

## CHAPTER 2

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

#### SECTION

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**13-201. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city and, therefore, ordains as follows. (Ord. #307, March 1989)

**13-202. Definitions.** (1) "Municipality" shall mean the City of McKenzie, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body" shall mean the city council charged with governing the city.

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

(4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

state relating to health, fire, building regulations, or other activities concerning structures in the city.

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

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

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation or use and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (Ord. #307, March 1989)

**13-203. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," to be the city building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the city building inspector.

**13-204. Initiation of proceedings; hearings.** Whenever a petition is filed with the public officer by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (of his own knowing) that any structure is unfit for human occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling hearings before the public officer. (Ord. #307, March 1989)

**13-205. Orders to owners of unfit structures.** If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such

structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #307, March 1989)

**13-206. When public officer may repair, etc.** If the owner fails to comply with the order to repair, alter, or improve or to vacate and remove 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 removed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (Ord. #307, March 1989)

**13-207. When public officer may remove or demolish.** If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (Ord. #307, March 1989)

**13-208. 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 removal, or demolition by the public officer shall be a lien against the real property upon which such costs were incurred. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the costs of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Carroll County, Tennessee, 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 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 City of McKenzie, Tennessee, to define and declare the nuisances and to cause their removal or abatement by summary proceedings or as otherwise may be provided by the charter or ordinances of the city. The net costs to the city after all credits are allowed shall be noted on the City Property Tax roll and be collected and receipted simultaneously with the real property tax payment. (Ord. #307, March 1989)

**13-209. Basis for a finding of unfitness.** The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure

which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of McKenzie, Tennessee; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness. (Ord. #307, March 1989)

**13-210. Service of complaints or orders.** Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper of general circulation in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Carroll County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #307, March 1989)

**13-211. Limitation of liability.** The public officer shall not be liable for any good faith action taken pursuant to this chapter. Any suit for restraining order or injunctive relief shall be brought against the city and process served upon each council person and the mayor. (Ord. #307, March 1989)

**13-212. Additional powers of public officer.** The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #307, March 1989)

**13-213. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (Ord. #307, March 1989)

**13-214. Reports and obligations of public officer with mayor and council.** All actions of the public officer taken pursuant to this chapter shall be reported to the City Council of McKenzie, Tennessee, in regular session and any expenditure of funds by the public officer to be used for repair, alterations, improvements or demolition of such structure subject of this chapter shall be approved by the mayor and council prior to such expenditure. (Ord. #307, March 1989)