

## TITLE 12

### BUILDING, UTILITY, ETC. CODES<sup>1</sup>

#### CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. MECHANICAL CODE.
5. FUEL GAS CODE.
6. ENERGY CONSERVATION CODE.
7. MINIMUM HOUSING STANDARDS.

#### CHAPTER 1

#### BUILDING CODE

#### SECTION

- 12-101. Building code adopted.  
 12-102. Modifications.  
 12-103. Available in recorder's office.  
 12-104. Engineering certification.  
 12-105. Violations and penalty.

**12-101. Building code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the *International Building Code*,<sup>2</sup> 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated

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<sup>1</sup>Municipal code references

Fire protection and fireworks: title 7.

Planning and zoning: title 14.

Property maintenance regulations: title 13.

Streets and sidewalks: title 16.

Utilities: title 18.

<sup>2</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

by reference as a part of this code, and is hereinafter referred to as the international building code. (Ord. #149, Sept. 2010, modified)

**12-102. Modifications.** (1) Definitions. Whenever in the international building code when reference is made to the duties of a certain official named therein, that designated official of the Town of Lookout Mountain, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the international building code are concerned.

(2) Permit fees. The schedule of permit fees shall be as provided by the mayor and board of commissioners from time to time by ordinance. (Ord. #149, Sept. 2010, modified)

**12-103. Available in recorder's office.** Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #149, Sept. 2010)

**12-104. Engineering certification.** Any plans submitted to the town for the purpose of obtaining a building permit shall provide a civil engineer's certification that appropriate measures have been taken to avoid the diversion of water flow and for adequate drainage without impairing neighboring properties. This provision shall apply only to those plans which cause a larger portion of a lot to be covered with construction or involve changes in the grade of the lot upon which construction will be conducted. (Ord. #84, Oct. 1998)

**12-105. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable to a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #149, Sept. 2010)

## CHAPTER 2

### PLUMBING CODE

#### SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations and penalty.

**12-201. Plumbing code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the *International Plumbing Code*,<sup>1</sup> 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1992 Code, § 12-201, modified)

**12-202. Modifications.** (1) Definitions. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen.

Wherever "Town Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the international plumbing code.

(2) Permit fees. The schedule of permit fees shall be as provided by the mayor and board of commissioners from time to time by ordinance. (1992 Code, § 12-202)

**12-203. Available in recorder's office.** Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502 one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-203)

**12-204. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter

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<sup>1</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (1992 Code, § 12-204)

## CHAPTER 3

### ELECTRICAL CODE<sup>1</sup>

#### SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Enforcement.
- 12-305. Fees.
- 12-306. Violations and penalty.

**12-301. Electrical code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the *National Electrical Code*,<sup>2</sup> 2017 edition, as prepared and adopted by the National Fire Protection Association is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the international building code. (Ord. #149, Sept. 2010, modified)

**12-302. Available in recorder's office.** Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #149, Sept. 2010)

**12-303. Permit required for doing electrical work.** No electrical work shall be done within this town until a permit therefor has been issued by the town. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1992 Code, § 4-303)

**12-304. Enforcement.** The electrical inspector shall be such person as the mayor and board of commissioners shall appoint or designate. It shall be his

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<sup>1</sup>Municipal code reference

Fire protection and fireworks: title 7.

<sup>2</sup>Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to ensure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1992 Code, § 4-305)

**12-305. Fees.** The electrical inspector shall collect the same fees as are authorized in *Tennessee Code Annotated*, § 68-17-143 for electrical inspections by deputy inspectors of the state fire marshal. (1992 Code, § 4-306)

**12-306. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the electrical code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable to a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #149, Sept. 2010)

## CHAPTER 4

### MECHANICAL CODE

#### SECTION

12-401. Mechanical code adopted.

12-402. Modifications.

12-403. Available in recorder's office.

12-404. Violations and penalty.

**12-401. Mechanical code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the *International Mechanical Code*,<sup>1</sup> 2018 edition, as prepared and adopted by the International Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (1992 Code, § 12-401, modified)

**12-402. Modifications.** Wherever the mechanical code refers to the "Building Department," "Mechanical Official," or "Building Official," or "Inspector" it shall mean the person appointed or designated by the mayor and board of commissioners to administer and enforce the provisions of the mechanical code. (1992 Code, § 12-402)

**12-403. Available in recorder's office.** Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the town recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-403)

**12-404. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified. (1992 Code, § 12-404)

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## CHAPTER 5

### FUEL GAS CODE

#### SECTION

- 12-501. Fuel gas code adopted.
- 12-502. Available in recorder's office.
- 12-503. Gas inspector and assistants.
- 12-504. Fees.
- 12-505. Violations and penalty.

**12-501. Fuel gas code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the *International Fuel Gas Code*,<sup>1</sup> 2018 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. (1992 Code, § 12-501, modified)

**12-502. Available in recorder's office.** Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fuel gas code has been placed on file in the town recorder's office and shall be kept there for the use and inspection of the public.

**12-503. Gas inspector and assistants.** To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the mayor and board of commissioners. (1992 Code, § 12-502)

**12-504. Fees.** The schedule of permit fees shall be as provided by the mayor and board of commissioners from time to time by ordinance. (1992 Code, § 12-503)

**12-505. Violations and penalty.** Any person who shall violate or fail to comply with any of the provisions of the gas code shall be subject to a penalty under the general penalty provision of this code. (1992 Code, § 12-504)

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## CHAPTER 6

### ENERGY CONSERVATION CODE

#### SECTION

- 12-601. Energy conservation code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violations and penalty.

**12-601. Energy conservation code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the design of energy-efficient building envelopes and the installation of energy-efficient mechanical, lighting and power systems to establish energy-efficient buildings using prescriptive and performance-related provisions which will make possible the use of new materials and innovative techniques that conserve energy, the *International Energy Conservation Code*,<sup>1</sup> 2018 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (1992 Code, § 12-601, modified)

**12-602. Modifications.** Whenever the energy conservation code refers to the duties of a certain official named therein, that designated official of the Town of Lookout Mountain who has duties corresponding to those of the named official in the energy conservation code shall be deemed to be the responsible official insofar as enforcing the provisions of the energy conservation code are concerned. (1992 Code, § 12-602)

**12-603. Available in recorder's office.** Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the energy conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-603)

**12-604. Violations and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy conservation code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1992 Code, § 12-604)

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## CHAPTER 7

### MINIMUM HOUSING STANDARDS

#### SECTION

- 12-701. Purpose.
- 12-702. Scope, applicability and conflict.
- 12-703. Definitions.
- 12-704. Minimum housing standards.
- 12-705. Inspections and right of entry.
- 12-706. Notice of violations.
- 12-707. Effect of non-compliance.
- 12-708. Designation of dwelling as unfit for human habitation--procedures.
- 12-709. Effect of designation of dwelling as unfit for human habitation.
- 12-710. Designation of building or dwelling as dangerous and a public nuisance--procedures.
- 12-711. Effect of designation of building or dwelling as dangerous and a public nuisance.
- 12-712. Emergency cases.
- 12-713. Assistance of town attorney.
- 12-714. Imposition of penalty no bar to legal action.
- 12-715. Appeals.
- 12-716. Notice of suspected abandonment.
- 12-717. Effect of notice.
- 12-718. Designation of dwelling units as an abandoned dwelling unit.
- 12-719. Effect of designation of dwelling unit as abandoned dwelling unit.
- 12-720. Fee for inspection of abandoned dwelling unit.

**12-701. Purpose.** The purposes of this chapter are to provide for the public health, safety and welfare by the establishment and enforcement of minimum housing standards to the end that all dwellings within the Town of Lookout Mountain shall be safe, sanitary, free from fire and health hazards, fit for human habitation and beneficial to the public welfare and shall not constitute a blighting or deteriorating influence upon the town or any of its areas; to establish the responsibilities of owners, operators and occupants with respect to such minimum housing standards, to authorize the inspection of dwellings, to establish compliance with such minimum housing standards; to establish procedures for the enforcement of such minimum housing standards, to authorize the vacation or condemnation of dwellings not in compliance with such minimum housing standards; and to provide penalties for the violation of such minimum housing standards. (1992 Code, § 4-401)

**12-702. Scope, applicability and conflict.** (1) The requirements imposed by this chapter shall be in addition to any and all other applicable requirements imposed by other ordinances and regulations of the Town of Lookout Mountain.

(2) This chapter is applicable to occupancy for residential purposes of any building, whether or not such building was erected, altered or converted in full or substantial compliance with the laws in force at the time of its erection, alteration or conversion and, except as hereinafter provided, whether or not such building was erected, altered or converted prior to the effective date of the chapter.

(3) In the event restrictions imposed by this chapter are either more restrictive or less restrictive than comparable restrictions imposed by any other provisions of any other ordinances of the town or of any other law, resolution, rule or regulations, those which are more restrictive shall be deemed to govern. (1992 Code, § 12-402)

**12-703. Definitions.** For the purpose of this chapter, all terms used herein shall have the same meaning as given them in the following chapters.

(1) "Governing body" shall mean the mayor and board of commissioners charged with governing the town.

(2) "Municipality" shall mean the Town of Lookout Mountain, Tennessee, and the areas encompasses within existing town limits or as hereafter annexed.

(3) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(4) "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.

(5) "Public authority" shall mean the mayor and board of commissioners or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

(6) "Public officer" shall mean the officer or officers of the fire and police department who are authorized by this chapter to exercise the powers prescribed herein and pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1992 Code, § 4-403)

**12-704. Minimum housing standards.** (1) Minimum standards. No person shall occupy as an owner-occupant or shall let to another for occupancy

any dwelling or dwelling unit which does not comply with the standards set forth in title 12 of the Lookout Mountain Municipal Code.

(2) Garbage and rubbish disposal facilities. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit which does not comply with the following minimum standards for garbage and rubbish disposal facilities:

(a) Facilities to be supplied. Every dwelling and dwelling unit shall be supplied with facilities for the temporary storage and disposal of garbage and rubbish.

(b) Maintenance. The facilities required by subsection (a) above shall be maintained in a good, non-leakable condition, capable of being tightly sealed, and as clean as possible.

(c) Disposal and storage of garbage and rubbish. The disposal and storage of garbage and rubbish shall be in accordance with all applicable provisions of any law of the town and all premises shall be kept free from any debris, objects, material or condition which may create a health, accident or fire hazard, or which is a public nuisance, or which constitutes a blighting or deteriorating influence on the neighborhood.

(3) Protection from insects, rodents and pests. No person shall occupy as an owner-occupant nor let to another for occupancy any dwelling or dwelling unit which is not maintained free of conditions conducive to the breeding of or infestation by rodents, insects or pests.

(4) General maintenance. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit which does not comply with the following minimum standards for general maintenance:

(a) General.

(i) All dwellings and dwelling units and all parts thereof, both exterior and interior, shall be maintained in good repair and shall be capable of performing the function for which they or any feature thereof were designed or intended to be used.

(ii) Every supplied facility, piece of equipment or utility which is required under this chapter and every chimney and smokepipe, shall be so constructed and installed that it will function safely and effectively, and shall be maintained in sound working condition.

(iii) No owner, operator or occupant shall cause any service facilities, equipment or utility which is required under this chapter to be removed from or shut off from or discontinued from any occupied dwelling or dwelling unit let or occupied by him, except such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the chief of fire and police.

(b) Exterior surfaces. All exterior surfaces of any dwelling or accessory structure shall be reasonably capable of withstanding the effects of the elements and decay. Any exterior surface which is deteriorated, decaying, disintegrating, or which has weathered with dirt and grime or which has lost its capability to reasonably withstand the effects of the elements and decay through peeling or flaking of the paint or other protective coating, shall be repaired, repainted or resurfaced.

(c) Interior walls and ceilings. Every interior wall and ceiling shall be substantially rodent-proof shall be free of holes and large cracks and any flaking, peeling, loose or deteriorated paint, plaster, wallboard, paneling or other material; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. No lead-base paint shall be applied to any interior wall or ceiling. Bathroom and kitchen walls shall have waterproof surfaces where necessary to prevent water damage.

(d) Stairways and porches. Every inside and outside stairway and porch and every appurtenance thereto shall be maintained in a good state of repair and free from rotting, loose or deteriorating supports, rails, floors, and stairs so as to be safe to use and capable of supporting the loads that normal use may cause to be placed thereon.

(e) Accessory structures. All garages, tool sheds and all other accessory structures shall be kept in good repair so as not to be unsafe or become a harborage for rats and other rodents. Fences and roadside mailboxes shall be maintained in good repair, solid and in the same condition required for other exterior surfaces. Television antennas shall be firmly and securely fastened to the dwelling and shall be maintained in good repair.

(f) Accumulation of debris. The interior areas of dwellings and dwelling units, including basements, attics and other storage areas, and the premises and accessory buildings associated therewith, shall be maintained free of any debris, object, material or condition which does or may create a hazard to the health or safety of persons, in conducive to infestation, presents a fire hazard or constitutes a blighting or deteriorating influence on the neighborhood.

(g) Vegetation. No premises shall contain uncontrolled growths of vegetation and all trees, hedges and other plantings shall be kept trimmed so as to avoid interference with persons or vehicles passing on public ways, easements or adjoining private property. (1992 Code, § 4-404)

**12-705. Inspections and right of entry.** (1) Inspections authorized. The chief of fire and police may make regular inspections to determine the condition of buildings, dwellings, dwelling units, rooming units and premises located within the town for the purpose of safe-guarding the health and safety

of all occupants and of the general public. The chief of fire and police may make such inspections whenever he shall deem such an inspection necessary; provided, however, that such inspections must be made at reasonable times and upon reasonable notice to, and with the consent of, the owner or operator and the occupant, except when an existing emergency requires immediate action.

(2) Legal process not required. Except where the owner or operator or occupant refuses entry, an order of court, subpoena or other legal process shall not be necessary to any entry, examination or survey in connection with the inspections authorized by this section.

(3) Inspection upon warrant. Whenever the chief of fire and police or his delegate, after presentation of proper credentials and request for entry to inspect, is refused access to any building, dwelling, dwelling unit or rooming unit, the chief of fire and police is authorized to petition any judge for the issuance of a search warrant authorizing the inspection of such building, dwelling, dwelling unit or rooming unit for the purpose of making such inspections as shall be necessary to the enforcement of the provisions of this chapter.

(4) Owner's right of entry. Every occupant of a building, dwelling, dwelling unit or rooming unit shall give the owner thereof, or his agent or employee, access to any part of such building, dwelling, dwelling unit or rooming unit, or its premises, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter. Entry pursuant to this subsection shall be made only at reasonable times and after reasonable notice to the occupant unless an existing emergency requires immediate action. (1992 Code, § 4-405)

**12-706. Notice of violations.** (1) Notice required. Whenever in the opinion of the chief of fire and police any violation of the provisions of this chapter is found to exist, he shall, within ten (10) days after discovery thereof, serve written notice of such alleged violation upon the owner, operator or occupant responsible therefor.

(2) Method of service. Notice shall be given either by personal service or by mailing a copy thereof to the alleged violator by certified mail, return receipt requested, at his last known address or, in the event neither of these is effective to actually notify the alleged violator, by posting a copy thereof in a conspicuous place in or about the building containing the alleged violation.

(3) Required contents. Such notice may include more than one (1) alleged violation, shall demand compliance with this chapter, and shall specify a period of time for compliance, which shall be such time as, in the opinion of the chief of fire and police, is reasonably required to effect changes necessary for compliance.

(4) Permissible contents. Such notice may contain an outline of remedial action which if taken will effect compliance with the provisions of this

chapter and with any rules and regulations adopted pursuant thereto. (1992 Code, § 4-406)

**12-707. Effect of non-compliance.** If any alleged violation, of which notice has been given in conformity with § 12-706, is not corrected or eliminated within the time specified in such notice, then:

(1) Violator subject to penalty. The responsible owner, operator or occupant shall be subject to the penalty provisions as set out in § 5 of the adopting ordinance of this municipal code of ordinances.

(2) Designation of dwelling as unfit for human habitation. The dwelling, dwelling unit or rooming unit shall be designated as unfit for human habitation in accordance with the procedures established by § 12-708.

(3) Designation of dwelling as dangerous and a public nuisance. Where the alleged violations are of such a nature or extent that, in the opinion of the chief of fire and police, they render the building, dwelling, dwelling unit, rooming unit, or any part thereof, unsafe and dangerous to the life, safety, morals or the general health and welfare of the occupants or the residents of the town, or where the building, dwelling, dwelling unit, rooming unit, or part thereof, is uncompleted or has been abandoned, the chief of fire and police shall declare and designate the building, dwelling, dwelling unit, rooming unit, or part thereof, as dangerous and a public nuisance in accordance with the procedures of § 12-710.

(4) Removal of debris. The chief of fire and police may provide for the removal of garbage and debris from private property when the owner of such property, after notice pursuant to § 12-706, refuses or neglects to remove such garbage and debris, and may collect from such owner the reasonable cost thereof. This cost is a lien upon the real estate affected, superior to all subsequent liens and encumbrances, except tax liens, if within sixty (60) days after such cost and expense is incurred the town clerk, in the name of the town, files notice of lien in the office of the Register of Deeds in Hamilton County. The notice of lien shall consist of a sworn statement setting out:

(a) A description of the real estate sufficient for identification thereof;

(b) The amount of money representing the cost and expense incurred or payable for the service; and

(c) The date or dates when such cost and expense was incurred by the municipality.

However, the lien shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to removal of the garbage and debris and prior to the filing of such notice, and the lien shall not be valid to any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arise prior to the filing of such notice. Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the Town of Lookout Mountain

and the release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in case of mortgages or mechanics' liens. Suit to foreclose this lien shall be commenced within two (2) years after the date of filing notice of lien.

(5) Exception. No person acting as managing agent or collector of rents of any property involved in any proceeding because of violations or alleged violations of the provisions of this chapter shall be liable therefor if such person shall, within five (5) days after receipt of notice of any alleged violations or of summons, have notified the owner or owners of the property, or the employer of such person, of the purported violation or violations of any provision or provisions of this chapter in writing, by certified mail, return receipt requested, and shall have delivered to the chief of fire and police a copy of such notice, with proof of service thereof on the owner or owners or the employer of such person. (1992 Code, § 4-407)

**12-708. Designation of dwelling as unfit for human habitation--procedures.** Whenever any dwelling, dwelling unit or rooming unit is subject to designation as unfit for human habitation under the provisions of § 12-707(2), the chief of fire and police shall carry out such designation in compliance with the following procedures:

(1) Notice and placarding. The chief of fire and police shall serve notice of the designation of the dwelling, dwelling unit or rooming unit as unfit for human habitation upon the owner, operator and occupant thereof. Service shall be by certified mail, return receipt requested, and by posting of a placard at each entrance of the affected dwelling, dwelling unit or rooming unit.

(2) Contents. The notices and placards required by subsection (1) hereof shall state that the affected dwelling, dwelling unit or rooming unit is by such notice or placard declared to be unfit for human habitation in accordance with the provisions of this chapter; shall state the specified uncorrected violations of this chapter leading to such designation and the person or persons responsible for the correction thereof; and shall order the affected dwelling, dwelling unit or rooming unit to be vacated within a specific reasonable period of time as determined by the chief of fire and police, which may be immediately where conditions exist presenting immediate hazards to human life, health or safety. Such notices and placards shall further state the right of any aggrieved person to file an appeal pursuant to § 12-715 of this chapter within thirty (30) days of the date of the receipt of such notice.

(3) Defacing or removing placard. No person shall deface or remove the placard required by subsection (1) hereof from any dwelling, dwelling unit or rooming unit which has been designated as unfit for human habitation and placarded as such, except as provided in § 12-709(2) of this chapter. (1992 Code, § 4-408)



**12-709. Effect of designation of dwelling as unfit for human habitation.** (1) Vacation required. Any dwelling, dwelling unit or rooming unit designated as unfit for human habitation shall be vacated within the time specified by the chief of fire and police pursuant to the provisions of § 12-708 of this chapter.

(2) Conditions for resumption of human habitation. No dwelling, dwelling unit or rooming unit which has been designated as unfit for human habitation in accordance with § 12-708 of this chapter shall again be used for human habitation until written approval is secured from, and the placard so designating it is removed by, the chief of fire and police, who shall remove such placard only when the defects upon which the designation was based have been eliminated, and after the dwelling, dwelling unit or rooming unit has been inspected and found to comply in all respects with the requirements of this chapter. (1992 Code, § 4-409)

**12-710. Designation of building or dwelling as dangerous and a public nuisance--procedures.** Whenever any building, dwelling, dwelling unit, rooming unit, or any part thereof, is subject to designation as dangerous and a public nuisance under the provisions of § 12-707(3) of this chapter, the chief of fire and police shall carry out such designation in compliance with the following procedures:

(1) Notice and placarding. The chief of fire and police shall serve notice of the designation of the building, dwelling, dwelling unit, rooming unit, or part thereof, as dangerous and a public nuisance, upon the owner, operator, occupant and lien holders of record. Service shall be by certified mail, return receipt requested, and by posting a placard at each entrance of the affected building, dwelling, dwelling unit or rooming unit. Where the identity or whereabouts of the owner or lien holder cannot be ascertained, notice mailed to the person or persons in whose name the premises were last assessed shall be sufficient notice.

(2) Contents. The notices and placards required by subsection (1) hereof shall state that the affected building, dwelling, dwelling unit or rooming unit, or part thereof, is by such notice or placard declared to be dangerous and a public nuisance in accordance with the provisions of this chapter; shall state the specific alleged uncorrected violations of this chapter deemed sufficient to justify such designation; and shall further state that such designation may result in an order for demolition. Such notice shall require the party to appear before the chief of fire and police, at a hearing to be held at a specified place and time, not less than ten (10) days following the date of the notice, to show cause why the designated building, dwelling, dwelling unit, rooming unit, or part thereof, should not be vacated and repaired or demolished in accordance with the provisions of this chapter.

(3) Defacing or removing placard. No person shall deface or remove the placard required by subsection (1) hereof from any building, dwelling,

dwelling unit, rooming unit, or part thereof, which has been designated as dangerous and a public nuisance, except as provided in § 12-711(5) of this chapter.

(4) Hearing and findings. At the appointed time and place, the chief of fire and police shall hear such testimony as the interested parties shall offer relative to the designated building, dwelling, dwelling unit, rooming unit, or part thereof, and shall, based on such testimony and his investigation, make written findings of fact as to whether the building, dwelling, dwelling unit or rooming unit is properly designated as dangerous and a public nuisance. (1992 Code, § 4-410)

**12-711. Effect of designation of building or dwelling as dangerous and a public nuisance.** (1) Order. Upon a finding pursuant to § 12-710 that the building, dwelling, dwelling unit, rooming unit, or part thereof, has been properly designated as dangerous and a public nuisance, the chief of fire and police shall issue an order to the owner, operator, occupant and lien holders of record, commanding the owner to vacate and repair or demolish the building, dwelling, dwelling unit, rooming unit, or part thereof; authorizing any lien holder of record to demolish such building, dwelling, dwelling unit, rooming unit, or part thereof, at his own risk to prevent the attachment of a town lien, as provided in subsection (4) hereof; and shall authorize any person so notified to vacate or repair such building, dwelling, dwelling unit, rooming unit, or part thereof.

(2) Petition to circuit court. Unless the designated building, dwelling, dwelling unit, rooming unit, or part thereof, shall have been vacated and the repair or demolition thereof commenced within fifteen (15) days of the issuance of an order pursuant to subsection (1) hereof, the mayor and board of commissioners of the town shall petition the circuit court of the county in which the premises are located, for an order requiring such vacation and authorizing such demolition or repair.

(3) Repair or demolition by town. Upon receipt of an order of court authorizing such action, the chief of fire and police shall cause the designated building, dwelling, dwelling unit, rooming unit, or part thereof, to be repaired or demolished, as the facts may warrant, by the town. Provided, however, that where the chief of fire and police finds it to be in the best interest of the town and its residents, he shall notify the mayor and board of commissioners of the town and request them to take all actions necessary to compel repair or demolition by the owner, including the application for an injunction.

(4) Lien for repairs or demolition. The costs of any vacation, repair or demolition undertaken pursuant to this chapter by the town, or any lien holder of record, shall be recoverable from the owner of the premises and shall be a lien upon such premises.

(5) Conditions for resumption of use. No building, dwelling, dwelling unit, rooming unit, or part thereof, which has been designated as dangerous and

a public nuisance in accordance with § 12-710 of this chapter shall again be used for any purpose until and unless written approval is secured from, and the placard so designating it is removed by the chief of fire and police, who shall remove such placard only when the defects upon which the designation was based have been eliminated, and after the building, dwelling, dwelling unit, rooming unit, or part thereof, has been inspected and found to comply in all respects with the requirements of this chapter. (1992 Code, § 4-411)

**12-712. Emergency cases.** In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a building, dwelling, dwelling unit, rooming unit, or part hereof, is immediately repaired or demolished, the chief of fire and police shall request the mayor and board of commissioners to waive all provisions of §§ 12-705 to 12-715 and to proceed directly to secure a demolition order, and the mayor and board of commissioners may, in their discretion, so proceed. (1992 Code, § 4-412)

**12-713. Assistance of town attorney.** Whenever any person fails, refuses or neglects to obey an order issued pursuant to this chapter or in any other manner does not comply with the duties imposed upon him by this chapter, the chief of fire and police may notify the town attorney of the circumstances and request the town attorney to institute such legal action as may be required to effect compliance. (1992 Code, § 4-413)

**12-714. Imposition of penalty no bar to legal action.** The imposition of any penalty pursuant to this chapter shall not preclude the town from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance; to restrain, correct or abate a violation; to prevent the occupancy of a building, dwelling or dwelling unit; to require compliance with the provisions of this chapter or other applicable laws, ordinances, rules or regulations, or the orders and determinations of the chief of fire and police. (1992 Code, § 4-414)

**12-715. Appeals.** Appeals may be taken to the Board of Commissioners of the Town of Lookout Mountain, by the following persons, at the following times, in the following manner, and with the following effects:

(1) **Scope of appeal.** An appeal may be taken from any decision of the chief of fire and police, made pursuant to the authority conferred by this chapter, which finds a violation of any provision of this chapter; designates any dwelling, dwelling unit or rooming unit unfit for human habitation or dangerous and a public nuisance; orders the vacation, repair or demolition of any dwelling, dwelling unit or rooming unit; refuses to authorize the resumption of human habitation in any dwelling, dwelling unit or rooming unit; interprets this chapter; or which in any other manner adversely affects an owner, operator or

occupant of a dwelling, dwelling unit or rooming unit subject to the provisions of this chapter.

(2) Persons entitled to appeal. Any person aggrieved by a decision within the scope of subsection (1) hereof may appeal from such decision.

(3) Time for appeal. An appeal shall be commenced within thirty (30) days of the date of the receipt of notice of the decision appealed from. Appeals not commenced within such time shall be deemed waived.

(4) Commencement of appeal. An appeal under this section shall be commenced by filing with the chief of fire and police a notice of appeal, specifying the grounds thereof, and by filing said appeal and a copy of said notice of appeal with the mayor. The chief of fire and police shall forthwith transmit to the mayor all of the papers constituting the records upon which the decision from which appeal has been taken was made. The notice of appeal and the appeal itself shall be filed in such number of copies, be in such form, and contain such information as the board may provide from time to time by general rule.

(5) Stay pending appeal. An appeal shall stay all proceedings in furtherance of the decision appealed from and all duties imposed thereby, unless the chief of fire and police certifies to the board of commissioners, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate hazards to human life, health or safety; in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or a court of record upon application following notice to the chief of fire and police and upon due cause shown. Any stay in effect pursuant to this subsection shall continue until a decision on the appeal is rendered pursuant to subsection (6) hereof.

(6) Action on appeal. The board shall select a reasonable time and place for a public hearing on the appeal, shall give due notice thereof to the parties having a known interest therein and shall render a written decision without unreasonable delay. Upon the concurring vote of a majority of its members then holding office, the board may reverse or affirm, in whole or in part, or may modify, the decision from which the appeal was taken, and to that end the board shall have all the powers of the chief of fire and police with respect to such decision. (1992 Code, § 4-415)

**12-716. Notice of suspected abandonment.** (1) Whenever a dwelling has been unoccupied for a period of sixty (60) days, the Town of Lookout Mountain shall serve written notice upon the owner and any operator, lessee, or mortgagee of the dwelling unit that the dwelling unit may be designated as an abandoned dwelling unit within thirty (30) days after service of the notice required by this section.

(2) Method of service. Notice shall be given by personal service or by mailing a copy thereof to the owner and any operator, or lessee or mortgagee of the suspected abandoned dwelling unit by certified mail, return receipt

requested, at his or her last know address. In the event that notice by mail is ineffective to effect actual notice to the owner, or to any operator, lessee or mortgagee of the dwelling unit, notice of the suspected abandonment shall be published in a newspaper of general circulation in the area and a copy of the notice required by this section shall be posted in a conspicuous place on or about the suspected abandoned dwelling unit.

(3) Required contents. Such notice shall inform the owner, and any operator, lessee or mortgagee of the suspected abandoned dwelling unit that unless the dwelling unit is reoccupied within thirty (30) days after service of the notice required by this section, the dwelling unit shall be designated as an abandoned dwelling unit and shall be posted as such and subject to reinspection and the issuance of an occupancy permit in the manner provided herein. (1992 Code, § 4-416)

**12-717. Effect of notice.** If a suspected abandoned dwelling unit is not reoccupied within thirty (30) days after service of the notice required by § 12-716, the dwelling unit shall be designated as an abandoned dwelling unit. (1992 Code, § 4-417)

**12-718. Designation of dwelling units as an abandoned dwelling unit.** Whenever any dwelling unit is subject to designation as an abandoned dwelling unit, the chief of fire and police shall carry out such designation in compliance with the following procedures:

(1) Notice and placarding. The chief of fire and police shall service notice of the designation of the dwelling unit as an abandoned dwelling upon the last owner, and operator, lessee or mortgagee. Service shall be certified mail, return receipt requested, and by posting a placard at each entrance of the affected dwelling unit. Where the identity or whereabouts of the owners, operators, lessee or mortgagee cannot be ascertained, notice shall be mailed to the person or persons to whom the last tax bill was mailed.

(2) Contents. The notices and placards required by subsection (1) hereof shall state that the affected dwelling unit is by such placard declared to be an abandoned dwelling unit within the meaning of § 12-716; and shall further state that inspection of the abandoned dwelling unit by the chief of fire and police shall be required prior to occupancy of the dwelling unit by an owner, operator or lessee and that it is unlawful to reoccupy an abandoned dwelling unit unless and until an occupancy certificate for such dwelling unit has been issued by the chief of fire and police. Such notice shall state that any person intending to occupy the abandoned dwelling unit shall notify the chief of fire and police five (5) days prior to occupancy of the abandoned dwelling unit.

(3) It shall be unlawful to remove or deface the placard required by subsection (1) hereof from any dwelling unit which has been designated as an abandoned dwelling unit, except as provided in § 12-719 of this chapter. (1992 Code, § 4-418)

**12-719. Effect of designation of dwelling unit as abandoned dwelling unit.** (1) Any dwelling unit designated as an abandoned dwelling unit shall be subject to inspection by the chief of fire and police prior to occupancy of the dwelling unit.

(2) No dwelling unit which has been designated as an abandoned dwelling unit in accordance with § 12-718 shall again be used for any purpose until and unless written approval is secured from, and the placard so designating the dwelling unit as an abandoned dwelling unit is removed by the chief of fire and police, who shall remove such placard only after the dwelling unit has been inspected.

(3) The chief of fire and police shall not issue an occupancy permit for the abandoned dwelling unit unless and until the abandoned dwelling unit has been inspected and found to comply in all respects with the requirements of this chapter. (1992 Code, § 4-419)

**12-720. Fee for inspection of abandoned dwelling unit.** The fee for inspection of an abandoned dwelling unit shall be fifteen dollars (\$15.00). (1992 Code, § 4-420)