

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING AND ENERGY CONSERVATION CODES.
2. RESIDENTIAL CODE.
3. SLUM CLEARANCE.
4. BUILDING PERMITS.

CHAPTER 1

BUILDING AND ENERGY CONSERVATION CODE¹

SECTION

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

12-101. Building code and energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure (which is not covered by the International Residential Code that is herein adopted in chapter 2 of this title), the International Building Code, 2009 edition, and the International Energy Conservation Code, 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the building code and energy conservation code. (as added by Ord. #12-15-10, May 2011)

12-102. Modifications. (1) Definitions. Whenever in the building code and/or the energy conservation code reference is made to the duties of a certain official named therein, that designated official of the city 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 building code and energy conservation code are concerned.

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

(2) Permit fees. The schedule of permit fees shall be available in the city recorder's office. (as added by Ord. #12-15-10, May 2011)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy each of the building code and energy conservation code have been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #12-15-10, May 2011)

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code and energy conservation code as herein adopted by reference and modified. The violation of any section of this chapter 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. (as added by Ord. #12-15-10, May 2011)

CHAPTER 2**RESIDENTIAL CODE**¹**SECTION**

12-201. Residential code adopted

12-202. Modifications.

12-203. Available in recorder's office.

12-204. Violations and penalty.

12-201. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions regulating the construction of one (1) and two (2) family dwellings, the International Residential Code, 2009 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 residential code. Excluded from this adoption is any requirement that one (1) or two (2) family dwellings be constructed with sprinkler systems installed. No such sprinkler installation is required in this city code. (as added by Ord. #12-15-10, May 2011)

12-202. Modifications. (1) Definitions. Whenever in the residential code reference is made to the duties of a certain official named therein, that designated official of the city 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 residential code are concerned.

(2) Permit fees. The schedule of permit fees shall be available in the city recorder's office. (as added by Ord. #12-15-10, May 2011)

12-203. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #12-15-10, May 2011)

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter 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. (as added by Ord. #12-15-10, May 2011)

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

CHAPTER 3

SLUM CLEARANCE¹

SECTION

- 12-301. Findings of board.
- 12-302. Definitions.
- 12-303. "Public officer" designated; powers.
- 12-304. Initiation of proceedings; hearings.
- 12-305. Orders to owners of unfit structures.
- 12-306. When public officer may repair, etc.
- 12-307. When public officer may remove or demolish.
- 12-308. Lien for expenses; sale of salvage materials; other powers not limited.
- 12-309. Basis for a finding of unfitness.
- 12-310. Service of complaints or orders.
- 12-311. Enjoining enforcement of orders.
- 12-312. Additional powers of public officer.
- 12-313. Powers conferred are supplemental.
- 12-314. Structures unfit for human habitation deemed unlawful.

12-301. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of commissioners finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-302. Definitions. (1) "Municipality" shall mean the City of Niota, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body" shall mean the board of commissioners charged with governing the city.

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

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

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

(6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(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. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be such officer as the board of commissioners shall appoint or designate to exercise the powers prescribed by this chapter. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-304. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-305. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or

(2) if the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-306. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-307. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-308. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of McMinn County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one action for

debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of McMinn County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the City of Niota to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-309. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Niota; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-310. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of McMinn County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-311. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit,

issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such suit in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-312. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-313. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-314. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

Violations of this section shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to

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continue shall constitute a separate offense. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

CHAPTER 4

BUILDING PERMITS

SECTION

- 12-401. Enforcement officer.
- 12-402. Purpose of chapter.
- 12-403. Building permit required.
- 12-404. Applications and content.
- 12-405. Permit fee.
- 12-406. Enforcement of chapter.

12-401. Enforcement officer. The provisions of this chapter shall be enforced by the city recorder in her official capacity. (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-402. Purpose of chapter. The purpose of this chapter is to allow the city to gather information relative to building and construction within the corporate limits to evaluate its impact on the provision of city services and the necessity of improving city services such as wastewater pretreatment programs, hazardous waste disposal and containment, and fire protection services. (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-403. Building permit required. Any person undertaking construction within the corporate limits of the City of Niota, from and after the effective date of this chapter, whether for residential, commercial, industrial or incidental purposes and uses, shall be required to obtain from the city recorder a building permit prior to the commencement of construction. For purposes of this chapter, construction shall include any new buildings, additions to existing buildings, and replacement of former or existing buildings. (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-404. Applications and content. Applications for building permits may be obtained and made on forms provided by the city recorder. Upon application, a fee of ten dollars (\$10.00) shall be paid. The application and permit must be obtained prior to beginning construction. Applications will be filed with the city recorder, accompanied by a drawing or layout of the proposed construction showing entrances and exits, all utility connections, location of any hazardous materials storage or use, and the direction and distance of the nearest municipal fire hydrant. All applications shall contain the following information:

- (1) name of applicant;
- (2) owned or rented;
- (3) if rented, name and address of owner;

- (4) street address of construction location;
- (5) mailing address of applicant;
- (6) name of construction company, address, and contact person;
- (7) size of proposed structure, including whether it is new, additional or replacement construction and the attached layout or drawing;
- (8) primary construction material and style;
- (9) whether hazardous materials will be used in construction, and whether the finished location will house hazardous materials;
- (10) type of utilities used;
- (11) estimate of cost of construction;
- (12) whether the construction is residential, commercial, industrial or incidental; and
- (13) any emergency systems being installed such as fire alarms, burglar alarms, sprinkler systems, etc. (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-405. Permit fee. The cost of a permit shall be ten dollars (\$10.00), payable upon application. (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-406. Enforcement of chapter. For purposes of the enforcement of this chapter, no municipal utility services or other services provided by the municipality shall be authorized or lawfully provided to any location or address or person for which a building permit has not been issued prior to the request for such services. (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)