

ORDINANCE NO. 167

AN ORDINANCE TO AMEND THE CITY CODE RELATING TO VACANT PROPERTY, BUILDINGS, STRUCTURES AND BUILDING REGULATIONS; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO ESTABLISH THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN, AS FOLLOWS:

SECTION I. That Title 12, Building, Utility, Etc. Codes, of the Code of Ordinances, Town of Mount Carmel, Tennessee, is hereby amended by adding the following Chapter, said new Chapter to read as follows:

CHAPTER 6. SUBSTANDARD PROPERTIES

PART 1. IN GENERAL

Sec. 12-601. Findings and declaration of policy.

It is hereby found and declared that there exist in the City structures in use which are, or may become in the future, substandard with respect to structural soundness, equipment or maintenance, or further that such conditions including but not limited to structural deterioration, lack of maintenance of exterior of premises, infestation, lack of essential heating or plumbing equipment, lack of maintenance or upkeep of essential utilities and facilities, existence of fire hazards, inadequate provisions for light and air, or unsanitary conditions and overcrowding, constitute a menace to the health, safety, welfare and reasonable comfort of the citizens and inhabitants of the City. It is further found and declared that by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate same, and that by reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

Sec. 12-602. Purpose.

The purpose of this ordinance is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, condition and occupancy of residential and nonresidential premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon owners and operators, and occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; to fix penalties for the violations of this ordinance; and to provide for the repair, demolition or vacation of premises unfit for human habitation or occupancy or use.

Sec. 12-603. Administration fees.

All owners or persons in possession, charge or control, of any place or premises on which a nuisance is created, accumulated or produced which must be abated by the city as a result of their failure or refusal to comply with an order of the building inspector, are liable for and shall pay an administration fee in addition to the cost of repair, alteration or improvement, or, vacating and closing, or, removal or demolition by the building inspector; which fee shall be set by resolution of the board of mayor and aldermen.

PART 2. PUBLIC NUISANCES

Sec. 12-604. **Care of Premises.**

Having adopted by reference the Standard Housing Code published by the Standard Building Code Congress, International, Inc., it shall hereby be unlawful, in conformance with said Code, for the owner or occupant of a residential building, structure, or property to utilize the premises of such residential property for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items as listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from the Building Inspector.

Sec. 12-605. **Administration.**

All inspections, regulations, enforcement and hearings on violations of the provisions of this article shall be under the direction and supervision of the building inspector. The building inspector may designate such other employees to perform duties as may be necessary to the enforcement of this article, including the making of inspections and holding of hearings.

Sec. 12-606. **Applicability.**

Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial, business or industrial occupancy or use shall comply with the provisions of this article, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this article, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this article. This article shall also apply to mobile home parks.

Sec. 12-607. **Controlling Standards.**

In any case where the provisions of this article impose a higher standard than set forth in any other ordinance or under the laws of the state, then the standards set forth herein shall prevail, but if the provisions of this article impose a lower standard than any other local ordinance or of the laws of the state, then the higher standard shall prevail.

Sec. 12-608. **Compliance with other ordinances.**

No provision herein shall relieve any owner, operator or occupant from complying with any other provision, nor relieve any inspector of the city from enforcing any other provision of the Code of Ordinances.

PART 3. BUILDINGS OR STRUCTURES

Sec. 12-609. **Dwellings unfit for human habitation.**

Pursuant to Tenn. Code Ann. §13-21-101, et seq., it is hereby found that there exists in the Town of Mount Carmel, structures which are unfit for human occupation or use 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 structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the city.

Sec. 12-610. **Definitions.**

The following terms wherever used herein or referred to in this article shall have the following respective meanings for the purposes of this article, unless a different meaning clearly appears from the context:

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;

Occupant means any person who has charge, care or control of a dwelling or premises, or a part thereof, whether with or without the knowledge and consent of the owner.

Owner means any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises in fee simple and every mortgagee of record.

Parties in interest means all individuals, associations or corporations who have interests of record in a structure or parcel of land or have actual possession thereof.

Premises means a lot, plot or parcel of land including any buildings or structures thereon.

Public Officer means the Building Inspector of the Town of Mount Carmel.

Structure means any dwelling or place of public accommodation.

Sec. 12-611. Building inspector designated to act.

The building inspector is hereby designated as the public officer of the Town of Mount Carmel who shall exercise the powers herein prescribed.

Sec. 12-612. Institution of action and notification.

Whenever a petition is filed with the building inspector by a public authority or by at least five (5) residents of the Town of Mount Carmel charging that any structure is unfit for human occupation or use, or whenever it appears to the building inspector on his own motion that any structure is unfit for occupation or use, the building inspector shall, if, after making a preliminary investigation, such 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 building inspector (or his designated agent) at a time and place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that the owners and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and, that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building inspector or his designated agent. As contained herein, "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 of Mount Carmel or the State of Tennessee relating to health, fire, building regulation, or other activities concerning structures in the Town of Mount Carmel.

Sec. 12-613. Determination of and further notice by building inspector.

If, after such notice and hearing as above prescribed, the building inspector determines that the structure under consideration is unfit for human habitation or use, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order:

- (a) If the repair, alteration, or improvement of the said structure can be made at a reasonable cost in relation to the value of the structure 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 if not adequately repaired, altered or improved within the time specified in the order to vacate and close the dwelling as a place of human habitation or use; or
- (b) If the repair, alteration or improvement of the said structure cannot be made at a reasonable cost in relation to the value of the structure requiring the owner within the time specified in the order to remove or demolish such structure.
- (c) The building inspector shall determine the value of the structure in question existing on the land and the value of the land itself shall not be considered, and if the structure can be made to conform to such standards as will make it properly habitable by an expenditure of not more than fifty (50) per cent of said value, the order referred to in the preceding paragraph shall conform to the first alternative. If an expenditure of more than fifty (50) per cent of the value just referred to would be necessary to make the structure properly habitable, the order in the preceding paragraph shall conform to the second alternative.

- (d) Any repair, alteration or improvement instituted in compliance with this article shall be made in conformance with the then existing zoning and building codes.

Sec. 12-614. Failure of owner to comply to vacate and repair.

If the owner fails to comply with the order under section 12-613(a), the building inspector may cause such structure to be repaired, altered or improved or be vacated and closed; and in such event the building inspector may cause to be posted on the main entrance of any structure so closed a placard with the following words: "This building is unfit for human occupation; the use or occupation of this building for human occupation or use is prohibited and unlawful."

Sec. 12-615. Failure of owner to remove or demolish.

If the owner fails to comply with an order as set forth in section 12-613(b), the building inspector may cause such structure to be removed or demolished.

Sec. 12-616. Creation of lien and payment into court.

The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the building inspector shall, upon the filing of the notice with the office of the register of deeds of the county in which the property lies, be a lien in favor of the city against the real property on which such cost was incurred, second only to liens of the state, county and city for taxes, any lien of the city 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 city tax collector at the same time and in the same manner as property taxes are collected. If the structure is removed or demolished by the building inspector, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Chancery Court by the building inspector, 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; provided however, that nothing in this section shall be construed to impair or limit in any way the power of the Town of Mount Carmel to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Sec. 12-617. Conditions rendering dwelling unfit for human habitation.

In addition to other standards set forth in this article, the building inspector may determine that a structure is unfit for human occupation or use if he finds that conditions exist in such structure which are dangerous or injurious to the health or safety of the occupants of such structure, the occupants of neighboring structures or other residents of the city; such conditions may include the following but without limiting the generality of the foregoing: Defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness.

Sec. 12-618. Service of complaints or orders.

Complaints or orders issued by the building inspector pursuant to this article shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the building inspector in the exercise of reasonable diligence, and the building inspector shall make affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the register's office of the county in which the structure is located and such filing of the complaint or order shall have the same force and effects as other lis pendens notices provided by law.

Sec. 12-619. Enjoining enforcement of order.

(a) Any person affected by an order issued by the building inspector may file a bill in the chancery court for an injunction restraining the building inspector from carrying out the provisions of the order, and the court may, upon the filing of such bill, issue a temporary injunction restraining the building inspector pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the building inspector, such persons shall file such bill in the court. Hearings shall be had by

the court on such bills within twenty (20) days or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

(b) The court shall hear and determine the issue raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the building inspector as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the building inspector shall be entitled to recover any damages for action taken pursuant to any order of the building inspector, or because of noncompliance by such person with any order of the building inspector.

Sec. 12-620. Powers given the building inspector.

The building inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

- (a) To investigate conditions in the city in order to determine which structures therein are unfit for human occupation or use.
- (b) To administer oaths and affirmations, examine witnesses and receive evidence.
- (c) To enter upon premises for the purposes of making examinations provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

**PART 4.
PROPERTY OTHER THAN OWNER-OCCUPIED RESIDENCES**

Sec. 12-621. Building inspector designated to act.

The building inspector is hereby designated as the public officer of the Town of Mount Carmel who shall exercise the powers set out in this article.

Sec. 12-622. Institution of action and notification.

Pursuant to Tenn. Code Ann. §6-54-113, if it is determined by the building inspector that any owner of record of real property has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals, the building inspector shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include but not be limited to the following elements:

- (a) A brief statement of this article which shall contain the consequences of failing to remedy the noted condition;
- (b) The person, office, address and telephone number of the department or person giving notice;
- (c) A cost estimate for remedying the noted condition which shall be in conformity with the standards of cost in the city; and
- (d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

Sec. 12-623. Failure of owner to comply.

If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the building inspector shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. Upon filing of the notice with the office of the register of deeds of the county in which the property lies, the costs shall be a lien upon the property in favor of the city, 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 city tax collector at the same time and in the same manner as city 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.

Provided, however, if the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage, or other materials, the ten-day period of the first sentence of this section shall be twenty (20) days, excluding Saturdays, Sundays, and legal holidays.

Sec. 12-624. Rules; hearings; and stay of enforcement.

(a) The board of mayor and aldermen may make rules and regulations necessary for the administration and enforcement of this article. The building inspector shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to section 12-622. A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to section 12-622. Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing.

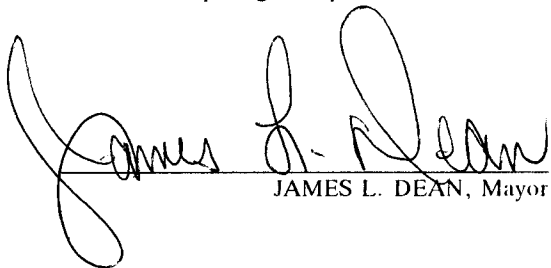
(b) Any person aggrieved by an order or act of the building inspector under provisions of this article may seek judicial review of the order or act. The time period established in section 12-623 shall be stayed during the pendency of a hearing.

Sec. 12-625. Limitations.

The provisions of this article shall not apply to any parcel of property upon which an owner-occupied residence is located.

SECTION II. That any person violating any provision of this Ordinance shall be guilty of an offense and upon conviction shall pay a penalty of not less than \$1.00 nor more than \$50.00 for each offense. Each occurrence shall constitute a separate offense.

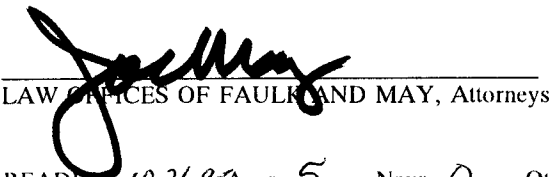
SECTION III. That this Ordinance shall take effect from and after its passage and publication as the law directs, the public welfare requiring it.


JAMES L. DEAN, Mayor

ATTEST:


NANCY F. CARTER, Recorder

APPROVED AS TO FORM:


LAW OFFICES OF FAULK AND MAY, Attorneys

PASSED 1ST READING: 10-26-95 Ayes 5 Nays 0 Other 0
PASSED 2ND READING: 12-28-95 Ayes 5 Nays 0 Other 0

PUBLISHED ON:

DATE:

NEWSPAPER:

Kingsport Times
2-17-96