

MEETING NOTICE

The Jonesborough Board of Dwelling Standards will meet at 6:00 p.m., Tuesday, October 24, 2023, in the Board Room at the Town Hall, 123 Boone Street, Jonesborough, TN.

PUBLIC COMMENTS REGARDING AGENDA ITEMS

Members of the public wishing to speak concerning any item on the agenda during the Public Comment period must sign up by calling the Town Administrative Office at 423-753-1030 with their name, address, and subject about which they wish to speak no later than 2 hours before the meeting if the meeting occurs during normal business hours or by 4:45 p.m. the day of the meeting if the meeting occurs after hours. Otherwise, such member of the public must sign in at the location of the meeting, prior to the beginning of the meeting, by seeing the Town Recorder at meetings of the Board of Mayor and Aldermen, or the secretary or staff of any board, commission or committee constituting any other governing body under this resolution.

Each individual shall be given three (3) minutes to address the Board regarding Agenda items. Comments shall be limited to items on the meeting's Agenda

Board of Dwelling Standards

Agenda

Call to Order

Public Comments

1. Discussion and possible action concerning Election of Officers
2. Discussion concerning the Rules of the Board
3. Establishment of a meeting date and time
4. Adjournment

CHAPTER 5

BOARD OF DWELLING STANDARDS AND REVIEW

SECTION

- 8-501. Definitions.
- 8-502. Creation of board of dwelling standards and review.
- 8-503. Petition procedure.
- 8-504. Basis for a finding of unsuitability for human occupation or use.
- 8-505. Powers of board of dwelling standards and review.
- 8-506. Findings of fact.
- 8-507. Repair of conforming structures.
- 8-508. Repair or removal--nonconforming structures.
- 8-509. Structures containing nonconforming residential uses.
- 8-510. Letter of compliance.
- 8-511. When board may repair, etc.
- 8-512. Board may effect remedy.
- 8-513. Remedy by board--lien.
- 8-514. Inspections.
- 8-515. Hardships: appeals.
- 8-516. Service of complaints or orders.
- 8-517. Designated historic landmarks and buildings and structures within the historic zone.
- 8-518. Powers conferred are supplemental.
- 8-519. Structures unfit for human habitation deemed unlawful.

8-501. Definitions. The following words or expressions, whenever used in this chapter, shall have for the purpose of this chapter the following respective meanings, unless a different meaning clearly appears from the context. Whenever the words "dwelling," "dwelling unit," "premises," and "structure" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(1) "Alter" or "alteration" means any change or modification in construction or occupancy.

(2) "Approved" means approved by the public authority or other authority having jurisdiction.

(3) "Board of dwelling standards and review" means the public officer or officers authorized by this chapter to exercise the powers prescribed hereunder and by Tennessee Code Annotated, title 13, chapter 21, as it now reads or as it may hereafter be amended.

(4) "Building" means any structure, including modular and mobile homes, having a roof supported by columns or by walls and intended for the shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" is construed as if followed by the words "or part thereof". (For

the purpose of this chapter, each portion of a building separated from other portions by a firewall shall be considered as a separate building.)

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

(6) "Premises" means a lot, plot or parcel of land, including the buildings or structures thereon.

(7) "Public authority" means the Chief Building Official of the Town of Jonesborough or his designee.

(8) "Repair" means the replacement of existing work with the same kind of materials used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations or that would be in violation of a provision of law ordinance. The term "repair" or "repairs" shall not apply to any change of construction.

(9) "Structure" means any dwelling or place of public accommodation.

(10) "Value" means that value stated as the "appraised" value on the tax assessment rolls of the Town of Jonesborough. [as added by Ord. #97-20, § 1, Oct. 1997]

8-502. Creation of board of dwelling standards and review. A board of dwelling standards and review shall be designated and appointed by the board of mayor and aldermen to exercise the powers prescribed by this chapter. The board of dwelling standards and review shall consist of five (5) members who shall be qualified citizens of the town and who shall serve at the pleasure of the board of mayor and aldermen. A majority of all its members shall constitute a quorum, which quorum shall be authorized to exercise the powers conferred on said board by this chapter.¹ [as added by Ord. #97-20, § 1, Oct. 1997]

8-503. Petition procedure. Whenever a petition is filed in writing with the board of dwelling standards and review by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupation or use, or whenever it appears to the board of dwelling standards and review or any of its members on its or his own motion that any structure is unfit for human occupation or use, the board of dwelling standards and review shall, if its preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest of such structure a complaint stating the charges in that respect and containing a notice that a

¹State law reference

Tennessee Code Annotated, § 13-21-103(1).

hearing will be held before the board of dwelling standards and review, or its designated agent, at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner 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 board of dwelling standards and review.¹ [as added by Ord. #97-20, § 1, Oct. 1997]

8-504. Basis for a finding of unsuitability for human occupation or use. The board of dwelling standards and review shall have the power and may determine that a structure is unfit for human occupation or use if it finds that conditions exist in structures which are dangerous or injurious to the health, safety or morals of the occupants or uses of such structure, the occupants of neighboring structures or other residents of the town; 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. [as added by Ord. #97-20, § 1, Oct. 1997]

8-505. Powers of board of dwelling standards and review. The board of dwelling standards and review shall have and may 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:

- (1) To investigate conditions in the town in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmation, examine witnesses, and receive evidence;
- (3) To enter upon premises for the purpose of making examinations allowed by law; provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession; and
- (4) To delegate any of its functions and powers under this chapter to such officers and agents as it may designate.² [as added by Ord. #97-20, § 1, Oct. 1997]

8-506. Findings of fact. If, after such notice and hearing as described hereinabove, the board of dwelling standards and review determines that the structure in consideration is unfit for human occupation or use, the board shall

¹State law reference

Tennessee Code Annotated, § 13-21-103.

²State law reference

Tennessee Code Annotated, § 13-21-107.

state in writing findings of fact in support of its determination and shall issue and cause to be served upon the owner 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 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 as a place of human occupation or use; or

(2) If the repair, alteration, or improvement of the 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.¹ [as added by Ord. #97-20, § 1, Oct. 1997]

8-507. Repair of conforming structures. (1) The provisions of this chapter shall apply to any structure conforming to the provisions of the zoning code irrespective of when said structure was constructed, altered, or repaired.

(2) If, within any period of twelve (12) months, alterations or repairs costing in excess of fifty percent (50%) of the replacement cost of the structure prior to any alterations are made to any existing structure, such structure shall be made to conform to the requirements of the building code of the town for new structures.

(3) If an existing structure is damaged by fire or otherwise in excess of fifty percent (50%) of its replacement cost at time of destruction, it shall be made to conform to the requirements of the building code of the town for new structures.

(4) If the cost of such alterations or repairs within any twelve (12) month period or the amount of such damage as referred to in subsection (3) above is more than fifty percent (50%) of the replacement cost of the structure, the portions to be altered or repaired shall be made to conform to the requirements of the building code of the town for new structures to the extent that the board of dwelling standards and review may determine.

(5) Repairs and alterations not covered by the preceding subsections, and which will not extend or increase a hazard, may be made with the same kind of materials as those of which the structure is constructed, to the extent permitted by the board of dwelling standards and review.

(6) For the purpose of this section, the "value" of a structure shall be as determined by the board of dwelling standards and review. [as added by Ord. #97-20, § 1, Oct. 1997]

8-508. Repair or removal--nonconforming structures. Structures not conforming to the zoning code of the town may be repaired under the terms of

¹State law reference

Tennessee Code Annotated, § 13-21-103.

and to the extent permitted by provisions of that code; otherwise said structures must be demolished and removed. [as added by Ord. #97-20, § 1, Oct. 1997]

8-509. Structures containing nonconforming residential uses. Structures occupied by nonconforming uses may be repaired for such uses under the terms of and only to the extent permitted by the provisions of the zoning code of the town; otherwise, the repair of the structure must be conducted to accommodate a use conforming to the zoning code, or else the structure shall be demolished and removed. [as added by Ord. #97-20, § 1, Oct. 1997]

8-510. Letter of compliance. A letter indicating compliance with the provisions of this chapter may be issued by the board of dwelling standards and review. [as added by Ord. #97-20, § 1, Oct. 1997]

8-511. When board may repair, etc. If the owner or parties in interest fail to comply with an order to repair, alter, or improve or an order to vacate and close the structure, the board of dwelling standards and review may cause such structure to be repaired, altered, or improved, or to be vacated and closed, and may cause to be posted on the main entrance of any structure so closed, a place card 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". The board of dwelling standards and review shall continue the closure of the structure until the repairs, alterations, or improvements are made.¹ [as added by Ord. #97-20, § 1, Oct. 1997]

8-512. Board may effect remedy. If the owner or parties in interest fail to comply with an order to repair, remove, or demolish the structure, the board of dwelling standards and review may cause such structure to be repaired, removed, or demolished contingent upon the town having appropriated sufficient revenues from its budget or if grants or donations are received to carry out the purposes of this chapter.¹ [as added by Ord. #97-20, § 1, Oct. 1997]

8-513. Remedy by board--lien. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the board of dwelling standards and review shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deed of Washington County, be a lien on the property in favor of the town, second only to liens of the state, county, and town for taxes, any lien of the town for special assessments, and any valid lien, right, or interest in such

¹State law reference

Tennessee Code Annotated, § 13-21-103.

property duly recorded or duly perfected for filing, prior to the filing of such notice. These costs shall be collected by the town recorder 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 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. In addition, the town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The town 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 town, the town 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, shall be secured in such a 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 the power of the town to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, shall not be impaired or limited by this section.¹ [as added by Ord. #97-20, § 1, Oct. 1997]

8-514. Inspections. The public authority shall make or cause to be made inspections to determine the conditions of structures and premises in the interest of safeguarding the health, safety, and welfare of the occupants of said structures and of the general public. For the purpose of making such inspections, the board of dwelling standards and review and the public authority, of their agents or designees, are authorized to enter, examine, and survey at all reasonable times all structures and premises. The owner or occupant or person in charge of every structure shall give the board of dwelling standards and review and the public authority, or their agents or designees, free access to such structures or premises at all reasonable times for the purpose of such inspection, examination or survey. [as added by Ord. #97-20, § 1, Oct. 1997]

8-515. Hardships: appeals: (1) Where the literal application of the requirements of this chapter may cause undue hardship on an owner or tenant or when it is claimed that the true intent and meaning of this chapter or any of the regulations herein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal

¹State law reference

Tennessee Code Annotated, § 13-21-103.

the allegations contained within the petition in the answer to the complaints at the time of the public hearing before the board of dwelling standards and review.

(2) Any person affected by an order issued by the board of dwelling standards and review served pursuant to this chapter may file a bill in chancery court for an injunction restraining the board of dwelling standards and review from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the board of dwelling standards and review pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the board of dwelling standards and review, 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 board of dwelling standards and review shall be entitled to recover any damages for action taken pursuant to any order of the board of dwelling standards and review, or because of noncompliance by such person with any order of the board of dwelling standards and review.¹ [as added by Ord. #97-20, § 1, Oct. 1997]

8-516. Service of complaints or orders. Complaints or orders issued by the board of dwelling standards and review under the 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 board of dwelling standards and review in the exercise of reasonable diligence, and the board of dwelling standards and review or any of its members or the public authority 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 Town of Jonesborough. A copy of such complaint or order shall be posted in a conspicuous place or 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 effect as other lis pendens notices as provided by law.² [as added by Ord. #97-20, § 1, Oct. 1997]

8-517. Designated historic landmarks and buildings and structures within the historic zone. Any structures or buildings which is a designated

¹State law reference

Tennessee Code Annotated, § 13-21-106.

²State law reference

Tennessee Code Annotated, § 13-21-105.

landmark within the town or any structure or building within the historic zone must be maintained as required by the minimum maintenance requirements set out in the town's demolition by neglect ordinance contained in title 11, chapter 16 of the Jonesborough Municipal Code. Accordingly, all repairs, alterations, improvements or the demolition of buildings and structures designated as historic landmarks or located within the historic zone must receive prior approval by the historic zoning commission. [as added by Ord. #97-20, § 1, Oct. 1997]

8-518. 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. [as added by Ord. #97-20, § 1, Oct. 1997]

8-519. 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 of up to five hundred dollars (\$500.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.¹ [as added by Ord. #97-20, § 1, Oct. 1997]

¹State law reference

Tennessee Code Annotated, § 6-54-308.