

**TITLE 13****PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. JUNKED MOTOR VEHICLES.
3. SLUM CLEARANCE.
4. VACANT BUILDING ENFORCEMENT PROGRAM.

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

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<sup>1</sup>Municipal code references

Animal control: title 10.

*International Property Maintenance Code*: title 12, chapter 3.

Littering streets, etc.: § 16-107.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the town. (Ord. #648-09, Jan. 2010)

**13-102. House trailers.** It shall be unlawful for any person to occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures. The proposed location of the house trailer or portable building shall also conform to the zoning provisions of the town and a permit shall have been first obtained from the building official, as provided for in the building code, before it may be occupied. (Ord. #648-09, Jan. 2010)

**13-103. Temporary/permanent structures.** Any structure including, but not limited to outbuildings, carports and structures with poles, that remain assembled and standing for thirty (30) days or more shall be considered a permanent structure. The property owner shall be required to obtain a building permit for such structures and the structure shall be required to meet all requirements of the building permit. (Ord. #648-09, Jan. 2010)

**13-104. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (Ord. #648-09, Jan. 2010)

**13-105. Stagnant water.** It shall be unlawful for any person knowingly to allow any stagnant water to accumulate and stand on their property without treating it so as effectively to prevent the breeding of mosquitoes. (Ord. #648-09, Jan. 2010)

**13-106. Garage/yard sales.** Garage/yard sales are permitted when conducted by the owners or tenants of the property, provided that no person is compensated for conducting the sale. No more than four (4) garage/yard sales shall occur at the same location in any calendar year, and the duration of a single garage/yard shall not exceed two (2) days. Additionally, one (1) auction or other sale to dispose of the household assets of a deceased resident or a resident who is relocating may be held at the resident's home, and the person or agency conducting such a sale may be compensated. No sale of merchandise purchased for resale shall be permitted at a garage/yard sale. The restriction of no more than four (4) garage/yard sales per calendar year shall not apply to fundraising events held on the property of nonprofit organizations and any garage/yard sale held in districts that are zoned B or M1. (Ord. #648-09, Jan. 2010)

**13-107. Garage/yard sale signs.** Garage/yard sale signs shall not be placed on any public property including right-of-way, street sign posts, or power/telephone poles. Signs may be located only on private property and only displayed during the actual days of the sale. "Public property" is defined as the space between sidewalks and the street (known as the parkway), between power poles and the street, and the area between the private property boundary line and the street. (Ord. #648-09, Jan. 2010)

**13-108. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (Ord. #648-09, Jan. 2010)

**13-109. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (Ord. #648-09, Jan. 2010)

**13-110. Automobile wrecking and junkyards.** Because of the nature and character of their operations, automobile wrecking, junk, or salvage yards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties. These uses tend to create problems of noise, dust, traffic and health hazards, and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlined above, have properly minimized their objectionable characteristics.

(1) Location. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred feet (300') from any established residential district.

(2) Screening. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence or wall, excepting driveway areas, at least eight feet (8') in height. Such fence or wall shall be constructed on or inside the front, side and rear yard setback lines required within the district in which located and shall be constructed in such a manner that no outdoor storage or salvage operations shall be visible from an adjacent property, street or highway. Storage, either temporary or permanent, between such fence or wall and any property line is expressly prohibited.

(3) Ingress and egress. The number of vehicular access driveways permitted on any single street frontage should be limited to:

(a) One (1) driveway where the parcel to be used has a maximum street frontage of one hundred feet (100') or less.

(b) Two (2) driveways where the street frontage exceeds one hundred feet (100').

Driveways used for ingress and egress shall be limited to twenty-five feet (25') in width, exclusive of curb returns.

(4) New junkyards or transfer of junkyards prohibited. No new junkyards shall hereafter be established or maintained nor shall any existing junkyard be transferred as such to any new, additional, or other owner.

For purposes of this chapter, a junkyard is any enclosed or unenclosed, roofed or unroofed, area or place, in or upon which is stored or kept for sale, scrap metal, rope, paper, rags, used automobile parts, wrecked automobiles or other refuse or waste material. (Ord. #648-09, Jan. 2010)

**13-111. Prohibited practices.** Pursuant to the authority granted municipalities by *Tennessee Code Annotated*, § 6-54-113 and the powers and authority granted by the charter and municipal code of the town, as the same may be amended or replaced, it shall be unlawful for any person or occupant of property to:

(1) Fail to cut grass, weeds and other overgrown vegetation on improved property or on vacant parcels less than fifteen (15) acres when such vegetation is of a height greater than one foot (1') on the average, such condition being declared a nuisance in that it may permit the property to serve as a refuge for rodents, snakes and/or other vermin, or create a fire hazard. All other vacant parcels adjacent to improved property shall be similarly kept cut within one hundred feet (100') of such improved property. Weeds and grass on heavily wooded parcels where equipment cannot maneuver because of the natural density of the vegetation are exempt from these provisions. In addition, the tilling, planting and harvesting of agricultural crops are exempt from the provisions stated herein.

(2) Permit or cause trash, garbage or miscellaneous refuse, or any other substance which may cause a foul odor on improved property or vacant parcels so as to serve as a refuge for rodents, snakes and/or other vermin. Such condition is or may become a nuisance, or may endanger or threaten the health, safety and/or welfare of residents or occupants of nearby property.

(3) Have on their premises materials that could permit or cause a littered condition, such as, but not limited to, dilapidated furniture, appliances, machinery, equipment, building materials, automobile parts, tires, or any other items, which are in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition, which are not completely enclosed within a building, dwelling or opaque fencing/screening. Such materials may endanger or cause injury to the residents or occupants of nearby property. (Ord. #648-09, Jan. 2010)

**13-112. Duty of owner and occupant to clear on notice.** (1) Within ten (10) days' written notice of a violation of this article from the Town of Erwin's Building Official or his designee, it shall be the duty of the owner and occupant to cut and remove all grass, weeds and other overgrowth vegetation and to remove all trash, litter, materials and other offending conditions from the property. The notice shall include a brief statement of this section and the consequences of failing to remedy the noted condition; and the person, office, address and telephone number of the person giving official notice.

(2) If the property owner is a carrier engaged in the transportation of personal property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten (10) day period of this section shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays. (Ord. #648-09, Jan. 2010)

**13-113. Hearing rights.** Should the owner or occupant of any property notified of a violation of this article request a hearing, the town shall provide for a hearing by the town recorder or his designee. A request for such hearing must be made within ten (10) days following the receipt of the notice issues pursuant to this chapter. Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing. (Ord. #648-09, Jan. 2010)

**13-114. Appeals.** Any person aggrieved by an order or act of the town under the provisions of this chapter may seek judicial review of the order or act. The time period established in this chapter shall be stayed during the pendency of the hearing. (Ord. #648-09, Jan. 2010)

**13-115. Town's right to remedy violations; collection of costs.** (1) Should the owner or occupant of any parcel fail to remove such weeds, trash, garbage, grass or other objects or substances within ten (10) days after notice of violation of this chapter, thereafter the town shall have the authority to enter onto such parcel and immediately cause the offending conditions to be remedied or removed; and to charge the cost or expense of such action, including associated legal fees and/or other administrative costs, against such owner and/or occupant. The town is authorized to use either internal labor and equipment or private contractors at its discretion to enforce the provisions of this chapter.

(2) If the owner fails to pay the expense of the clean up within thirty (30) days from receipt of a certified invoice, the amount shall be certified to the town attorney who shall process a lien with the register of deeds on the properties upon which the expenditure was made. These costs shall be collected by the municipal tax collector 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. (Ord. #648-09, Jan. 2010)

**13-116. Brush.** Tree trimmings, hedge clippings and similar materials stacked in accordance with this chapter at the public street will be picked up by the town on a weekly basis; however, the pick up schedule is not guaranteed and will occur only under the following conditions:

- (1) The brush and limbs set out for pick up that have a diameter of three inches (3") or less, must not exceed ten feet (10') in length.
- (2) The brush and limbs set out for pick up that have a diameter of more than three inches (3"), must not exceed six feet (6') in length.
- (3) The brush shall be stacked neatly, not crisscrossed, either parallel or perpendicular to the street at the town's right-of-way with the larger ends placed all in the same direction.
- (4) All smaller brush that can be removed by pitchfork (referred to as forkings).
- (5) Shrubs that have had the root balls removed.

Tree trimmings, hedge clippings and similar materials will not be picked up by the town under the following conditions:

- (1) The brush is located in an alley.
- (2) The brush or debris is hanging over into the street.
- (3) More than five (5) trees have been cut down on the property.
- (4) The brush is so small that it would have to be raked to be removed (referred to as rakings), or contains wire, rock, or concrete mixed in with the brush piles.
- (5) The brush pile is stacked higher than five feet (5').
- (6) The brush contains limbs that are larger than six inches (6") in diameter, or contain blocks of wood, logs, stumps or sawdust. (Ord. #652-10, Oct. 2010)

**13-117. Permit required.** It shall be unlawful for any commercial tree cutting service or for any individual who is in the business of cutting trees, branches or shrubs to ply his trade within the town limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one (1) to whom it is issued. A permit shall be required for each job undertaken. Therefore, if the applicant's information has not changed from a previous application, the application for permit shall contain primarily the same information with the exception of the new address of the new job site. (Ord. #652-10, Oct. 2010)

**13-118. Application for permit.** Applications for a permit under this chapter must be filed with the town recorder, sworn to by the applicant and contain the following:

- (1) Name of applicant.

- (2) Complete permanent home address and business address of applicant.
- (3) A brief description of the nature of the business and a copy of the applicant's business license.
- (4) Address of job site.
- (5) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- (6) The length of time for which the right to do business in the town is desired.
- (7) A recent clear photograph, approximately two inches (2") square, showing the head and shoulders of the applicant.
- (8) Proof of insurance. A copy of the policy or certificate that the applicant carries a minimum of one-hundred thousand dollars (\$100,000.00) in liability insurance.
- (9) The names of at least two (2) references who will certify as to the applicant's good reputation and business responsibility.
- (10) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed.
- (11) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and the name, address and phone number of the last three (3) property owners from which such business was conducted in those municipalities.
- (12) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the town to cover the cost of investigating the facts stated therein. (Ord. #652-10, Oct. 2010)

**13-119. Issuance or refusal of permit.** (1) Each application shall be referred to the town recorder for investigation. The recorder shall report his findings to the applicant within seventy-two (72) hours.

(2) If as a result of such investigation the recorder reports the applicant's reputation and/or business responsibility to be unsatisfactory, the recorder shall notify the applicant that his application is not approved and that no permit will be issued.

(3) If the recorder's report indicates that the reputation and business responsibility of the applicant are satisfactory, the town recorder shall issue a permit upon the payment of all applicable privilege taxes. The recorder shall keep a permanent record of all permits issued. (Ord. #652-10, Oct. 2010)

**13-120. Enforcement.** The provisions of this chapter shall be administered and enforced by the municipal building inspector and the Erwin Police Department. These officials shall have the right to enter upon any premises necessary to carry out their duties in the enforcement of this chapter. (Ord. #652-10, Oct. 2010)

**13-121. Appeal.** Any person aggrieved by the action of the town recorder as the result of the denial of a permit shall have the right to appeal to the board of mayor and alderman. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (Ord. #652-10, Oct. 2010)

**13-122. Violations and penalty.** Any person violating any provision of this chapter shall be guilty of a class C misdemeanor, and upon conviction shall be fined not more than fifty dollars (\$50.00) for each offense. Each day such violation continues shall constitute a separate offense. (Ord. #652-10, Oct. 2010)



## CHAPTER 2

### JUNKED MOTOR VEHICLES

#### SECTION

- 13-201. Definitions.
- 13-202. Violations a civil offense.
- 13-203. Exceptions.
- 13-204. Enforcement.
- 13-205. Violations and penalty.

**13-201. Definitions.** For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own

power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(b) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

**13-202. Violations a civil offense.** It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle.

**13-203. Exceptions.** (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the town.

**13-204. Enforcement.** Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the town judge to issue a summons, or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, § 7-63-101 *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

**13-205. Violations and penalty.** Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. Each day the violation of this chapter continues shall be considered a separate violation.

## CHAPTER 3

### SLUM CLEARANCE<sup>1</sup>

#### SECTION

- 13-301. Findings of board.
- 13-302. Definitions.
- 13-303. "Public officer" designated; powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Enjoining enforcement of orders.
- 13-312. Additional powers of public officer.
- 13-313. Powers conferred are supplemental.
- 13-314. Structures unfit for human habitation deemed unlawful.

**13-301. Findings of board.** Pursuant to *Tennessee Code Annotated*, § 13-21-101, *et seq.*, the board of mayor and aldermen finds that there exists in the town 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 town.

**13-302. Definitions.** (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

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

(3) "Municipality" shall mean the Town of Erwin, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

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

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, title 13, chapter 21.

(5) "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.

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

(7) "Public authority" shall mean any housing authority 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.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to *Tennessee Code Annotated*, § 13-21-101, *et seq.*

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

**13-303. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.

**13-304. 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 town 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 occupation 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.

**13-305. 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 occupation 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, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation 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.

**13-306. 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 occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."

**13-307. 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.

**13-308. 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, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, 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 as set forth in *Tennessee Code Annotated*, § 67-5-2010 and § 67-5-2410. 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 (1) action for debt against more than one (1) 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 (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer 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 Unicoi 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 to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Erwin to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

**13-309. 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 Town of Erwin. 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; or uncleanliness.

**13-310. 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 persons are 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 town, or , in the absence of such newspaper, one (1) printed and published in the county and circulating in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Unicoi County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

**13-311. Enjoining enforcement of orders.** Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill 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 bill 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.

**13-312. 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 town 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.

**13-313. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the town 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.

**13-314. 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 town 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 town.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.



## CHAPTER 4

### VACANT BUILDING ENFORCEMENT PROGRAM

#### SECTION

- 13-401. Scope and definition.
- 13-402. Standard of care for vacant property.
- 13-403. Exemptions.
- 13-404. Certificate required.
- 13-405. Certificate of inspection application; inspection; and issuance.
- 13-406. Fees.
- 13-407. Escrow deposit required prior to sale.
- 13-408. Correction of violations.
- 13-409. Dispersal of funds by escrow agents.
- 13-410. Certificate of occupancy.
- 13-411. Violations and penalty.

**13-401. Scope and definition.** (1) This chapter applies to any building in the following zoning districts as designated by the Erwin Zoning Ordinance and Zoning Map: Downtown overlay district.

(2) "Vacant building" shall be defined for the purposes of this chapter as a building which is not occupied by its owner, lessee or other person in lawful possession, or at which substantially all lawful business operations have ceased, or which is substantially devoid of content. Special event, short term, and seasonal commercial lessees or occupants of ninety (90) days or less are excluded from the provisions of this chapter and shall not be used in determining the length of vacancy for any building in the designated district. (Ord. #711-19, July 2019)

**13-402. Standard of care for vacant property.** (1) The owner, lessee, or party in control of any vacant building, or a mortgagee that has filed and is currently maintaining an open foreclosure action regarding a vacant building shall maintain the vacant building as follows:

(a) Grass, weeds and other overgrown vegetation shall not be of a height greater than one foot (1') on the average. Shrubbery must be kept trimmed and neat and kept from encroaching on or touching the building.

(b) Protective treatment: All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition, weather tight and in such condition so as to prevent the entry of rodents and other pests. All exposed wood or metal surfaces subject to rust or corrosion, other than decay resistant woods or surfaces designed for stabilization by oxidation shall be protected from the elements and

against decay or rust by periodic application of weather coating materials such as paint or similar surface treatment. All surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. All siding, cladding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight.

(c) Premises identification: The property shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (4" or 102mm) high with a minimum stroke width of one-half inch (1/2" or 12.7mm). All buildings shall display a vacant building identification placard as required by the director.

(d) Structure: All structural members and foundation shall be maintained free from deterioration, and shall be capable of safely supporting the imposed loads.

(e) Exterior walls: All exterior walls shall be kept in good condition and shall be free from holes, breaks, and loose or rotting materials. Exterior walls shall be maintained weatherproof and properly surface coated where necessary to prevent deterioration.

(f) Roof and drainage: The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent accumulation, dampness or deterioration. Roof drains, gutters and downspouts shall be maintained in good repair, free from obstructions and operational.

(g) Decorative features: All cornices, belt courses, corbels, applications, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(h) Overhang extensions and awnings: All overhang extensions including, but not limited to canopies, marquees, signs, awnings, and fire escapes shall be maintained in good repair and be properly anchored and supported as to be kept in a sound and safe condition.

(i) Stairways, decks, porches and balconies: Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(j) Chimneys and towers: All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair.

(k) Handrails and guards: Every exterior handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(l) Window, skylight and door: Every window, storefront, skylight and exterior door part, including but not limited to the frame, the trim, window screens and hardware shall be kept in sound condition and good repair. All broken or missing windows shall be replaced with glass and secured in a manner so as to prevent unauthorized entry. All broken or missing doors shall be replaced with new doors which shall be secured to prevent unauthorized entry. All glass shall be maintained in sound condition and good repair. All exterior doors, door assemblies and hardware shall be maintained in good condition and secured. Locks at all exterior doors, exterior attic access, windows, or exterior hatchways shall tightly secure the opening. Windows and doors shall not be secured by plywood or other similar means mounted on the exterior except as a temporary securing measure, and the same shall be removed within a period of time designated by the director.

(m) Basement hatchways and windows: Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against entry of rodents.

(2) Adherence to this section does not relieve the owner or agent in control of the property of any obligations set forth in any covenants, conditions, restrictions, homeowners' association rules and regulations and/or codified ordinances or building codes which may apply to the property.

(3) The owner, agent, lessee, party in control, or mortgagee in foreclosure of any vacant building agrees to grant unrestricted access to the vacant building after receiving forty-eight (48) hours' notice from the Town of Erwin for inspections and appraisals as necessary.

(4) Registration required. (a) The owner, agent, lessee, or party in control of any vacant building, or a mortgagee that has filed a foreclosure action that is currently pending regarding any vacant building with the town recorder and maintain the registration up to date.

(b) An application for registration of a vacant building shall include all of the following information on forms provided by the town:

(i) The name of the owner, agent, lessee or party in control of the property and/or foreclosing entity submitting the registration application;

(ii) Physical and mailing address of the applicant as well as the address of the vacant property;

(iii) A contact name, telephone number and email address for the applicant;

(iv) In the case of an applicant whose name or business address is located outside Unicoi County, the applicant shall provide the name and mailing address of a local property management company as well as the contact name, telephone

number and email address of the person responsible for the security, maintenance, and marketing of the property; and

(v) The fee required by this chapter.

(c) Registration shall remain valid for twelve (12) months from the date of issuance. The owner, agent, lessee or party in control, or mortgagee in foreclosure, shall renew the registration upon expiration for as long as the property remains vacant.

(d) The owner, agent, lessee, party in control, or mortgagee in foreclosure of any vacant building, shall inspect the property at least one (1) time each month on the interior and exterior of the property to verify that the requirements of this section, the codified ordinances of the town, and any other applicable laws are being met. A written report of such inspections shall be provided to the town upon request. (Ord. #711-19, July 2019)

**13-403. Exemptions.** Waivers exempting compliance with the provisions of this chapter can be obtained in writing on a form provided by the town under the following circumstances as long as the property is kept in safe, secure, and habitable condition in the owner's absence:

(1) Buildings substantially damaged by fire, vandalism, natural disaster, or act of God; provided clean up, repair or demolition is initiated within ninety (90) days from the date of the fire.

(2) An owner or the estate of a deceased owner who is actively attempting to sell the property; provided however the sale price must be at or below the fair market value of the property according to a State of Tennessee Licensed Appraiser meeting the education and licensure requirements of the State of Tennessee.

(3) An owner or the estate of a deceased owner who is actively attempting to rent or lease the property at fair market value provided the advertisement for rental/lease is published in a newspaper of general circulation or other commonly used media outlet for such listings.

(4) The Erwin Board of Appeals may grant exemptions from the requirements of this chapter for special circumstances at their discretion. (Ord. #711-19, July 2019)

**13-404. Certificate required.** (1) The owner, agent, or party in control of any vacant building, shall apply for and obtain certificate of inspection from the town recorder within ninety (90) days of the premises becoming a vacant building and annually thereafter.

(2) Upon selling, transferring or conveying an interest in property or entering into an agreement to sell, transfer or otherwise convey an interest in such property the owner shall provide the certificate of inspection to the purchaser or transferee. The certificate of inspection shall list thereon all

known violations of town ordinances found as a result of an exterior and interior inspection.

(3) The owner shall deposit in escrow a statement signed by the purchaser or transferee acknowledging receipt of the certificate of inspection, and such statement shall list thereon the date the certificate was given to the purchaser or transferee. (Ord. #711-19, July 2019)

**13-405. Certificate of inspection application; inspection; and issuance.** An application for a certificate of inspection required by this chapter shall be made upon forms supplied by the town recorder.

(1) The town recorder shall cause a general exterior and interior inspection for the building to be made.

(2) The certificate of inspection shall contain the following information:

(a) The street address or other identifying characteristics of the dwelling structure;

(b) The name and address of the owners; lessee or party in control;

(c) The authorized use and occupancy of the building; and

(d) The listing of all known violations of the building code existing at the time of such inspection.

(3) Once a certificate of inspection is issued, it shall be valid for a period of one (1) year from the date of the inspection required herein, and that certificate of inspection is only good the date of the inspection required herein, and that certificate of inspection is only good for one (1) transfer. In the event of resale within the one (1) year period, the certificate shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period. (Ord. #711-19, July 2019)

**13-406. Fees.** (1) The fee for a certificate of inspection shall be two hundred dollars (\$200.00).

(2) There shall be no fee for one (1) re-inspection requested by the same owner within twelve (12) months from the date of the initial inspection to verify correction of violations stated within the certificate of inspection. All subsequent re-inspections may be billed at twenty-five dollars (\$25.00) per inspection.

(3) The owner of a vacant building shall pay an annual fee of eight hundred dollars (\$800.00) for the first year the building remains vacant. For every consecutive year that the building remains vacant, the annual fee will be assessed at double the previous year's fee amount for a maximum annual fee equaling the four (4) year fee of six thousand four hundred dollars (\$6,400.00) to be used for the fourth and for all consecutive, subsequent years of vacancy.

(4) The first annual fee shall be paid at the time the building is registered.

(5) Absent a showing of good cause, if the building is not registered within the timeframe required herein, or the registration is not renewed within thirty (30) days after the expiration of one (1) year from the date of the previous registration, a penalty shall be paid in addition to the annual registration fee. The penalty shall be equal to one-half (1/2) of the current annual fee or one thousand dollars (\$1,000.00), whichever is less.

(6) Registration fees generated by this section shall be deposited into a fund to be established for the benefit of property owners within the affected area at the board of mayor and aldermen's discretion. (Ord. #711-19, July 2019)

**13-407. Escrow deposit required prior to sale.** (1) If all violations listed on the certificate of inspection are not corrected prior to transfer of title, an escrow account shall be established by a party to the transfer, in an amount not less than one thousand dollars (\$1,000.00) and equal to one hundred percent (100%) of the estimated cost of repairs, and shall be deposited therein to pay for the cost to correct all remaining violations. No party to a transfer of a vacant building shall authorize or accept such transfer without ensuring compliance with this section.

(2) The amount to be held in escrow shall be determined by a party of the transfer procuring written estimates from at least two (2) companies capable of performing the work, which are currently registered to do business in Unicoi County. The amount deposited into escrow shall be one hundred percent (100%) of the higher of the two (2) estimates.

(3) If the parties establishing the escrow can demonstrate to the town recorder that after a good faith effort he/she is unable to obtain two (2) written estimates, the town recorder shall establish the amount to be placed in escrow. (Ord. #711-19, July 2019)

**13-408. Correction of violations.** Any violations found upon inspection of the premises shall be corrected prior to issuance of the certificate of occupancy. Violations that cannot be corrected due to seasonal conditions shall not preclude the issuance of a certificate of occupancy provided that issuance of such certificate shall be upon written acknowledgment of all violations an agreement to correct all violations within six (6) months of the inspection date. In addition written notice must be received by the town that funds are being held in an escrow account in a sufficient amount to correct all violations, but in no case less than one thousand dollars (\$1,000.00). Such account shall be held by an independent escrow agent and shall be closed only upon written notice by the town recorder. (Ord. #711-19, July 2019)

**13-409. Dispersal of funds by escrow agents.** (1) No person acting in the capacity of an escrow agent in any real estate transaction involving the sale or transfer of a vacant building shall disperse any funds held in escrow in compliance with § 13-407 unless there has been compliance with § 13-408.

(2) Funds shall be dispersed only upon written authorization from the town recorder as follows:

(a) The town recorder or his/her designee may authorize the release of funds from the escrow agent established per § 13-407 as payment in full to a contractor as each violation is corrected, provided the amount due does not exceed the written estimates; or

(b) The town recorder or his/her designee may authorize a release of funds from the escrow account established per § 13-407 as payment in full to a contractor as each violation is corrected, provided that when the amount due does exceed the written estimates such release can only be made upon the town recorder's or his/her designee's written finding that sufficient funds will remain in escrow to correct all other remaining violations. (Ord. #711-19, July 2019)

**13-410. Certificate of occupancy.** At the request of the owner of property or his/her agent, the town shall issue a letter or other written document signed and dated by the building inspector stating that all violations listed on the certificate of inspection have been completed to the town's satisfaction, and the property is eligible for occupancy. No vacant building can be occupied until this certificate of occupancy is obtained. (Ord. #711-19, July 2019)

**13-411. Violations and penalty.** (1) Any violation of this chapter shall subject the offender to the Erwin Municipal Court and a penalty under the general penalty provision of this municipal code. Each day a violation is allowed to continue shall constitute a separate offense.

(2) Unpaid registration fees and fines shall be an assessment on the property enforceable in the same manner as assessments for delinquent property taxes. (Ord. #711-19, July 2019)