

Chapter 14-8 - DANGEROUS, DERELICT OR ABANDONED STRUCTURES IN MULTIFAMILY HOUSING, COMMERCIAL AND INDUSTRIAL DISTRICTS

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Article 1 - General Provisions

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Sec. 14-8-1 - Generally.

This chapter shall be known as the "Anti-Neglect and/or Dangerous, Derelict or Abandoned Structures in Multifamily Housing, Commercial and Industrial Areas Ordinance," and applies to all buildings and structures, in addition to the inspections and conditions imposed by the department of housing inspection set out in Articles 1 through 8 of Chapter 14-4, the inspections and regulations imposed by the office of code enforcement and the requirements of the fire services division.

(Ord. 4126 § 1, 9-15-92; Code 1985 § 48-215)

Sec. 14-8-2 - Purpose.

This chapter is meant to prevent buildings or structures in the city from becoming dangerous and/or neglected or remaining dangerous and derelict, as the terms may be defined in this chapter; to prevent structures from becoming blighted; to mitigate blighting impact of such buildings; to provide for the regular inspection of structures and buildings that are or are likely to become dangerous, derelict or abandoned; and to impose fees to cover the costs of inspection of those properties upon owners, operators, tenants or lessees, having a legal or equitable interest in the property and have a responsibility to maintain the property.

(Ord. 4126 § 1, 9-15-92; Code 1985 § 48-216)

Sec. 14-8-3 - Exemption.

This chapter shall not apply to single-family or duplex residences, except when such single-family or

duplex residence is located within an historic district. This chapter shall apply to business structures and residential structures of three or more units.

(Ord. 4126 § 1, 9-15-92; Code 1985 § 48-217)

Article 2 - Definitions

[Sec. 14-8-4 - Definitions.](#)

Sec. 14-8-4 - Definitions.

For the purpose of this chapter, certain terms, phrases, words and their derivatives shall be construed as specified herein. Words used in the singular include the plural, and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. Terms, words, phrases and their derivatives used, but not specifically defined in this chapter, either shall have the meaning defined in this chapter or if not herein defined, shall have the meanings commonly accepted in the community.

"Abandoned structure" is a vacant structure when it is without obvious supervision by an owner, tenant, lessee or person in charge and the structure or any portion thereof is in such a condition as to constitute a danger, nuisance or in any way a hazard to the public. Abandonment may also be constituted by, but not limited to, any one or more of the following conditions which may exist:

1. Failure to answer notices;
2. Failure to pay taxes;
3. Failure to make appearances at court hearings;
4. Failure to properly board up broken windows or open doors, secure basements, reinforce and secure walls which may have caved-in or buckled on subject properties;
5. Failure to properly secure walls which are subject to buckling or caving onto adjacent or adjoining properties, as declared by code enforcement officials;
6. Failure to remove accumulated debris declared as health or fire hazards by fire services division or health department.

"Agreement/contract to repair/work" is a written agreement or contract in which the owner of a structure agrees to carry out repairs or perform reconstruction work on any abandoned, unsafe, dangerous building or structure, between a specified commencement and completion date.

"Approved testing agency" is an established and recognized agency regularly engaged in conducting testing and furnishing inspection services or a duly licensed engineer. Approved testing agency can be a licensed agent, either from private enterprise appointed by city under contract arrangement, or a public official employed in a governmental capacity with a license to practice engineering or architecture in the state of Tennessee.

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"Attractive nuisance doctrine" is the failure to observe a legal duty; one which contemplates the guarding against some danger which is neither common nor obvious; the liability of an owner of ordinary prudence and foresight to recognize the unreasonable risk of harm to children or adults who may be enticed or lured to the premises and under normal reasoning power cannot conceive danger to themselves; where owner has created a dangerous condition attractive to children and adults and has not taken such precaution as a reasonably prudent person would take to prevent injury to such persons. (Also see "Nuisance.")

"Blighted conditions" is defined as conditions existing on, such as but not limited to, property which is unsecured, left open to the elements and without apparent and latent supervision by the owner; the exterior of premises is in disrepair; is regularly occupied by vagrants or uninvited persons; contains unduly or uncommon amounts of litter about the premises; fallen exterior building apertures about the property; broken windows; accumulation of debris on the premises, the value of the subject real property would be greater if the building were removed; the building has fire damage which has remained unrepaired for a period of more than one year.

"Boarded" is a boarded building secured against entry by apparatus which is visible off the premises and the apparatus is neither lawful or customary to install on occupied structures.

"Building code" is the most recent edition of the Memphis/Shelby County building code as adopted or any document which succeeds or replaces this document.

"Building official" is the chief administrative head of the office of code enforcement, or his or her designee.

"Building/structure" is a building or structure used or intended for sheltering any use or occupancy.

"Continuing violations" is whenever any building or structure exists or is allowed by owner in constant violation of specific requirements or prohibitions applicable to such building or structure, as provided in building regulations of the office of code enforcement or any law or ordinance of this state or city.

"Dangerous structure" is any structure, whether occupied or unoccupied, which is found to have any or all of the conditions or defects hereinafter described to the extent that life, health, property or safety of the public or its occupants are endangered:

1. Live/dead load stress: whenever the stress in any materials, member or portion thereof, due to all dead and live loads, exceeds more than ninety (90) percent of the materials' yield stress or is more than one and one-half times the working stress or stresses allowed in the building code of the office of code enforcement for buildings of similar structure, purpose or location.

For purposes of clarification "dead load" refers to building; "live load" refers to contents of building. Stress levels are as determined and provided by an architect at time of issuance of use and occupancy permit.

2. Fire, earthquake, flood and other causes: whenever fifty (50) percent or more has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the building code of the office of code enforcement for buildings of similar structure, purpose or location.

3. Falling timbers and unsecured ornamentations: whenever cornices, parapet, walls, signs,

gutters, downspouts, windows, supports or walls with peeling paint, rotting wood, holes and other forms of material decay, are likely to fail or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

4. Wind pressures: whenever any portion of a building, or any member, appurtenance or ornamentation of the exterior thereof is not of sufficient strength or stability as determined by a qualified and licensed engineer, architect or inspector or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of two-thirds of that specified in the building code of the office of code enforcement for buildings of similar structures, purpose or location without exceeding the working stresses permitted in the building code of the office of code enforcement for such buildings.

5. Buckling conditions: whenever any portion thereof has wrecked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar construction specified in the building code of the office of code enforcement. Or, whenever the exterior walls or other vertical structural members list, lean, slit or buckle due to defective material or deterioration to such extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

6. Interior/exterior maintenance: when, upon inspection by an authorized representative of the fire services division or an authorized representative of the office of construction code enforcement, there is found a visible lack of interior or exterior maintenance of fifty (50) percent or more deterioration of any of the following components of a building or structure set forth in their appropriate code and is likely to partially or completely collapse because of:

- a. Dilapidation, deterioration or decay;
- b. Faulty construction;
- c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
- d. The deterioration, decay or inadequacy of its foundation or floor supports or flooring or foundation piers;
- e. Fireplaces or chimneys list, bulge or settle due to defective material or deterioration;
- f. Ceilings, roofs, ceiling and roof supports or other horizontal members which are in danger of or have fallen or collapsed, or which sag, split or buckle due to defective material or deterioration or that are insufficient to carry imposed loads with safety; or
- g. Other causes found which do not conform to code regulations.

7. Damaged supports, exclusive of foundation: whenever the building or structure exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members existing or fifty (50) percent damage or deterioration of its nonsupporting members existing, either in the interior or exterior of the structure.

8. Fire resistance: whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, does not meet the fire-resisting qualities or characteristics required by the building code in the case of a constructed building of like nature,

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height and occupancy.

9. Utilities: whenever any building or structure is found to have deteriorated, damaged or inadequate and faulty electric wiring, gas connections or heating apparatus.

10. Weather elements: ineffective waterproofing of exterior walls, roofs and foundations, broken windows or doors and deterioration of exterior plasters or mortar, so as to allow rain, snow or other effects of the weather to enter the building.

11. Debris: whenever any portion of the debris of a building or structure remains on a site for more than thirty (30) days after the demolition or destruction of the building or structure.

"Derelict building" is any building, structure or portion thereof containing any of the conditions set forth under "neglected," "abandoned structure," or "dangerous structure," which may be either occupied or unoccupied or meets any of the following criteria:

1. Has been ordered vacated by the fire division director or the building official of office of code enforcement;
2. Has been issued a correction notice by the fire division director or the building official of office of code enforcement;
3. Has been posted for violations more than once in any one-year period and such violations have not been corrected;
4. Is unsecured;
5. Is not boarded.

"Director of office of code enforcement is the chief administrative head in charge of the office of Memphis and Shelby County code enforcement department or his or her designated representative.

"Director of fire division" is the person in charge of the city fire services division, or his or her designated representative.

"Director of housing and community development" is the person in charge of the city's housing and community development division and associated programs in connection therewith.

"Emergency," for the purposes of this section and chapter, means any condition created by flooding of building site; result of fire either to structure or adjacent structures or land; undermining created by construction or demolition of adjacent properties; exposed, rotted or rusted timbers, structural members and/or appendages; land or sewer cave-in; earthquake, tornado, lightning and storm damage or other acts of God.

"Exterior property area" is the open space on the premises and on adjoining property under the control of the owner or operator of such premises.

"Fire official" is the officer or other designated authority or their duly authorized representative, charged with the administration and enforcement of the fire prevention code and commercial anti-neglect ordinance.

"Hearing officer" is the person in the fire services division designated to hear, determine and cite

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violations, together with placing of penalties therefor.

"Imminently dangerous" means any condition posing a direct and immediate threat to human life, health or safety.

"Inspection fee" is a fee imposed for costs associated with the processing, inspecting of property and the declaration of a dangerous, abandoned or derelict building.

"Inspections supervisor, commercial anti-neglect department," is the duly authorized representative responsible for the administration of the inspection of buildings cited as dangerous, abandoned or derelict building.

"Inspector" is the person(s) within the fire services division who has been duly authorized and certified by the state of Tennessee as a building inspector.

"Neglected" means a structure possessed of any or all of the conditions as may be set out and defined in "dangerous structure," "abandoned structure," and "nuisance" and subject to being declared a neglected/derelict, abandoned or dangerous building.

"Nuisance" is a structure or building in such a state of deterioration or abandonment that it is a blighting influence on neighboring properties. The fact that buildings on neighboring properties are abandoned or deteriorated is not a defense.

Existence of three or more of the following conditions is sufficient to establish a prima facie case that the structure or building is a nuisance:

1. The building has been vacant for more than five years.
2. The building has not had insurance coverage during at least twelve (12) months of the preceding twenty-four (24) months.
3. Cost of renovation of building would exceed value of the building if renovated.
4. Owner has not paid property taxes within the past three years.
5. Officials have found building to be unsecured and have ordered same to be secured at two or more occasions within the past two years, or is presently unsecured.
6. Building's heating, plumbing or electrical system is inoperable or in a state of substantial disrepair.
7. Building has unsafe, hazardous or unsanitary conditions and has been previously cited in violation of state or local building, fire or health codes.
8. Whenever there is a lack of maintenance of a building's environment, e.g., fences, gates, sidewalks, steps, signs, outbuildings, deteriorating and falling landscaping or premises overgrown with weeds and vegetation; and/or there is an accumulation of refuse, garbage or other conditions which renders a building or property a health or fire hazard.

"Owner" is any person, agent, firm or corporation, operator, renter or lessee, having a legal or equitable interest in a property.

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"Registration fee" is the fee required for registration of an abandoned, dangerous or derelict building.

"Repair" is the reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

"Requested inspection" means any additional inspection which is not part of the city's regular or mandated inspection program.

"Substandard" means In violation of any of the requirements as set out in this chapter and housing code.

"Subject structure" is any structure as used in this chapter when referring to unsafe, dangerous, derelict, neglected or abandoned or upon which the fire division or office of code enforcement has commenced abatement proceedings.

"Structure" is a structure which is built or constructed, an edifice, monument, memorial or building of any kind or any piece or work artificially built up or composed of parts joined together in some definite manner.

"Unoccupied" means any premises or structure not presently used for a lawful purpose or permitted occupancy by the owner.

"Unsafe" means any structure which is structurally or environmentally unsafe or not provided with adequate egress or which constitutes a fire hazard or is otherwise dangerous to human life, as previously defined under "Dangerous, abandoned, derelict or neglected structure".

"Unsafe appendages" means unsafe appendages such as, but not limited to, parapet walls, cornices, spires, towers, tanks, statuaries or other appendages or structural members which are supported by, attached to or part of a building and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the building code of the office of code enforcement.

"Unsafe use" means any use of structures constituting a hazard to health, safety or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment.

"Unsecured" means the lack of a secure means of ingress and egress thus allowing for occupancy or use of a building or structure by unauthorized persons.

"Vacant property" means: (1) without legal occupancy and not maintained in a manner allowing normal human habitation with access to utility services such as light, water, heat; (2) currently unoccupied; or (3) occupied by vagrants, squatters, trespassers or other persons having no legal right to occupy premises.

"Value/valuation" shall be the estimated cost to replace the structure or building in kind, based on either the building valuation data reported to the director of fire services or building official of office of code enforcement to give an accurate assessment of building replacement costs.

"Warehousing" means securing a structure against vandalism, deterioration and unauthorized entry pending its return to active use or occupancy. All windows, doors and other openings shall be closed and securely locked, barricaded or otherwise secured.

1. Install plywood or an acceptable material approved by the director of fire services or his or

her designated representative, to adequately secure and cover the exterior of each opening and seal, caulk and paint; install four-inch by eight-inch screened openings in the plywood or other acceptable material, as necessary, at each floor level for proper ventilation.

2. An acceptable alternative method: install the plywood or other acceptable material, on the interior of each opening and remove, repair or replace all loose and damaged window panes, sashes, frames, trim and/or jambs; scrape, sand, seal, caulk and paint the exterior of each opening.

(Ord. 4851 § 1, 4-3-01; Ord. 4191 § 1, 6-15-93; Ord. 4126 § 1, 9-15-92; Code 1985 § 48-218)

Article 3 - Neglected, Derelict, Abandoned or Dangerous Conditions–Inspection and Registration

[Sec. 14-8-5 - Neglected/derelict, abandoned, blighted or dangerous building conditions.](#)
[Sec. 14-8-6 - Inspection–Registration fee.](#)

Sec. 14-8-5 - Neglected/derelict, abandoned, blighted or dangerous building conditions.

When, upon and following inspections made as set forth in Section 14-8-6, any structure, building or premises, is found to contain conditions as defined in the definitions Section 14-8-4, under "neglected," "dangerous structure," "abandoned structure," "derelict," "blighted" or "nuisance," shall be declared to be in violation of this chapter, subject to fines and penalties as hereinafter stipulated.

(Ord. 4851 § 1, 4-3-01; Ord. 4126 § 1, 9-15-92; Code 1985 § 48-219)

Sec. 14-8-6 - Inspection–Registration fee.

A. Inspection. Whenever the director of fire services believes that a building or structure is a dangerous, abandoned, blighted or derelict building, the director shall cause an inspection to be done to determine if it complies with the housing code, the fire code, the building code and this chapter, and all other applicable housing maintenance and building codes.

B. Determination.

1. In the event the director determines that a building or structure is a dangerous, abandoned, blighted or derelict building, notice of that determination shall be given to the building's or structure's owner of record who is listed at the county tax assessor's office, by certified mail, who is hereafter required to register the building within fifteen (15) calendar days of the director's notification date.

2. Required Information. The notice shall include:

- a. The building's address and a legal description of the property;
- b. A specific and detailed statement listing all the items not in compliance as to basis of the director's determination;

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c. A statement that the building must be registered with the city as provided in this chapter and an administration/initial inspection fee of fifty dollars (\$50.00) paid to the office of city treasurer who shall place it in the anti-neglect administrative fund.

C. Registration. Registration shall be completed on forms to be provided by the fire services division and shall include information relating to location and ownership of building, the expected period of its vacancy, a plan for regular maintenance during the period of vacancy and a plan for its rehabilitation, proposed occupancy and use or its demolition, which plans shall be reviewed by and are subject to approval of the director of fire services of the city; or his or her designee.

D. Review. In the event an owner believes the director of fire services determination is in error, notice of the claimed error shall be given to the fire department appeals board within fifteen (15) calendar days of the date of the notice referred to in subsection B of this section. The fire department appeals board shall thereupon schedule the matter for review. Following review, the fire department appeals board shall issue a written determination.

E. Quarterly Inspections. For buildings declared dangerous, abandoned, blighted or derelict, the director shall conduct quarterly inspections to endeavor to bring the owner into compliance with applicable codes. Fees for dangerous, abandoned, blighted or derelict buildings shall be as set out in Section 14-8-7

F. Compliance. When all code violations have been corrected and a building has been legally repaired or re-occupied and brought up to all code standards; or when the building has been demolished and the lot cleared in accordance with the provisions of this chapter and housing code, it shall cease to be a dangerous, abandoned blighted or derelict building.

(Ord. 4961 § 1, 9-17-02; Ord. 4851 § 1, 4-3-01; Ord. 4126 § 1, 9-15-92; Code 1985 § 48-220)

Article 4 - Fees and Penalties—City's Right to Board Properties

[Sec. 14-8-7 - Inspection fees payable.](#)

[Sec. 14-8-8 - Penalties imposed.](#)

Sec. 14-8-7 - Inspection fees payable.

A. . **Fees—Late Payments.** The owner of any dangerous, derelict, blighted or abandoned building so declared under Section 14-8-6, shall be placed on a register and subject to a quarterly inspection to insure compliance. A basic nonrefundable quarterly fee of five hundred dollars (\$500.00) shall be paid on each building under his or her or their ownership and control, for as long as the structure is a declared dangerous, derelict, blighted or abandoned building, notwithstanding any subsequent repairs which might be made, until the structure comes into full compliance. Owners of structures and/or buildings in excess of either six stories in height, or ten thousand (10,000) square feet of floor space at ground level, shall pay a nonrefundable quarterly fee of twelve hundred fifty dollars (\$1,250.00) on each building under his or her or their ownership and control, for as long as the structure is a declared dangerous, derelict, blighted or abandoned building, notwithstanding any subsequent repairs, which might be made, until the structure comes into full compliance.

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2. **Fees—Funding.** Through the fiscal year ending June 30th, 2003, all anti-neglect fees and penalties collected shall be paid into the office of the city treasurer and placed in the anti-neglect administration fund to cover expenses for inspections and general operation of this department. Beginning with the fiscal year 2004, all anti-neglect expenses for inspections and general operation of this department shall be funded out of the general fund of the city and fees collected shall be paid into the office of the city treasurer and placed in the general fund.

3. **Inspections—Penalties.** Pursuant to the initial inspection made, first payment of fees will be due ninety (90) days from the date of the initial inspection and subsequent inspections and payments shall be due quarterly thereafter. In the event fees for quarterly inspections are not paid within fifteen (15) days from the date of the notice given to make payment, the owner shall be assessed a penalty of ten dollars (\$10.00) per day until payment is made in full or until the division of fire services determines the property is in compliance with the housing code. Penalty to start on the sixteenth day following the date of the notice.

B. **Transfer of Ownership.** The registration fee and inspection fees imposed under the terms of this chapter are to be paid prior to any transfer, purported or actual, of ownership interest in a structure, as well as prior to the issuance of any permit required for the demolition, alteration or repair of a structure subject to the terms of this chapter and housing code.

Any present owner or person having a financial interest in any structure or property upon which inspection fees and penalties have been assessed, paid or due to be paid, or continued inspections are required, shall be required to notify in writing any prospective buyer or purchaser of the inspections, inspection fees or penalties or other conditions relating to the inspection, repair or rehabilitation of the subject property, prior to the completion of a sale or the transfer of title of the property, which are continuing in nature and monitored by the city fire services division and/or office of construction code enforcement.

1. **Exception.** The owner(s) and purchaser(s) may elect to provide a performance bond or irrevocable letter of credit, in favor of the city, fire services division, equal to the outstanding balance owed for the registration fee, inspection fees and any penalties before the time of closing (transfer of title).

2. **Purpose.** The purpose of the exception is to allow an owner to transfer title as needed for the purpose of rehabilitating the subject property and bringing it into compliance with the commercial anti-neglect ordinance.

3. **Plan.** A plan of compliance shall be submitted to the fire services division at least ten (10) days prior to the closing date. The plan shall include: (a) a detailed list of hazards and/or repairs to be corrected; (b) a schedule for starting the repairs, projected completion date; and (c) signed contract with a properly licensed contractor. The plan must be approved by the director of fire services to qualify for the exception.

4. **Use of Funds.** The owner(s), seller(s) and buyer(s) shall waive any and all claims to the performance bond at the closing (transfer of title). After completion of all of the work indicated in the plan of compliance and approval by the fire services division and all applicable code enforcement agencies, the performance bond will be released and returned to the seller.

5. **Default.** If a purchaser fails to comply with the approved plan, the director of fire services is authorized to declare a default and collect the funds, without notice to the purchaser, to be used as payment for the fees and penalties owed at the time of the transfer. The director of fire services

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shall forward the funds to the city treasurer to be deposited into the anti-neglect administrative account established by city ordinance.

6. Limitations. The use of the "exception" is limited to one time for each parcel unless otherwise approved by the director of fire services. All other provisions of the commercial anti-neglect ordinance shall apply.

C. **Abeyances and Waiver of Fees and Penalties.** The director of fire services shall have authority to place in abeyance and/or waive fees and penalties imposed under this chapter and housing code as follows:

1. The director of fire services shall have authority to place fees and/or penalties in abeyance if all of the following conditions are met:

- a. A plan and timetable for the repair, demolition and/or maintenance of the structure, has been submitted by the owner and approved by the director of fire services;
- b. The property is being maintained so that it does not constitute or become a nuisance;
- c. The owner is acting in a timely fashion in adherence to any plan approved by the director of fire services.

2. The director of fire services shall have authority to waive fees and/or penalties if the following conditions have been met:

- a. All of the conditions in subsection (C)(1) of this section, have been met;
- b. The property has been brought into compliance with the housing code and approved by the fire services division.

D. **Unpaid Fees—Lien on Property.** In addition to above fees and penalties, should the owner fail to pay accumulated inspection fees and penalties, the city shall effect a lien on the property to recover the fees and penalties. All uncollected costs for the current year shall be certified to the city treasurer on or before December 31st of each year.

It shall be the duty of the city treasurer to collect, as a special tax, the amount so certified at the time city taxes levied against properties on which the fees and penalties were assessed for the next succeeding year are collected. The fees and penalties for this section are declared to be a special tax to be collected as general taxes levied by the city.

E. **Repair, Vacate or Demolition by City.**

1. If the owner, when notified, shall fail, neglect or refuse to comply with the orders of the director of fire services within the time specified in such notice, it shall be the duty of the director of fire services, or authorized official, to proceed forthwith to issue a citation or summons to the owner pursuant to Section 14-8-6 of this chapter.

2. If the court determines the structure is dangerous and hazardous to the general public, it shall be the responsibility of the owner to repair the structure to make safe and secure the property, or demolish the structure and clean the lot. All costs incurred shall be the responsibility of the owner.

Funding for repair or demolition shall be provided to the general services division, or the

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appropriate agency, reasonably sufficient to fund the necessary demolition and/or repair. In the event funds are not made available, the division of general services shall not be required to provide the demolition and/or repair services from their normal operating budget.

3. If the owner fails to comply with the order of the court because of insolvency, the owner shall provide prima facie evidence and documentation to the court. If the court determines the owner is insolvent and unable to make the structure safe or to demolish, the court may order the city to do such work as is necessary to put the structure in a safe condition or to demolish such structure. The director of fire services shall notify the director of general services or appropriate agency, of the court order.

4. If, in the discharge of his or her duties, it becomes necessary for the director of general services or appropriate agency, to cause a dangerous structure to be repaired or demolished the director of general services or appropriate agency, shall, with the assistance of the city attorney, cause the cost of repair, or demolition, to be charged against the land as a lien on which such building or structure existed and that shall be assessed and collected as the city attorney shall determine. The director of general services, or appropriate agency, shall report to the city treasurer the cost of all such expenses.

5. If, in the discharge of his or her duties as provided in this section, it becomes necessary for the director of general services or appropriate agency, to have personal property removed from the premises, such personal property shall be removed and stored by an appropriate agency approved by the division of general services and reasonable storage charges charged against the property. When the storage charges equal the fair cash market value of the personal property, the property may be sold to the highest bidder at a public sale giving notice of the time, date and place of such sale to the owner of the property by posting notice on the premises and sending a registered letter to the last known address of the owner at least fifteen (15) days in advance of the sale, if the owner's address is known. The money received from such sale shall go to the city to compensate it for the reasonable storage charges.

6. As an alternative to subsection (E)(4) of this section, the uncollected cost for repairing or demolishing, a dangerous structure for the current year may be certified to the city treasurer by the director of general services or appropriate agency. It shall then be the duty of the city treasurer to place the amount so certified on the bill for the city taxes assessed against the property on which such dangerous structure was located. It shall be the duty of the city treasurer to collect as a special tax the amount so certified which is declared to be a special tax on the property. This special tax may be collected in the same manner as other general taxes are collected by the city. Upon collection or any or part of the taxes due, the city treasurer shall deposit funds collected into the fire services division, commercial anti-neglect administrative account pursuant to Section 9-40-3 of this code.

F. Emergency Authority of the Director of Fire Services.

1. In case there shall be, in the opinion of the director of fire services or fire official, actual and immediate danger of the falling of any building or part thereof, so as to endanger life or property the director of fire services shall notify the director of general services or appropriate agency, to cause the necessary work to be done to render such building or part thereof, temporarily safe until proceedings can be taken under this chapter as in the case of a dangerous structure.

2. The director of fire services or fire official is authorized and empowered in the case of a

dangerous structure or where any building or part thereof, has fallen and life is endangered by the occupation thereof, to order and require the inmates and occupants of the building or part thereof to vacate the same forthwith.

3. Any dwelling, multifamily dwelling, building or premises declared dangerous and unsafe to the occupants therein or the general public, shall be posted with a placard by the director of fire services or designated authorized official. The placard shall include the following:

- a. Name of city;
- b. The name of the authorized department having jurisdiction;
- c. The chapter and section of the code under which it is issued;
- d. An order that the dwelling, multifamily dwelling, building or premises is a dangerous/derelict structure and it must not be occupied for business, storage and/or habitable purposes, until the provisions of the order are complied with and the order to not occupy is withdrawn;
- e. The date that the placard is posted;
- f. A statement of the penalty for defacing or removal of the placard.

G. Vacate Premises.

1. If the owner or party in interest fails to comply with the order of the director of fire services or fire official, given pursuant to subsection (F)(2) of this section, set within the time prescribed, the director of fire services or fire official, shall cause such dwelling, building or premises to be vacated and close the same and give the owner or parties in interest notice of such order in the manner prescribed in Section 14-8-6

2. Any dwelling, multifamily dwelling, building or premises declared unsafe for human occupancy and ordered to be vacated pursuant to this section shall be posted with a placard by the director of fire services or fire official. The placard shall include the following:

- a. Name of city;
- b. The name of the authorized department having jurisdiction;
- c. The chapter and section of the code under which it is issued;
- d. An order, that the dwelling, multifamily dwelling, building or premises vacated, must remain vacant until the provisions of the order are complied with and the order to vacate is withdrawn;
- e. The date that the placard is posted;
- f. A statement of the penalty for defacing or removal of the placard.

H. Defacing or Removing Placards or Notices Posted. It is a misdemeanor to deface or remove any placard or notice placed on any dwelling, multifamily dwelling, building or premises pursuant to this chapter, except by authority from the director of fire services or fire official.

(Ord. 4961 § 1, 9-17-02; Ord. 4851 § 1, 4-3-01; Ord. 4588 § 1, 6-2-98; Ord. 4126 § 1, 9-15-92; Code 1985 § 48-221)

Sec. 14-8-8 - Penalties imposed.

Persons in violation of the sections of this chapter are subject to fines as set out in Section 1-24-1 of this code. Each day shall constitute a continuing violation.

(Ord. 4126 § 1, 9-15-92; Code 1985 § 48-222)

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[Sec. 14-8-10 - Appeal.](#)

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Sec. 14-8-9 - Probation period–Rehabilitation plan.

A. Preparation of Rehabilitation Plan. The director of fire services is authorized to permit probation periods alleviating or suspending payment of fees and penalties by any owner who submits a rehabilitation plan, which may be required to be prepared by a registered architect or engineer experienced in preservation and rehabilitation of buildings and structures, showing a proposed or scheduled date for completion. The plan may be approved by the director of fire services, subject to amendment by the office of code enforcement. The owner of a plan which is not approved or approved as amended may, upon valid objection, request a review.

Such review will be completed within thirty (30) additional days and subject to any further revisions the director of fire services and/or building official may deem appropriate to make to the plan. The director of fire services and/or the building official's decision shall be final, subject to review by the chief administrative officer or his or her designee. (See Section 14-8-10 as to appeal process). Plans shall include an advanced schedule of dates for completion of each portion of work which will be marked off as work progresses.

B. Concurrence–Landmarks Commission.

1. If the building or structures are within a historic district designated by the city zoning ordinance, the rehabilitation plan must also be approved and issued a certificate of appropriateness by the landmarks commission. If the building or structures are within a historic district that is listed on the National Register of Historic Places, the rehabilitation plan shall be reviewed by the landmarks commission for recommendation only, on a nonbinding basis, within two weeks after receipt of same.

2. Demolition. Buildings or structures listed in the city's historic zones must obtain permission from the city landmarks commission before demolition processes can be instituted. However, approval of the city landmarks commission is not required when a building or structure is considered an immediate danger to the general public. Costs of the demolition shall be solely upon

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the owner.

C. Financing of Plan. An owner may finance such plan through the department of housing and community development, the center city development corporation or any legitimate private banking or financing corporation, subject to review as to progress or continuing repairs at each three-month period after the plan is approved and until completion, the owner shall be responsible for submission of a progress report each three months to the director of fire services or his or her designee.

If an owner is unable to show satisfactory progress at any three-month interval, the director of fire services, or his or her designee, is authorized to cancel or discontinue the probation and fees shall be reinstated.

D. Suitability of Plan. A suitable rehabilitation plan shall include, where applicable:

1. Legal description of property;
2. Final set of plans as approved by the director of fire services or his or her designee;
3. Repair items may include, but are not limited to the following categories:
 - a. Storefront and show windows,
 - b. Windows other than show windows,
 - c. Building fronts, sides and rears, abutting or visible from streets, public parking lots or other public places,
 - d. All signs and signage, including billboards and other outdoor advertising, whether related or unrelated to the property,
 - e. Awnings and canopies,
 - f. Mechanical and electrical equipment on exterior walls,
 - g. Water systems, sewer systems, heating/cooling systems, electrical, plumbing systems and fire protection systems,
 - h. Auxiliary structures, if any,
 - i. Demolition,
 - j. Rear and side yards and parking areas, if any,
 - k. Vacant lots,
 - l. Fencing,
 - m. Landscape and planting,
 - n. Roofs, gutters, downspouts,
 - o. Exitways and stairs,

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- p. Basements, excluding properties located within Mid America Mall,
- q. Other;
- 4. Statement of approximate cost for rehabilitation work;
- 5. Estimated construction time;
- 6. Detailed statement of proposed use of property.

E. **Work Permits Required.** After rehabilitation plan is approved, the owner shall be required to obtain necessary permits for construction, excavation, demolition or other requirements from the office of code enforcement and to notify the office when project is completed.

F. **Final Work—Continuing Inspections.** At the end of the rehabilitation work upon notice by owner, an inspection will be made within ten (10) days of notification and additional inspections shall be conducted as necessary to insure property is in compliance, by the fire services division. If maintenance by owner is not complied with in accordance with the inspection, the owner shall be notified in writing of the noncompliance and given thirty (30) days in which to either bring the building or structure back into compliance or give acceptable reason for noncompliance, at which time an additional period may be given or final notification given that the probation period has eased and fees are to be reinstated against owner.

G. **Emergencies During Rehabilitation Work.** When fifty (50) percent or more of a structure suffers major damage by fire, act of God or other peril while rehabilitation work is in progress, the structure must be repaired to meet the regular rehabilitation and maintenance plan requirements or be demolished. The affected owner shall present an additional plan of proposed reconstruction or request demolition permits. The structure must at all times be fenced or boarded, so as to safeguard the general public against the dangers which may become eminent because of the damaged building or structure. When demolition is requested and approved the cost shall be borne by the owner.

No work, demolition, excavation, alteration or improvement shall be undertaken prior to the approval of the plan and proper permits, except where an emergency exists and the safety of the general public is affected. If and when the emergency is designated or declared existing by either the director of fire services, the fire official and/or the office of code enforcement, all other code sections shall take precedence, in addition to this chapter, to alleviate the emergency.

(Ord. 4851 § 1, 4-3-01; Ord. 4126 § 1, 9-15-92; Code 1985 § 48-223)

Sec. 14-8-10 - Appeal.

Any owner whose property interest has been affected by a decision made on the rehabilitation plan pursuant to the provisions of this chapter and housing code may appeal that determination to the fire department appeals board who, after review of the matter appealed, shall make a final decision; if the decision is not acceptable, the owner may further appeal to the city council within ten (10) days of the decision or the decision of the fire department appeals board shall be final; subject to review by any court of competent jurisdiction.

(Ord. 4961 § 1, 9-17-02; Ord. 4126 § 1, 9-15-92; Code 1985 § 48-224)

Sec. 14-8-11 - Distribution of fees collected.

Distribution of fees to agencies performing services may be done by written agreement or mutual arrangement between the various entities.

(Ord. 4126 § 1, 9-15-92; Code 1985 § 48-225)

Sec. 14-8-12 - Enforcement.

For the purposes of this chapter, the following shall apply:

A. Definitions.

"Citation" is any ticket issued to a person showing the offense charged and signed by the person agreeing to appear at the time and place indicated.

"Employee" is any employee under the office of code enforcement and/or fire services division.

"Summons" is the process issued and signed by the judge or the clerk, as provided by the ordinances of the city and/or the laws of the State of Tennessee.

B. Designation as Special Officer. Pursuant to T.C.A. Section 7-63-101 et seq., the director of the fire services division may designate certain employees to become special officers and the building official of the office of Memphis and Shelby County code enforcement department may designate certain employees to become special officers, for the purpose of issuance of citations in lieu of arrest of offenders in cases where they have jurisdiction.

C. When Citations Summonses Deemed Lawful Complaints. An employee designated as provided in this section is authorized to issue misdemeanor citations in lieu of arrest, for violations of this chapter and housing code. In the event the form of such citation includes information and is sworn to, it shall be deemed to be a lawful complaint for the purpose of prosecution under the section specified.

D. Procedure Applicable.

1. Every citation or summons issued shall provide for an appearance date. If any offender fails to appear on the appearance date, the court may take a default judgment against the defendant in favor of the city in an amount not to exceed fifty dollars (\$50.00), plus costs, for each offense, plus penalties set by the judge, as authorized in Section 1-24-1 of this code. The court may issue a warrant for the arrest of the offender and/or take a default judgment.

2. The summons shall be sworn to by the officer before a person designated as a court clerk for the purpose of taking oaths.

E. Limitation of Action–When Action Deemed Commenced–Service of Summons.

1. No action shall be commenced by the city in any court for the purpose of enforcing any violation of this housing code or section after one year from the commission of the offense.

2. For the purposes of this article, a court action shall be deemed to be commenced:

- a. Upon the issuance of a citation to the offender;
- b. Upon the arrest of the offender;

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c. Upon the issuance of a summons to the offender.

3. A summons may be served by:

a. Personal service on the offender; or

b. Registered or certified mail, addressee only, return receipt requested.

F. Nonappearance. It is unlawful for any person to violate his or her written promise, given to an officer upon the issuance of a citation ticket, to appear regardless of the disposition of the charge for which such citation ticket was originally issued.

G. Failure to Comply with Ticket. In the event any person fails to comply with a citation ticket given to such person or fails to make appearance pursuant to a summons directing an appearance in court or if any person fails or refuses to deposit bail, as required, the clerk of the court shall secure and issue a warrant for his or her arrest.

H. Police Officer's Duty. Nothing herein contained shall be construed as removal of the designated special police officers' authority under their jurisdiction and it shall be the duty of all police officers to render any assistance necessary.

(Ord. 4851 § 1, 4-3-01; Ord. 4191 § 2, 6-15-93; Code 1985 § 48-226)