

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. BOARD OF BUILDING CODE APPEALS.
3. HOUSING CODE.

CHAPTER 1

BUILDING CODE¹

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12-101. Purpose. This chapter is 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 buildings, structures or premises. (Ord. #73-167, April 1974)

12-102. Applicability. (1) The provisions of this chapter shall apply to the construction, alteration, repair, maintenance, moving, removal and demolition, and to the location, use and occupancy, of every building or structure or part thereof, and to any appurtenances or equipment connected or attached thereto, and to the installation of any heating, air conditioning or ventilating system or unit, the construction and erection of any fence, sign, billboard, swimming pool or similar structure for all of which a permit is required, within the area of jurisdiction of the City of Berry Hill.

A permit shall also be required for any utility construction such as gas, telephone, television cable, electric, water or sewerage where such construction alters the pavement or drainage of streets maintained by the City of Berry Hill, but the fees set forth in this chapter are not required for such utility construction.

(2) No provision of this chapter shall be held to deprive any federal or state agency, of any power or authority which it had on the effective date of this chapter, or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law. (Ord. #73-167, April 1974; as amended by Ord. #97-288, July 1997)

12-103. Maintenance of buildings and required equipment, devices, etc. All buildings and structures, both existing and new, all devices, equipment and safeguards required by this chapter in a building when it is erected, altered or repaired, shall be maintained in good working order by the owner or his designated agent. (Ord. #73-167, April 1974)

12-104. Department of building inspection; director of building inspection; restrictions of employees; records. (1) There is hereby established a department to be called the Department of Building Inspection of the City of Berry Hill, which shall be under the direction of the director of building inspection.

(2) The director of building inspection shall have had at least ten years experience as an architect, engineer, building inspector, building contractor or superintendent of building construction, for five years of which he shall have been in responsible charge of work. He shall be appointed by the mayor, with the approval of the Board of Commissioners of the City of Berry Hill. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause, after full opportunity has been given him to be heard on specific charges before the board of commissioners.

(3) The director of building inspection may designate as his deputy an employee of the City of Berry Hill who shall, during the absence or disability of the director, exercise all the powers of the director. (Ord. #73-167, April 1974)

12-105. Right of entry of director of building inspections and of his authorized agent. The director of building inspection shall enforce the provisions of this chapter, and he or his duly authorized agent may enter, with the consent of the owner or occupant or with a valid search warrant, and upon presentation of proper identification, any building, structure or premises within the area or jurisdiction of the City of Berry Hill to perform any duty or responsibility imposed upon him by this chapter. (Ord. #73-167, April 1974)

12-106. Employees , etc., not personally liable for damage. Any officer or employees of the City of Berry Hill or member of the board of building code appeals or board of commissioners, charged with the enforcement of this chapter, acting for or on behalf of the City of Berry Hill in the discharge of his duties, shall not thereby render himself liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any such officer or employee or member of the board because of such act performed by him in the discharge of his prescribed duties and responsibilities in the enforcement of any of the provisions of this chapter shall be defended by the City of Berry Hill until the final termination of such suit. (Ord. #73-167, April 1974)

12-107. Stop work orders. Upon notice from the director of building inspection that work on any building or structure is being done contrary to the provisions of this chapter or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to

the owner of the property or to his agent or to the person doing the work, and shall state the conditions under which work may be resumed. When an emergency exists, no written notice shall be required to be given by the director.

Such notice as required may be in the form of a placard posted by the inspector conspicuously on the building in which the work is in progress. Removal of such notice or placard without the express consent of the director of building inspection is a violation of this chapter. (Ord. #73-167, April 1974)

12-108. Revocation of permits or approval. The director of building inspection may revoke a permit or approval issued under this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which such permit or approval was based. (Ord. #73-167, April 1974)

12-109. Requirements not covered. Any requirements necessary for the strength or stability of an existing or proposed building or structure or for the safety of the occupants thereof, not specifically covered by this chapter, shall be determined by the director of building inspection, subject to appeal to the board of building code appeals. (Ord. #73-167, April 1974)

12-110. Alternate materials and methods of construction. The provisions of this chapter are not intended to prevent the use of any material, or method of construction not specifically prescribed by this chapter; provided such alternate has been approved and its use authorized in writing by the director of building inspection. The director shall approve any such alternate, provided he finds that the proposed design is satisfactory and complies with the provisions of this chapter and that the material, method of work offered is, for the purpose intended, the equivalent of that prescribed in this chapter in quality, strength, effectiveness, fire-resistance, durability and safety. The director shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding its proposed use. If, in the opinion of the director, the evidence and proof submitted are not sufficient to justify approval, the applicant may appeal to the board of building code appeals in the manner prescribed by this chapter. (Ord. #73-167, April 1974)

12-111. Tests as proof of compliance. The director of building inspection may require tests or test reports as proof of compliance with this chapter. Tests, if required, shall be made at the expense of the owner or agent, by an approved testing laboratory or agency. Copies of such test reports and the results of all such tests shall be kept on file in the office of the director of building inspection. (Ord. #73-167, April 1974)

12-112. Director of building inspection to issue permits and notices, records of same. The director of building inspection shall issue or cause to be issued, all permits and notices required by this chapter and shall keep or cause to be kept a record of all such permits and notices and all other business transactions of the department of building inspection. Such records of the department shall be open to public inspection during the regular business hours of said office. (Ord. #73-167, April 1974)

12-113. Records of permit fees and other money collected. The director of building inspection shall keep a permanent and accurate accounting of all permit fees and other money collected, the names of all persons upon whose account the same was paid and the date and amount thereof. (Ord. #73-167, April 1974)

12-114. Inspection and certificate of occupancy prerequisite to furnishing of utility services. To secure compliance with this chapter, the City of Berry Hill shall not provide, nor permit another to provide, utility services (such as water, gas, sewer or electricity), either public or private, to any building or structure found in noncompliance with this chapter, until such building or structure has been inspected and brought into compliance with this chapter and a valid certificate of occupancy has been issued. This requirement shall not, however, preclude the temporary use of such utility services as may be necessary during construction, repair or alteration of a building or structure, provided such temporary use has been approved by the director of building inspection and a temporary certificate of occupancy has been issued. (Ord. #73-167, April 1974)

12-115. Conflicts with other ordinances, etc. In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, housing, fire, safety or health ordinance or code of the City of Berry Hill, the provision which establishes the higher standard for the promotion and protection of the health and safety of the public shall prevail.

Where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the City of Berry Hill which establishes a lower standard for the promotion and protection of the health and safety of the public, the provision of this chapter shall be deemed to prevail, and such other ordinances or codes are hereby declared to be amended to the extent that they may be found in conflict with this chapter. (Ord. #73-167, April 1974)

12-116. Workmanship. During all phases of construction and specifically upon the final inspection, all construction performed under the jurisdiction of this chapter shall be completed to conform to first class,

conventional construction standards with respect to appearance and function. Materials incorporated into construction shall conform to the material standards specified in this chapter and shall be fabricated and installed by craftsmen proficient in such construction. (Ord. #73-167, April 1974)

12-117. Removal or demolition of buildings. Every person within 30 days after issuance of a building permit to undertake the moving, repairing or demolishing a building or structure and removing debris therefrom shall cause all such debris to be thoroughly dampened with water or covered to prevent the spread of such debris or dust to adjacent properties or streets. In the case of demolition, it shall be the responsibility of the person demolishing a building or structure to remove from the premises all debris resulting from such demolition and to fill any below grade area to grade level. The director may, at his discretion, allow suitable protective fencing around the below grade area in lieu of the full requirement. (Ord. #73-167, April 1974)

12-118. Fences. Fences shall not be erected to a height in excess of six feet; except, that temporary construction fences and barricades permitted or required under this chapter may be erected to any height approved by the director of building inspection. The use of barbed wire, below six feet on any fence or along any street, or boundary line or on any common property line, is prohibited, except when approved in writing by the director of building inspection prior to the erection of such a fence.

Electric fences are prohibited within the City of Berry Hill unless use thereof is approved in writing by the director of building inspection prior to the erection of such a fence.

No metal fence permitted under the provisions of this chapter shall be erected with barbs or sharp projections on top of such fence unless such fence is located five feet or more from a public right of way or common property line or is erected six feet above the adjacent ground. (Ord. #73-167, April 1974)

12-119. Adoption of International Building Code and International Residential Code for one- and two-family dwellings. A certain document, a copy of which is on file in the office of the Recorder of the City of Berry Hill, being marked and designated as the 2006 International Building Code,¹ excluding any appendix chapters, as published by the International Code Council, is hereby adopted as the building code of the City of Berry Hill, Tennessee, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

and terms of said building code are hereby referred to, adopted, and made a part hereof, as if fully set out in this section.

A certain document, a copy of which is on file in the office of the Recorder of the City of Berry Hill, being marked and designated as the International Residential Code,¹ 2006 edition, excluding any appendix chapters, as published by the International Code Council, is hereby adopted as the code of the City of Berry Hill, Tennessee, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in the City of Berry Hill, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such residential code are hereby referred to, adopted, and made a part hereof, as if fully set out in this section. (Ord. #95-271, Sept. 1995, as amended by Ord. #2000-315, Nov. 2000, replaced by Ord. #2004-349, Nov. 2004, and amended by Ord. #2007-365, Aug. 2007)

12-120. Building permits. Building permits shall be required for the following:

(1) It shall be the duty of every person, every occupant or owner, desiring to construct, alter, repair, enlarge, move or demolish any building or structure or part thereof or any appurtenances connected or attached thereto, or to install any heating, air conditioning or ventilating system or unit or any equipment, device, appliance or fixture, required or governed by this chapter, or to repair or replace any damage to a building or structure caused by termites, or to erect or construct any fence, sign, billboard or similar structure governed by this chapter, or to do or cause any other such work set out herein above or elsewhere in this chapter, to first, before commencing such work, make application to the director of building inspection and obtain the required permits therefor.

(2) Permit required for drilling or blasting rock, earth, etc.; hours when blasting permitted; warnings before blasting; insurance requirements. It shall be unlawful for any person to perform any drilling or blasting of rock, earth, trees, etc., with any form of explosives, without first having obtained a permit for such work from the director of building inspection. All such blasting as may be permitted shall be performed between the hours of 6:00 A.M. and 6:00 P.M. and, shall be properly covered or barricaded prior to the execution of the blasting operation.

It shall be the responsibility of the person engaged in any blasting activity to give proper notice and warning to all property owners, pedestrians and motor vehicle traffic in the area where such blasting is to be made, prior to detonation of such blast.

An applicant for a blasting permit must be experienced and qualified in the handling and discharge of explosives and blasting agents, must be eighteen years of age or over and must furnish all necessary information concerning the

amount of the charge and the location. The minimum public liability insurance as required by § 12-119(11) shall be \$100,000/\$300,000 bodily injury and \$50,000 property damage.

(3) Permit not required for normal maintenance repairs. Normal maintenance repairs of an existing building or structure may be made without a permit, provided such repairs do not violate any provisions of this chapter. In addition to those things set out in § 12-119(13)(a)(i), the following shall be deemed as normal maintenance: installation of vinyl, aluminum, or other fascia on existing building or structure; replacement of existing windows and or doors; replacement of existing heat and air conditioning systems; remodeling of existing kitchen or bath without making structural changes and costing less than \$4,000.00; repairing sun decks, patios or swimming pools; installation of fences and or landscaping; replacement of floor coverings; paving, rocking, or concreting driveways.

(4) Form of application. (a) Each application for a permit required by this section, with the required fee, shall be filed with the director of building inspection on a form furnished by him, and shall contain a general description of the proposed work and its location. The application shall be signed by the owner or his authorized agent.

(b) Each application for a permit shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the director.

(5) Drawings and specifications. (a) When required by the director of building inspection, two or more copies of specifications and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work shall accompany every application for a permit. Such drawings and specifications shall contain information in the form of notes or otherwise, as to the quality of materials where quality is essential to conformity with this chapter. Such information shall be specific, and this chapter shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information.

(b) The director may require details, computations, stress diagrams and other data necessary to describe the construction and basis of calculations and they shall bear the signature of the person responsible for the design.

(c) All drawings, specifications or accompanying data shall bear the name and address of the designer. In the case of buildings or structures of Group C occupancy (except one and two-story private schools, academies and day care homes), Group D occupancy and Group E occupancy (except those designed for three hundred or fewer persons), and other buildings exceeding two stories in height (except one and two-family dwellings and excepting buildings otherwise exempt), such

designer shall be an architect or engineer legally registered under the laws of the state regulating the practice of architecture or engineering, and he shall affix his official seal to such drawings, specifications and accompanying data. The director shall not require of such nonregistered persons, mechanics, or builders, drawings or specifications in more detail than the minimum required to ascertain compliance with the applicable code. Inspections resulting in disapproval shall state any requirements necessary for approval.

(6) Pilot diagram. The director of building inspection shall require drawings showing the location of the proposed building or structure and of every existing building or structure on the site or lot. He may also require a boundary line survey, if necessary, prepared by a qualified surveyor.

(7) When application deemed abandoned. An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing, unless before then a permit shall have been issued; provided, that for cause, one or more extensions of time for periods of not exceeding ninety days each may be allowed by the director of building inspection.

(8) Action on application. The director of building inspection shall act upon an application for a permit under this section, with plans as filed or as amended, without unnecessary or unreasonable delay.

(9) Examination of applications. (a) The director of building inspection shall examine each application for permit and the drawings and computations filed therewith and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this chapter and all other pertinent laws or ordinances.

(b) The director of building inspection may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the laws as to egress, type of construction and general arrangement, and if accompanied by drawings showing the structural design and by a statement that the plans and design conform to the requirements of this chapter as to strength, stresses, strains, loads and stability, he may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agree to submit to the director, on the completion of the structure, a certification that the structure has been erected in accordance with the requirements of this chapter. Where the director relies upon such affidavit, the architect or engineer shall assume full responsibility for the compliance with all provisions of this chapter and other pertinent laws or ordinances. Architects and engineers hereinabove referred to shall be registered under the laws of this state regulating the practice of architecture and engineering.

(10) Approval to be indicated on drawings; drawings to be kept at site. When the director of building inspection issues a permit, he shall endorse, in

writing or by stamp, both sets of plans "approved." One set of drawings so approved shall be retained by the director and the other set shall be returned to the applicant. The approved drawings shall be kept at the site of work and shall be open to inspection by the director or his authorized representative.

(11) Public liability insurance may be required as condition precedent to issuance. Nothing in this chapter shall be construed as prohibiting the director of building inspection, as conditions may seem to warrant, from requiring a certificate of public liability insurance for such amount as he may deem necessary with corporate surety approved by the City Attorney of the City of Berry Hill, as a condition precedent to the issuance of any permit required by this chapter. Such insurance as may be required shall not be cancelled without at least thirty days prior notice, in writing, to the director of building inspection.

(12) Encroachment on street lines. No permit shall be granted for the construction of any building or for the alteration of any building where such building is to be changed and such change will affect the exterior walls, bays, balconies or other appendages or projections fronting on any street, alley or public lane, or for the placing on any lot or premises, unless the applicant has made application at the office of the City Manager of the City of Berry Hill for the lines of the public street on which he proposes to build, erect or locate such building. It shall be the duty of the city manager or director of building inspection to see that the street lines are not encroached upon in any manner whatsoever, except as provided for in Chapter XXII of the Southern Standard Building Code.

(13) Fees--schedule. (a) Building permit fees.

TOTAL VALUATION	FEE
\$1,000 and less	No fee, unless inspection or plan review required, in which case a \$75.00 fee for each inspection or plan review shall be charged.
\$1,000 to \$50,000	The greater of: (i) \$15.00 for the first \$1,000, plus \$5.00 for each additional \$1,000 or fraction thereof; or (ii) \$75.00 for each inspection or plan review performed
\$50,000 to \$100,000	\$260.00 for the first \$50,000.00, plus \$4.00 for each additional \$1,000 or fraction thereof, plus \$75.00 for each inspection or plan review performed in excess of three.

\$100,000 to \$500,000	\$460.00 for the first \$100,000 plus \$3.00 for each additional \$1,000 or fraction thereof, plus \$75.00 for each inspection or plan review performed in excess of six.
over \$500,000	\$1,660.00 for the first \$500,000 plus \$2.00 for each additional \$1,000 or fraction thereof, plus \$75.00 for each inspection performed in excess of ten.

(b) Moving fee. For the moving of any building or structure, the fee shall be \$100.00.

(c) Demolition fee. For the demolition of any building or structure, the fee shall be:

0 to 100,000 cu ft	\$50.00
over 100,00 cu ft	\$.50/1,000 cu ft

(d) Penalties. Where work for which a permit is required is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.

(14) Same--doubled when work commences without permit. In addition to any other penalty imposed for failure to obtain a permit, where construction of any work, for which a permit is required, is commenced before a permit is issued, the permit fee shall be doubled.

(15) Same--valuations. If, in the opinion of the director of building inspection, the valuation of building, alteration or structure appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimated cost to meet the approval of the director. Permit valuations shall include total cost, such as plumbing, electrical, mechanical equipment and other systems.

(16) Foundation permits. When application for a permit to erect or enlarge a building has been filed and pending issuance of such permit, the director of building inspection may, at his discretion, issue a special permit for the foundations of such building. The holder of such a special permit shall proceed at his own risk and without assurance that a permit for the superstructure will be granted.

(17) Issuance. If the director of building inspection is satisfied that the work described in an application for a permit and the drawings filed therewith conform to the requirements of this chapter and other pertinent laws and ordinances, he shall issue a permit therefor to the applicant.

(18) Denial of permit. If the application for a permit under this section and the drawings filed therewith describe work which does not conform to the requirements of this chapter or other pertinent laws or ordinances, the director of building inspection shall not issue a permit, but shall return the drawings to

the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons therefor.

(19) Posting on premises. Work requiring a building permit shall not be commenced until the permit holder or his agent shall have posted the building permit card in a conspicuous place on the front of the premises. The permit shall be protected from the weather and in such position as to permit the director of building inspection to conveniently make the required entries thereon. This permit card shall be maintained in such position by the permit holder until the certificate of occupancy required by this chapter has been issued by the director.

(20) Effect of permits; period within which work is to be commenced. A permit issued pursuant to this section shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this chapter, nor shall such issuance of a permit prevent the director from thereafter requiring a correction of errors in plans or in construction or of violations of this chapter.

Any permit issued shall become invalid unless the work authorized by it shall have been commenced within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of one year after the time the work is commenced; provided, that, for cause, one or more extensions of time for periods not exceeding ninety days each, may be allowed in writing by the director.

In the case of a permit issued to demolish a building or structure, such demolition permit shall become invalid unless the work authorized by it shall have been commenced within thirty days after its issuance or unless the work so authorized shall have been completed within sixty days after work is commenced; provided, that extensions of time may be allowed as provided above.

(21) Supervision or work when permits issued upon affidavits. Whenever a permit is to be issued in reliance upon an affidavit as provided in § 12-119(9) or whenever the work to be covered by a permit involves construction under conditions which, in the opinion of the director of building inspection, are hazardous or complex, the director shall require that the architect or engineer who signed the affidavit or made the drawings or computations shall supervise such work, be responsible for its conformity with the approved drawings, and forthwith upon its completion make and file with the director written affidavit that the work has been done in conformity with the approved plans and with the structural provisions of this chapter. In the event such architect or engineer is not available, the owner shall comply in his stead a competent person or agency whose qualifications are approved by the director.

(22) Nontransferable. Permits issued under this chapter are not transferable from one job, site or location to another, and any refunds shall be made in accordance with § 12-119(16). This section shall not prohibit the correction or change of addresses or location made through error on the

application. (Ord. #73-167, April 1974, as amended by Ord. #97-288, July 1997; Ord. #2002-333, Oct. 2002; and Ord. #2004-350, Nov. 2004)

12-121. Inspections. (1) Authority of director of building inspection generally; acceptance of reports of reorganized inspection services.

(a) Before issuing a permit required by this chapter, the director of building inspection may examine or cause to be examined any building for which an application has been received for permit to enlarge, alter, repair, move, demolish or change the occupancy thereof. He shall inspect all buildings and structures, from time to time, during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and of all violations of this chapter.

(b) When deemed necessary by the director of building inspection, he shall make an inspection of materials or assemblies at the point of manufacture or fabrication. He shall make a record of every such examination and inspection and all violations of this chapter.

(c) The director of building inspection may make or cause to be made the inspections called for by this chapter. He may accept reports of inspector of recognized inspection services; provided, that after investigation he is satisfied as to their qualifications and reliability. No certificate called for by any provision of this section shall be based on such reports unless the same are in writing and certified by a responsible officer of such service.

(2) Required; establishment of boundary lines. The director of building inspection shall inspect or cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building or structure upon completion, prior to the issuance of the certificate of occupancy required by this chapter. Prior to the first inspection, the permittee shall establish the lot lines or boundary of the parcel by the placement of stakes or pins at each corner of the lot. Such markers are to remain in place during the construction.

(3) Concealment of reinforcing steel or structural framework. No reinforcing steel or structural framework of any part of any building or structure shall be covered or concealed in any manner whatsoever, without first obtaining the approval of the director of building inspection, the designing architect or engineer.

(4) Notice to director of building inspection prior to plastering. In all buildings where plaster is used for fire protection purposes, the permit holder or his agent shall notify the director of building inspection after all lathing and backing is in place. No plaster shall be applied until the approval of the director has been received. (Ord. #73-167, April 1974)

12-122. Certificate of occupancy. (1) Required for new buildings and changes of occupancy in existing buildings. No new building shall be occupied and no change in occupancy of a building or part of a building shall be made until after the director of building inspection shall have issued a certificate of occupancy therefor.

(2) Issuance; contents. Upon completion of a building erected in accordance with approved plans, and after the final inspection and upon application therefor, the director of building inspection shall issue a certificate of occupancy stating the nature of the occupancy permitted, the number of persons for each floor in accordance with the provisions of this chapter.

(3) Temporary certificates. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion of the building.

(4) Existing buildings. A certificate of occupancy for any existing building shall be obtained by applying to the director of building inspection and supplying the information and data necessary to determine compliance with this chapter for the occupancy intended. Where necessary, in the opinion of the director, two sets of detailed drawings or a general inspection or both may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of this chapter for such occupancy, a certificate of occupancy shall be issued. (Ord. #73-167, April 1974)

12-123. Floor loads. (1) Occupancies in which safe loads would be exceeded prohibited. No existing or new building shall be occupied for any purpose which will cause the floors thereof to be loaded beyond their safe capacity. The director of building inspection may permit occupancy of a building for mercantile, commercial or industrial purposes, by a specific business, when he is satisfied that such capacity will not thereby be exceeded.

(2) Computation of safe loads. It shall be the responsibility of the owner, agent, proprietor or occupant of Group F and G occupancies of any occupancy where excessive floor loading is likely to occur to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square feet uniformly distributed. It shall thereupon be filed as a permanent record of the department of building inspections.

(3) Posting of safe loads in certain buildings. In every building or part of a building used for business storage, industrial or hazardous purposes, the safe floor loads, as approved by the director of building inspection, shall be marked on plates of approved design which shall be supplied and securely affixed by the owner of the building in conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and if lost, removed or defaced, shall be replaced by the owner of the building.

(4) Loads in excess of posted capacity. No owner shall place, or permit to be placed, on any floor of a building, a greater load than the safe load so determined and posted as provided in this section. (Ord. #73-167, April 1974)

12-124. Unsafe buildings. (1) Defined; same declared illegal. All buildings or structures which are unsafe, unsanitary, or not provided with adequate egress, or which constitute a fire hazard, or which are otherwise dangerous to human life and property, or which, in relation to existing use, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, are severally, in contemplation of this chapter, unsafe buildings. All such unsafe buildings or structures are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the procedures set out in this section.

(2) Notice to repair, demolish, vacate, etc., unsafe buildings. Whenever the director of building inspection shall find any building or structure or portion thereof to be unsafe, as defined in this section, he shall, in accordance with established procedures for legal notice, give the owner, agent or person in control of such building or structure written notice by registered mail stating the defects thereof. Such notice shall require the owner or agent thereof, within a stated time, either to complete the specified repairs or improvements, or to demolish and remove the building or structure or portion thereof.

In the event the owner, agent or person in control of such building or structure cannot be found by the director, in the exercise of reasonable diligence, the director shall, except in cases of emergency make an affidavit to that effect, and the serving of such notice may be made by publishing the same once each week for two consecutive weeks in a newspaper having general circulation through the City of Berry Hill.

If necessary, such notice shall also require the building or structure or portion thereof to be vacated forthwith, securely closed by boarding up all exterior openings, and not reoccupied until the specific repairs and improvements have been completed and a valid certificate of occupancy has been issued. The director shall cause to be posted at each entrance to such building or structure a notice stating: "This Building is Unsafe and its Use or Occupancy has been Prohibited by the Director of Building Inspection."

Such notice shall remain posted until the required repairs are made or until demolition is completed. It shall be unlawful for any person or his agents or representatives to remove such notice without written permission of the director, or for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same.

(3) Right of appeal of owner. The owner, agent or person in control of a building or structure declared unsafe under this chapter shall have the right, except in cases of emergency, to appeal from the decision of the director of building inspection, and to appear before the board of building code appeals at

a specified time and place to show cause why he should not comply with any notice issued pursuant to the preceding section.

(4) Failure of owner, etc., to repair, demolish etc., buildings. The owner, agent or person in control of such unsafe building or structure, upon failure, neglect or refusal to comply with the notice to repair, rehabilitate, demolish or vacate and close such building or structure, shall be guilty of a misdemeanor and subject to the penalties prescribed by law.

(5) Action by director of building inspection in cases of emergency. The decision of the director of building inspection shall be final in cases of emergency, without notice to the owner, which in his opinion involve imminent danger to human life or health. The director shall immediately cause such building structure or portion thereof to be made safe or removed. For this purpose, the director may enter at once such building or structure or the premises upon which the same is located, or abutting land or structures, with such assistance and at such cost as he may deem necessary. He may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary, and for this purpose may close a public or private street, alley or means of access.

(6) Notice to tenants to vacate premises. Whenever an occupied building or structure has been condemned or ordered demolished or repaired by the director of building inspection, he shall notify the tenants of such action in writing, and order such tenants to vacate the premises within a specified time, if necessary, or to do and perform such acts or works as may be necessary to fulfill the orders set forth in such notice. It shall be unlawful for any tenant to fail or refuse to promptly comply with any such notice or order.

(7) Duty of other departments to notify director of building inspection in cases of emergency, disaster, etc. In any case of emergency, the director of building inspection shall be notified by the fire department, the police department or any other department of the City of Berry Hill as may be deemed necessary, and he shall immediately proceed to the scene of any disaster caused by a calamity, flood, fire, or any act of God and render assistance and post such notices as may be necessary to warn the general public of imminent or inherent danger of the collapse of any building, structure or appurtenance thereto caused by reason of such calamity, fire, flood, or act of God. The director may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of other officials of the City of Berry Hill.

(8) Authority of director of building inspection to vacate or demolish building when owner fails to do so; costs incurred by City of Berry Hill constitute lien against real estate. In the event the owner, agent or person in control of such building or structure shall fail to comply with the notice to repair or demolish such building or structure, the director, after ascertaining the cost, may cause such building or structure or part thereof to be vacated and securely closed or demolished, and any costs incurred shall be charged to the owner of the

premises involved and shall be a lien against the real property upon which such cost was incurred until paid.

(9) Inspection of substandard buildings prior to issuance of building, electrical, gas, etc., permits. No building, plumbing, electrical, gas or other permit that may be required for an addition, alteration or repair of an existing substandard building or structure shall be issued until such time as an inspection of the property has been made to determine the feasibility of rehabilitation of such building or structure. (Ord. #73-167, April 1974)

12-125. Existing buildings. (1) When compliance with chapter required. If, within any period of twelve months, alterations or repairs costing in excess of fifty percent of the then physical value of the building or structure are made to an existing building or structure, such building or structure shall be made to conform to the requirements of this chapter for new buildings.

(2) Damaged, abandoned, etc., buildings. If an existing building is damaged by fire, storm, flood or otherwise, in excess of fifty percent of its physical value before such damage occurred, or if by reason of inadequate maintenance, dilapidation, obsolescence or abandonment the cost of such necessary repairs and alterations would exceed fifty percent of the physical value of the building or structure, such building or structure shall be removed or demolished or made to conform to the requirements of this chapter for new buildings.

(3) Repairs of from twenty-five to fifty percent of physical value. If the cost of alterations or repairs, or the amount of damage, as specified in the two preceding sections, is more than twenty-five percent but not more than fifty percent of the physical value of such building or structure, the portions to be altered or repaired shall be made to conform to the requirements of this chapter for new buildings to such extent as may be determined by the director of building inspection.

(4) Director of building inspection to determine physical value of buildings. For the purpose of this section, the physical value of a building or structure shall be determined by the director of building inspection.

(5) Change in occupancy of building. If the occupancy of the existing building is entirely changed with no structural alterations, the building shall be made to conform to the requirements of this chapter for the new occupancy classification.

(6) Repairs not covered by preceding subsections of section. Repairs and alterations, not covered by the preceding subsections of this section, restoring a building to its condition prior to damage or deterioration or altering it in conformity with the provisions of this chapter or in such manner as will not extend or increase an existing nonconforming use or create a hazard, may be made with the same kind of materials as those of the original construction. (Ord. #73-167, April 1974)

12-126. Violations. (1) Any person, upon violation of any of the provisions of this chapter, shall be guilty of a misdemeanor and shall be subject to the penalties fixed by law for the commission of a misdemeanor. Each violation shall constitute a separate offense.

(2) In addition to the above, the City of Berry Hill, through its authorized officials, may cause to be instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent violation of any provision of this chapter. (Ord. #73-167, April 1974)

CHAPTER 2

BOARD OF BUILDING CODE APPEALS

SECTION

- 12-201. Board of building code appeals.
- 12-202. Membership.
- 12-203. Organization.
- 12-204. Rules and regulations for conduct of business; duty to hear appeals; meetings.
- 12-205. Appeals to board--when permitted; time limit; filing fee.
- 12-206. Appeals to board--time limit may be reduced in emergencies; filing of appeal.
- 12-207. Authority to grant variances from ordinance or modify decisions of director of codes administration.
- 12-208. Decisions by board.

12-201. Board of building code appeals. There is hereby created a board of building code appeals of the City of Berry Hill. (Ord. #73-167, April 1974)

12-202. Membership. The board of building code appeals shall consist of three members, who shall be the Board of Commissioners of the City of Berry Hill. (Ord. #73-167, April 1974)

12-203. Organization. The director of building inspection shall serve as secretary to the board and shall be custodian of the minutes and records of the proceedings of the board. (Ord. #73-167, April 1974)

12-204. Rules and regulations for conduct of business; duty to hear appeals; meetings. The board of building code appeals shall adopt such rules and regulations as it may deem necessary to conduct its business. The board, in open meetings, shall hear all appeals, under the provisions of this chapter, from decisions and rulings of the director of building inspection. The board shall meet at regular intervals to be determined by the mayor, or in any event, the board shall meet within ten days after notice of appeal has been received. (Ord. #73-167, April 1974)

12-205. Appeals to board--when permitted; time limits; filing fee. Whenever the director or building inspection shall reject or refuse to approve the mode of manner of construction proposed to be followed or materials to be used in the erection or alteration of a building or structure, or when it is claimed that

the provisions of this chapter do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of this chapter or any of the regulations hereunder have been misconstrued or wrongly interpreted, the owner of such building or structure or his duly authorized agent may appeal from the decision of the director to the board of building code appeals. Notice of appeal shall be in writing and filed within ten days after the decision is rendered by the director. A fee of twenty-five dollars (\$25.00) shall accompany such notice of appeal. (Ord. #73-167, April 1974)

12-206. Appeals to board--time limit may be reduced in emergencies; filing of appeal. In case of a building or structure which, in the opinion of the director of building inspection, is unsafe or dangerous, the director may, in his order, limit the time for such appeal to a shorter period. All appeals hereunder shall be filed with the department of building inspection on forms provided by the director. (Ord. #73-167, April 1974)

12-207. Authority to grant variances or modify decisions of director of codes administration. The board of building code appeals, when so appealed to shall grant a hearing at the next regular meeting of the board of commissioners and after a hearing, may vary the application of any provision of this chapter to any particular case when, in its opinion, the strict enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this chapter or public interest, and when, in its opinion, the interpretation of the director of building inspection should be modified. (Ord. #73-167, April 1974)

12-208. Decisions by board. A decision of the board of building code appeals varying the application of any provision of this chapter or modifying an order of the director of building inspection shall be by resolution of the board, which shall specify in what manner such variations or modifications shall be made, the conditions upon which they are made and the reasons therefor.

Every decision of the board shall be final, subject however, to such remedy as any aggrieved party or the City of Berry Hill may have at law or in equity. All decisions of the board shall be in writing. Every decision shall be promptly entered into the minutes of the meeting of the board and filed in the office of the director of building inspection. The records of the board shall be open to public inspection and a certified copy of each decision shall be sent by mail or otherwise to the appellant. A copy of each decision shall be kept publicly posted in the office of the director for two weeks after filing.

The board shall, in every case, render a decision without unreasonable or unnecessary delay.

If a decision of the board reverses or modifies a refusal, order or disallowance of the director of building inspection or varies the application of any provisions of this chapter, the director shall immediately take action concerning such decision or immediately enforce the decision of the board. (Ord. #73-167, April 1974)

CHAPTER 3

HOUSING CODE

SECTION

- 12-301. Housing code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violations.

12-301. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,¹ 1985 edition, as prepared and adopted by the Southern 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 housing code. (1986 Code, § 4-201)

12-302. Modifications. Wherever the housing code refers to the "Housing Official" it shall mean the city manager or any person appointed or designated by him to administer and enforce the provisions of the housing code. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Applicable Governing Body" is referred to it shall mean the municipal governing body. Section 108 of the housing code is deleted. (1986 Code, § 4-202)

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, three (3) copies of the housing code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1986 Code, § 4-203)

12-304. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1986 Code, § 4-204)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.