the city forester or any of his or her assistants while engaged in carrying out the execution or enforcement of this ordinance; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by an aggrieved party. Upon approval of the governing body of the city, the city manager is authorized to bring suit for injunctive relief in the event any person violates this section. (Ord. #3790, Dec. 2000)

13-607. Right to appeal decision of city forester. Any aggrieved party shall have the right to appeal any decision of the city forester. If a party wishes to contest a decision he or she shall, within ten (10) business days from the date of receipt of such decision, request in writing a hearing before the city manager or his designee for a review of said decision. Any decision by the city manager or his designee shall be final, subject to appeal to a court of competent jurisdiction. (Ord. #3790, Dec. 2000)

13-608. Public tree care. (1) City authority on public grounds. The city shall have the right to plant, prune, maintain and remove trees, plants, branches and shrubs and supervise the same within the property lines of all streets, alleys, avenues, lanes, boulevards, public schools, public grounds, and parks, as it may deem necessary or desirable to promote public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(2) Private planting on public grounds. The planting of street trees by adjacent property owners is lawful, provided that the selection and location of said trees is in accordance with §§ 13-605 and 13-610 of this ordinance. Any trees planted pursuant to this paragraph shall become the absolute property of the city.

(3) Damage. Unless specifically authorized by the city forester, no person shall damage, cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, advertising posters, or other contrivance to any public tree; allow any gaseous, liquid, or solid substance which is harmful to trees to come in contact with any public tree.

(4) Topping. It shall be unlawful for any person, firm, or utility, to top any street tree, public tree, or other tree on public property. Trees on public property, within city right of way, or on city controlled property, severely damaged by storms or other causes, or certain trees under utility wires or other

obstructions where other pruning practices are impractical may be exempted from this provision by the written authorization of the city forester.

(5) Stumps. All stumps of removed street and park trees shall be removed to a depth of three inches (3") below existing grade.

(6) Construction protection. (a) All public trees on any street or other publicly owned or city controlled property near any excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches of diameter at breast height (DBH), whichever is greater, and all equipment and building material, dirt, or other debris shall be kept outside the barrier; provided, however that upon good cause shown the city forester may alter or waive the foregoing requirements in his or her discretion.

(b) No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit. Persons building a driveway within a radius of ten (10) feet from any public tree shall obtain a written permit from the city forester prior to obtaining required driveway permits from the building department of the city.

(c) No person shall deposit, place, store, or maintain upon any public place of the city any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the city forester. (Ord. #3790, Dec. 2000)

13-609. Obstructions. (1) Minimum clearances. Except where an electrical hazard is involved, it shall be the duty of any person or persons owning or occupying real property bordering on any street upon which private property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct the view of any street or alley intersection, or otherwise endanger the public. Where an electrical hazard is involved, it shall be the duty of the person or persons owning or occupying said property to contact the Johnson City Power Board to request the pruning of any offending trees involved with an electrical hazard. The minimum clearance of any overhanging portion thereof shall be eight (8) vertical feet over sidewalks and twelve (12) vertical feet over all streets and vehicular use areas except truck thoroughfares, which shall have a minimum clearance of fourteen (14) vertical feet.

(2) Street trees-- planting near fire hydrants, utilities. No street trees shall be planted closer than ten (10) linear feet to any fire hydrant. No street trees shall be planted closer than twenty (20) feet in a radius to any overhead

electrical, telephone, or other utility wires as measured from the base of the trunk to the vertical plane created by the nearest wire, unless specifically approved by the city forester as a low growth variety suitable for such location.

(3) Removal of dead, diseased, dangerous trees/limbs on private property. Owners and occupiers of property shall remove all dead, diseased or dangerous trees, or broken or decayed limbs on their property, which constitute a menace to the safety of the public.

(4) Trees on private property; distance from overhead utility wires. No person shall plant a tree on private property closer than twenty (20) feet in a radius to any overhead electrical, telephone, or other utility wires that are within the public right-of-way as measured from the base of the trunk to the vertical plane created by the nearest wire, unless specifically approved by the city forester as a low growth variety suitable for such location. (Ord. #3790, Dec. 2000)

13-610. Permits required. (1) General. (a) Except as provided herein, no person shall plant, apply insecticide/pesticide, fertilize, paint, prune, remove, cut above ground, or conduct ground-disturbing activities within the drip line of, or otherwise disturb any public tree on any street or on city-owned or city-controlled property without first filing an application and procuring a written permit. For ground-disturbing activities specifically described in § 13-608(6)(b), the restrictions and distance requirements of said section shall control. The person receiving the permit shall abide by the standards of practice adopted by the city forester and by other reasonable conditions imposed by the city forester.

(b) Applications for permits must be made not less than forty-eight (48) hours in advance of the time the work is to be done. A permit fee is authorized and shall be set by resolution of the governing body of the city.

(c) The permit provided for herein shall be issued, if the proposed work and the proposed method and workmanship thereof are in compliance with the provisions of this ordinance. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

(d) Within five (5) days of completion the permittee shall notify the city and the city will make a final inspection. Upon approval after inspection, the city shall issue a notice of successful completion.

(e) General permits may be approved for governmental entities. In addition, such permits may be approved for public and private utility companies which install overhead or underground utilities (including cable television installations, street, and water and sewer installations

or other projects by or at the direction of the city); provided that the permit holder's written pruning and trenching specifications have been annually approved by the city forester; provided, further, that removal of any public tree shall have been specifically approved in advance by the city forester. Such general permits may be revoked upon written notice to the permit holder from the city forester in the event the permit holder fails to comply with the provisions of this ordinance or with the conditions of the permit.

(2) Planting. (a) Application data. The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the city forester shall find reasonably necessary for a fair determination of whether a permit should be issued. A planting plan shall be required and submitted to the city forester for his or her approval if fifteen (15) or more trees or shrubs are to be planted.

(b) Improper planting. Any tree planted in a manner in conflict with the provisions of this section shall be subject to removal at the sole expense of the person performing the improper planting.

(3) Maintenance. Application data. The application for maintenance required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise maintained; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the city forester shall find reasonably necessary for a fair determination of whether a permit should be issued.

(4) Removal, replanting and replacements. (a) Wherever it is necessary for the city to remove a tree or trees from a treelawn in connection with the paving of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the city may replant such trees or replace them. If conditions prevent planting within the treelawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the master street tree plan are planted in an attractive manner on city property near or adjacent to the site of the removed tree.

(b) No person or property owner shall remove a tree from the treelawn for any reason without first filing an application and procuring a permit from the city forester. (Ord. #3790, Dec. 2000)

13-611. Utility responsibility on private property. All work performed on private property by public and private utilities or by their contractors, agents, or employees, which install and/or maintain overhead and underground utilities (including but not limited to cable television installations, telephone service, electric service, gas service, and water and sewer installations

by or at the direction of the city department of public works or water/sewer department) shall be performed in accordance with pruning and trenching specifications approved by the city forester. (Ord. #3790, Dec. 2000)

13-612. Dead or diseased tree removal on private property.

(1) The city shall have the right to order or cause the removal of any trees on private property that are of such hazard to life or property as to constitute a public nuisance or harbor insects or disease that constitute a potential threat to other trees within the city. The city forester shall determine in his or her sole discretion, which tree or trees are to be removed.

(2) Unless such trees pose an immediate hazard to public safety, the owner of such trees will be ordered, in writing, to remove said trees, stating the reason for the removal and the location of said tree or trees to be removed. Said owner at the owner's expense shall do removal within thirty (30) calendar days after the date of service of the order to remove. In the event the owner fails to comply with such order to remove, or if public safety considerations require immediate removal, the city may elect to proceed to remove said tree or trees, and to charge removal costs to the owner of the property as set forth hereafter. (Ord. #3790, Dec. 2000)

13-613. Violations declared nuisances. The planting of any new tree after the passage of this ordinance in violation of the provisions of this ordinance by any person is declared to be a public nuisance dangerous to the public safety and shall be abated as set forth herein. The city forester has the authority to declare any tree that violates this ordinance to be a public nuisance dangerous to the public safety and shall be abated as set forth herein. (Ord. #3790, Dec. 2000)

13-614. Notice requiring abatement of violations; abatement by city; lien for costs. With the exception of trees posing immediate hazard to public safety pursuant to § 13-612(2), upon ascertaining a violation of the provisions of this ordinance, the city forester shall cause to be served upon the offender personally or by certified mail a written notice to abate which shall:

(1) Describe the conditions constituting a nuisance under this ordinance, and

(2) State that the nuisance may be abated by the city at the expense of the offender at the expiration of thirty (30) calendar days from the date of service of such notice if the condition is not corrected by the offender. If the whereabouts of the offender are unknown and unascertainable by the city forester in the exercise of reasonable diligence, the city forester shall:

(a) Make an affidavit to that effect, and the service of the written notice to abate may be made by publishing the same once each

week for two (2) consecutive weeks in a newspaper of general circulation in the county of the offender's residence;

(b) Post a copy of the written notice to abate in a conspicuous place on the premises affected by the notice;

(c) A copy of the written notice to abate may also be filed for record in the register's office of the county in which the offender's residence is located, and such filing shall have the same force and effect as other lis pendens notices as provided by law. If, at the expiration of thirty (30) calendar days from the date of service of said notice to abate, the condition constituting a nuisance has not been corrected, then the city may abate or cause such condition to be abated at the expense of the offender under the directions of the city forester. The city shall have a lien on the property upon which such nuisance is located to secure the amount expended for the abatement of such nuisance. (Ord. #3790, Dec. 2000)

13-615. Violation and penalty. Any person found to have violated any provision of this ordinance, or any person found to have failed or refused to comply with any notice to abate or other notice issued by the city forester within the time allowed by such notice or found to have interfered with the abatement of a nuisance referred to in § 13-612 herein, shall be upon conviction in municipal court guilty of violating this ordinance; each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. In addition to other remedies for violations of this ordinance, each violation of this ordinance shall be punishable by a fine of fifty dollars (\$50.00). (Ord. #3790, Dec. 2000)

13-616. Duty. Nothing contained in this ordinance shall be construed as creating or imposing a duty on the City of Johnson City, its board of commissioners, or its employees to do any act or refrain from doing any act authorized herein. (Ord. #3790, Dec. 2000)