

CHAPTER 16

DEMOLITION BY NEGLIGENCE

SECTION

- 11-1601. Minimum maintenance requirements to prevent demolition by neglect.
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- 11-1605. Citation hearing/public meeting.
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11-1601. Minimum maintenance requirements to prevent demolition by neglect. Any designated landmark within the Jonesborough City limits; or any building or structure within the historic zone must be kept in good repair and must be maintained at minimum maintenance requirements that will prevent one or more of the characteristics of deterioration set forth in section 11-1602 of this chapter. The presence of one or more of these characteristics, which left unrepaired could lead to deterioration of the building's structural frame or architectural integrity, shall constitute a failure to meet minimum maintenance requirements and is thus determined to be demolition by neglect. [as added by Ord. #93-02, June 1993]

11-1602. Characteristics of deterioration. Demolition by neglect is determined to be deterioration of a building(s) and/or surrounding environment, and the failure to meet minimum maintenance requirements characterized by one or more of the following:

- (1) Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property;
- (2) Foundations that are deteriorated or inadequate;
- (3) Floor supports that are defective or deteriorated or floor supports insufficient to carry imposed loads with safety;
- (4) Members of walls, or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
- (5) Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;
- (6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration;
- (7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;

- (8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration;
- (9) Important defining architectural features that are substantially deteriorated;
- (10) Those buildings with the peeling of external paint, rotting, holes, and other forms of decay;
- (11) Unsafe electrical and/or mechanical conditions;
- (12) Exterior plaster or mortar that is deteriorated or crumbling;
- (13) Those buildings with a lack of maintenance of the surrounding environment that is associated with the defining historical character of the structures; e.g. fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
- (14) Any fault, defect, or condition in the building which renders the same structurally unsafe, not properly water tight, or likely to lead to the deterioration characteristics listed above. [as added by Ord. #93-02, June 1993]

11-1603. Implementation of minimum maintenance standards.

- (1) Identification of the failure to meet minimum maintenance requirements in a building as listed in section 11-1602 above may be made by a member of the historic zoning commission, commission staff, or the building inspector. This initial identification may be made by routine inspection of the district or neighborhood or by referral from someone in the area.
- (2) Information related to initial identification of demolition by neglect is presented to the historic zoning commission. Upon determination of the historic zoning commission that the landmark or the building within the historic zone may not meet minimum maintenance requirements, the historic zoning commission may request; upon majority vote, that the building inspector inspect the structure. The chairman of the historic zoning commission shall send a letter by certified mail to inform the property owner of the action by the commission, the impending inspection by the building inspector, and the opportunity he or she will have at the next meeting to address the commission about the preliminary identification of demolition by neglect and the inspection report.
- (3) The building inspector or his or her designee will present the inspection findings at the next commission meeting. The report shall detail any defects which constitute, in the inspectors opinion, a failure to meet the minimum maintenance requirements.
- (4) If the determination is made by the building inspector that the structure does not meet the minimum maintenance requirements, the historic zoning commission, upon a majority vote, may initiate the citation process as specified in section 11-1604. At this time, the historic zoning commission must prepare an application for a certificate of appropriateness specifying corrective work that is required according to the commission's standards and

guidelines, and indicating the time schedule that will be necessary to complete the minimum maintenance improvements. The time schedule mandated by the historic zoning commission will be a minimum of thirty (30) days unless the building inspector determines that failure to immediately meet minimum maintenance requirements creates an imminent threat to the safety of the public or the property. [as added by Ord. #93-02, June 1993]

11-1604. Initiating citation process. (1) A citation is formal notification to the property owner that the historic zoning commission has determined that demolition by neglect is occurring on the property because minimum maintenance requirements have not been met; and notification of the owner that correction of the defects must be undertaken.

(2) After action by the historic zoning commission authorizing the citation process, the building inspector or his/her designee will attempt to notify the property owner(s) of the determination of demolition by neglect by the commission. The notification shall state the reasons why the structure is found to be in violation of the minimum maintenance requirements. In addition the notification shall include a copy of the application for a certificate of appropriateness listing the work required according to the commission's standards and guidelines. The notification shall be in writing and shall be delivered by certified mail, registered mail, or such other method that shows the receipt of the notification by the owner. Notice of the date, time, and location of a citation hearing/public meeting in which the owner may address the commission concerning said violations will also be provided.

(3) If after two attempts, the owner fails to receive the notification regarding the determination of demolition by neglect, the building inspector or designee will post the building/property with a notice of the violation. Posting will be in a conspicuous, protected place on the property. The posted notice will include the fact that the building is in violation of minimum maintenance standards and the date, time, and location of the citation hearing/public meeting held on the violations by the historic zoning commission.

(4) The owner(s) of the building/property determined to be in violation of the minimum maintenance standards shall be notified of said violations as specified in sections 11-1604(2) or 11-1604(3) above a minimum of thirty (30) days in advance of the meeting on the issue held by the commission.

(5) After receiving notification of the determination of demolition by neglect, the owner(s) may initiate corrective action before the citation hearing/public meeting is held. Before work is begun however, the owner(s) must complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit. [as added by Ord. #93-02, June 1993]

11-1605. Citation hearing/public meeting. (1) If by the designated citation hearing/public meeting, the owner(s) of the property has not completed

the corrective work specified in the notification of violation and the application for a certificate of appropriateness, the historic zoning commission will restate the violations of the minimum maintenance requirements related to the property. The owner(s) will then be provided with the opportunity to address the concerns of the commission, to provide evidence, and to show cause why a citation should not be issued regarding the alleged violations.

(2) After reviewing the violations of the minimum maintenance requirements and providing the opportunity for the owner(s) to address the concerns; the historic zoning commission may consider a motion to recognize the condition of the building/property and the owner(s) failure to correct defects. Upon a majority vote of the commission, the building inspector may be authorized to issue a citation to the owner(s) for failure to comply with the minimum maintenance requirements of this ordinance. This citation will include the following requirements:

(a) A list of the minimum maintenance requirements still in violation.

(b) Any remaining or amended requirements detailed in the application for a certificate of appropriateness initially issued through section 11-1603(4) above.

(c) A written schedule of the time allotted to correct the violations.

(d) A statement detailing the requirement to complete and return within ten (10) days the application for a certificate of appropriateness, and to obtain a certificate of appropriateness, and a building permit.

(3) The determination of the historic zoning commission related to the citation and certificate of appropriateness as specified in section 11-1605(2) above shall on the date it is authorized be a final administrative decision subject only to the application process for unreasonable economic hardship as specified in section 11-1607 and appealable only to the appropriate state court. Any appeal of the historic zoning commission's decision to the state court must be made within thirty (30) days. [as added by Ord. #93-02, June 1993]

11-1606. Enforcement. If the owner has not complied with the historic zoning commission's requirement to complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit within ten (10) days; or if the owner(s) does not adhere to the allotted schedule for the corrections to take place as approved or amended by the commission in the certificate of appropriateness; or if the owner(s) has not complied with the requirements specified from the commission's standards and guidelines detailed in the certificate of appropriateness, then any or all of the following may apply:

(a) The owner(s) may be required to attend the next meeting of the historic zoning commission to explain to the commission's

satisfaction why the corrections to the owner(s) cited building/property have not been made and to show cause why the commission should not initiate additional enforcement action. Upon review of any information provided regarding delays in the correction of the demolition by neglect, the commission may defer the matter in order to provide the owner(s) with more time either to correct the deficiencies, make a proposal for repairs, or perhaps sell the property.

(b) The commission, upon majority vote, may request the board of mayor and aldermen to direct the town attorney to take the appropriate legal action, either civil or criminal, against the owner(s).

(c) Charges may be brought against the owner(s) in the municipal court of the town for the violation(s) of this chapter.

(d) The commission may upon majority vote, request the board of mayor and aldermen to cause such property to be repaired by the town at the town's expense at such time funds are available, or to cause such property to be repaired by a designated agent of the town. If repairs are initiated through action by the board of mayor and aldermen, the board will instruct the town attorney to file the necessary affidavits with the courts and/or the register of deeds which shall establish a lien and privilege against the cited property for the benefit of the town or the agent of the town to the extent of the amount of money spent for said repairs plus interest accrued at bank prime rates in effect beginning at the completion of said repairs and continuing until the lien is satisfied.

(e) In final recourse and to preserve the property from irreversible damage or loss, violations of the minimum maintenance requirements shall make a property subject to the town's right of eminent domain. The commission may, upon majority vote, request the board of mayor and aldermen to exercise its power of eminent domain if it is determined that no alternate course of action is feasible. The board may work with any agent to develop a plan for the purchase and the repair of the cited building. Upon obtaining ownership of the property, the town may transfer said ownership to any party or agent that enters into and consummates an agreement with the board of mayor and aldermen to make the necessary building repairs and maintenance corrections in an agreed upon period of time. [as added by Ord. #93-02, June 1993]

11-1607. Unreasonable economic hardship. (1) Unreasonable economic hardship can be considered when enforcement of regulations in the chapter deprives the owner(s) of the entire reasonable economic value of the property. Enforcement of a minimum maintenance requirement may create unreasonable economic hardship only if all of the following apply:

- (a) There is no reasonable return possible on the property as it is;
- (b) There is no profitable use to which, the property could be adapted;
- (c) The sale or rental of the property is impractical or it is not feasible for the owner(s) to dispose of the property as is at a reasonable price.

(2) An owner(s) that feels he or she fits the criteria established for unreasonable economic hardship may file an application for a certificate of economic hardship. Applications will be accepted by the historic zoning commission after the commission votes to authorize the building inspector to issue a citation for violations and the notification has been received by the owner(s).

(3) The owner(s) of property cited for demolition by neglect must inform the historic zoning commission in writing of his or her intent to file an application for a certificate of economic hardship within ten (10) days of the date the citation was issued.

(4) The owner(s) of the cited property must file within thirty (30) days of the date the citation was issued, a completed application for a certificate of economic hardship. The completed application must be filed with the historic zoning commission and must be submitted with the following information:

- (a) A copy with the current recorded deed.
- (b) The amount paid for the property and purchase date.
- (c) The current assessed value.
- (d) Past and current use of property.
- (e) Current market value of the property preferably determined by a recent appraisal(s) or if not through county tax records.
- (f) Ownership structure of property (partnership, corporation, joint venture, not for profit, sole proprietorship, etc.)
- (g) Mortgage history of the property including any current mortgage principal balance and interest rate, and any other financing secured by the property including a detail of principal and interest.
- (h) Equity in current use and in previous alternative uses.
- (i) Tax bracket of ownership, and federal income tax returns for previous two (2) years.
- (j) Past and current income, expense, and net worth statements for a two (2) year period. If the property is income producing, annual gross income from the property and the itemized operating and maintenance expenses for the previous two (2) years. In addition the depreciation deduction and annual cash flow before and after debt services, if any, during the same period.
- (k) Past capital expenditures during ownership of the current owner(s).

(l) Estimate of the cost of the proposed construction, alteration, demolition, or removal related to the corrective measures detailed in the citation issued by the historic zoning commission.

(m) A detailed description of what alternative legal adaptive uses have been considered by the owner(s).

(n) A detailed description of what efforts have been made by the owner(s) to sell the property, including any listing of the property for sale or rent, price asked, and offers received, if any.

(o) A detailed description of what efforts have been made by the owner(s) to obtain financial assistance, tax credits, transfer of density, etc. that might generate funding for the needed improvements.

(5) The historic zoning commission shall schedule and hold a public hearing on the owners application for a certificate of economic hardship within thirty (30) days from receipt of the application. Notice of the date, time, and place of the hearing shall be provided to the owner(s) a minimum of seven (7) days in advance of the meeting.

(6) The historic zoning commission may require at the hearing that the applicant furnish additional information relevant to the application including but not limited to the solicitation of expert testimony.

(7) The historic zoning commission may request, receive, and consider studies and economic analysis related to the property in question from other agencies and sources including private organizations and individuals.

(8) In evaluating the owner's information provided in the application for a certificate of economic hardship, if the historic zoning commission determines that the owner(s) present return is not reasonable, the commission must consider whether there are other uses currently allowed for the structure that would provide a reasonable return and whether such a return could be obtained through an investment in the rehabilitation of the property.

(9) The historic zoning commission shall review all the evidence and information required of the applicant for a certificate of economic hardship, and make a determination within thirty (30) days following the conclusion of the hearing.

(10) Written notice of the determination will be provided to the applicant along with the reasons justifying the decision by the historic zoning commission.

(11) If the historic zoning commission grants a certificate of economic hardship, the commission must detail options it has considered that would bring the property up to minimum maintenance requirements and why each option is not deemed feasible. In granting a certificate of economic hardship, the historic zoning commission may determine that some corrections may be feasible while others cannot be implemented due to economic hardship. Under such circumstances, the historic zoning commission must authorize the building inspector to issue a building permit for any activity that is deemed feasible under the conditions detailed in the certificate of economic hardship.

(12) In granting a certificate of economic hardship, the historic zoning commission may also detail any feasible plan to relieve any aspect of the economic hardship. The plan may include, but is not limited to, tax relief, loans and grant available from any source public or private, building code modifications, etc. The commission may recommend that the planning commission consider changes in zoning. The commission may also request the board of mayor and aldermen to consider relaxation of the provisions of this chapter sufficient to allow reasonable beneficial use of or return from the property. If no alternative cause of action has been deemed feasible, the commission may request the board to consider acquisition through eminent domain.

(13) If the historic zoning commission denies a certificate of economic hardship, the commission must detail in writing the economic and financial options that in the judgment of the commission will allow the improvements to be made to the property as required in the citation issued as specified in section 11-1605(2) above.

(14) If a certificate of economic hardship is denied by the historic zoning commission, the commission will revise, to the extent necessary, the designated schedule for completion of the corrective measures detailed in the citation taking into account any reasonable need for additional time due to time lost during consideration of the certificate application. The commission will notify the owner(s) in writing of any schedule amendments with the notification of the denial of the certificate.

(15) The determination by the historic zoning commission of an application for a certificate of economic hardship, either approving or disapproving, shall on the date it is issued be a final administrative decision appealable only to the appropriate state court. Any appeal of the historic zoning commission's decision to state court must be made within thirty (30) days. [as added by Ord. #93-02, June 1993]

11-1608. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. [As added by ord. #93-02, June 1993]

Scheme & Notes for Proceedings
 Toward and Including Citation Under the Ordinance Against
Demolition by Neglect
 Jonesborough, TN
 by William E. Kennedy, Chairman
 Jonesborough Historic Zoning Commission
 January 2003

In most cases, the Commission would not be concerned with proceedings under this ordinance unless the property owner had neglected the property. Therefore, at every stage of these proceedings, the property owner should be encouraged to sell the property. However, proceedings under this ordinance are property specific, not owner specific. Therefore, any new owner must assume the responsibilities for bringing the property up to minimum maintenance standards according to the requirements and steps taken under the proceedings of this ordinance as of the date of purchase.

Implementation of minimum maintenance standards is divided into 4 phases.

Phase 1: Identification

Deteriorating building identified [11-1603 (1)].¹

Identification presented to the Historic Zoning Commission [11-1603 (2)].

—————→

If the Historic Zoning Commission determines no action is needed, the issue is closed.²

Historic Zoning Commission votes to request inspection.³

—————→

If the Commission's vote fails to request an inspection, the issue is closed and no further action is needed.

↓

If the Commission has a positive vote to request inspection ...

The Chairman of the Historic Zoning Commission
officially notifies the owner by certified mail

(1) of the action of the Commission to request an
inspection

(2) of the impending inspection

(3) of the opportunity of the property owner to address
the Commission with regard to identification of
deterioration and the Building Inspector's report
of inspection [11-1603 (2)].



Building inspected.



The inspection findings are reported in writing to the
Commission [11-1603 (3)].



If inspector finds that the building meets minimum maintenance
requirements under the ordinance, the issue is closed and no
further action is needed.

If the Building Inspector finds that the building fails
to meet minimum maintenance requirements, then the
Commission votes on whether to initiate the citation
process [11-1603 (4)].



If the vote is negative, then the citation process is not initiated
and the issue is closed and no further action is needed.

If a positive vote ...



Historic Zoning Commission prepares a Certificate
of Appropriateness specifying the corrective work
needed under the Commission's standards and
guidelines. **This C of A must have a time
schedule included as a condition of the C of A [11-1604 (4)].**⁴

Phase 2: Citation Process Initiated⁵

A public citation hearing is scheduled in which the owner and any concerned citizen may address the Commission [11-1604 (2)]. [11-1605 (1)].



The Building Inspector notifies the owner that demolition by neglect is occurring in violation of the minimum maintenance requirements and obtains a receipt of notification from the owner.⁶ The notice must include the report of the Building Inspector, the action of the Historic Zoning Commission, the specification for a corrective work, and the Certificate of Appropriateness as well as notice of date, time, and location of citation hearing open to the public [11-1604 (2)]. The building owner must receive notification at least 30 days prior to the date of the citation hearing [11-1604 (4)].



After receiving the above notification, property owner may apply for a Certificate of Appropriateness under the application prepared by the Commission; and after receiving a building permit, begin the corrective work prior to the citation hearing [11-1604 (5)].⁷



The citation public hearing is held [11-1605].



Commission votes whether to authorize the Building Inspector to issue a citation to the owner for failure to comply with the minimum maintenance requirements of this ordinance [11-1605 (2)].



If the owner fails to receive notification, the Building Inspector is to post notice of the violation on the property. The notice is to include the date, time, and location of the citation hearing [11-1604 (3)].



Notice must be posted at least 30 days prior to the citation hearing [11-1604 (4)].



If the owner, after receiving a Certificate of Appropriateness, obtains a building permit and begins corrective work in a timely fashion, the citation public hearing may be postponed giving the owner an opportunity to complete the work within the time specified in the C of A. If the owner completes the work in a timely fashion and the Building Inspector certifies that the building has been brought up to minimum standards, **the issue is closed** and no further action is needed. If the owner fails to complete the work in a timely fashion, the citation public hearing is rescheduled and the owner is given proper notice of the date and time of the public hearing.

Phase 3: Citation

Citation must include a current list of minimum maintenance requirements and specifications under a new or amended Certificate of Appropriateness with a written schedule of time for correcting the violations [11-1605 (2)].⁸



Property owner may appeal the decision of the Historic Zoning Commission in the appropriate state court within 30 days of the authorization by the Commission to issue a citation [11-1605 (3)].



If the Commission realizes that only a part of minimum maintenance requirements have been met, the vote should logically be positive and the citation issued.

Phase 4: Enforcement

See 11-1606.

Notes for
Demolition by Neglect

¹ Even though not required under the ordinance, I recommend that the property owner be informally notified (from the very beginning of the proceedings under the ordinance) and given an opportunity to attend the Historic Zoning Commission meeting in which the identification is presented. Proper courtesy should always be extended to the owner. The owners should be given ample opportunity to be fully informed of the duties of the Historic Zoning Commission, the Building Inspector, and anyone else involved in moving toward enforcement of the ordinance. The property owner should be given a copy of the ordinance. Some property owners may want to apply for a Certificate of Appropriateness for repairs in the meeting in which the identification of the deteriorating building is presented. **Caution** - If the property owner applies for a Certificate of Appropriateness at this stage, the property owner may be stalling. The Commission must be sure that the application includes adequate measures to address the obvious forms of deterioration and must place a time limit on completion of the work under the proposed Certificate of Appropriateness. In addition, the Commission must fix a date by which the Building Inspector will inspect and report back to the Historic Zoning Commission, at which time formal proceedings under the ordinance may be resumed. There is a risk in accepting an application at this early stage because neither the Commission nor the property owner will have the benefit of the formal inspection as provided in the ordinance.

² The Historic Zoning Commission may recognize that the building is not in the Historic Zone or may simply disagree with the opinion of the person presenting the identification of the building alleged to be deteriorating. The person reporting the identification may be a disgruntled neighbor or a troublemaker. The Commission's responsibility is toward the building and not toward people in particular, whether owners or not. Even though the Commission's primary responsibility is to protect the building, occasionally owners also need to be protected. The Commission must always seek a balance.

³ The Historic Zoning Commission may agree that the building in question may be undergoing demolition by neglect and, therefore, the matter should be investigated and action under the ordinance considered.

⁴ The specifications under this Certificate of Appropriateness must address all of the defects listed in the Building Inspector's report. As a practical matter, we have in the past simply included the Building Inspector's report as a part of the C of A application and specifications. We have also asked the Building Inspector and/or the architect member of the Commission to draft the specifications. **The property owner may wish to submit alternatives to the specifications at a later date, but should not be a party to the drafting of these specifications.** The specifications should be drafted to aim toward ultimate restoration of the building, if at all possible. Work under this C of A should be more than temporary and should not have to be reversed or overcome in the future when the building is restored.

⁵ Under the ordinance, citation is defined as the official notification of the property owner that (1) demolition is occurring in violation of the applicable ordinances and (2) the defective conditions in the building causing gradual demolition must be corrected [11-1604 (1)]. The citation itself requires additional steps as given in what I have called Phase II.

⁶ This is not the citation itself. This is only notification that the Commission has determined that demolition by neglect is occurring in violation of the minimum maintenance requirements. The

citation itself includes not only a statement that demolition by neglect is occurring but also that the defective conditions in the building causing demolition must be corrected.

⁷ It is at this point that the Commission actually approves the Certificate of Appropriateness. Keep in mind that a C of A covers not only the specifications of work to be done, but also the people doing the work. Here the Commission has a responsibility to pass judgement on the reasonable qualifications as well as the intentions of the people who are proposed to do the work. If the Commission believes that the workers proposed at this time are not likely to produce repairs consistent with the Commission's standards and guidelines, they should deny this request for C of A. The Building Inspector should assume exceptional diligence in monitoring and controlling the quality of the work in this phase.

⁸ Authorizing the Building Inspector to issue a citation is not the same as approving a Certificate of Appropriateness. Approval of the C of A should come only after the Commission knows who is to do the work to bring the building up to minimum maintenance requirements. If that is known at the time the citation is authorized, then there would be no reason for the Commission not to approve a C of A as a separate action in the same meeting.

Under Normal Historic Zoning Ordinances

Under the Ordinance Against Demolition by Neglect

The property owner controls the process - the extent of the work and the timing of the work.

The Commission controls the process - the extent of the work and the timing of the work.

Most likely, the Commission and the property owner will work together in a good relationship.

More than likely, the Commission and the property owners will be adversaries or at least the relationship will be strained and tense.

The property owner is likely to be positive, optimistic, and happy.

The property owner is likely to be negative, feel under pressure, and imposed upon.

The role of the Commission is primary. The role of the Building Inspector is secondary.

The role of the Building Inspector is primary. The role of the Commission is secondary.

The Board of Mayor and Aldermen is usually not involved - out of sight, out of mind.

The Board of Mayor and Aldermen must be involved and informed - may have to appropriate money for legal action and repairs.

Commission leadership and Building Inspector are likely to be comfortable in carrying out their duties.

The Commission leadership and Building Inspector are likely to be in the "hot spot."

Administrative procedures are usually familiar, routine, and not particularly detailed.

Administrative procedures must be very meticulous and documented in careful detail. The records must be excellent every step of the way.

Usually, it is inappropriate for the Commission to urge the sale of a property.

Sale of the property should be encouraged at every opportunity.

Publicity surrounding a project usually is minimal or none and not directed or controlled by the Commission.

The Commission should be prepared when requested to release accurate information with care - always soliciting the support of the public, always trying to present its work favorably.

The need for formal diplomacy is moderate.

The need for great skill in diplomacy is likely to be very challenging.

Preventing Demolition
Tennessee Preservation Trust Conference
April 8, 2005
William E. Kennedy
Jonesborough, TN

Among the goals of community historic preservation are to achieve and maintain livability, stability, economic viability and good quality of life.

Among the tools of community preservation are:

Listing on the National Register of Historic Places. That provides recognition of distinction and fosters appreciation of historic resources, community pride, and the sense of the importance of the place.

Historic Zoning. That provides protection of the historic character of individual buildings and, therefore, of the character of the community; protection of investment through economic enhancement and stability; and incentives for investment.

Building deterioration through neglect often leads to demolition for a variety of reasons.

Therefore, the only effective way to prevent demolition by neglect is to prevent deterioration – to promote good maintenance.

Building deterioration and demolition by neglect interfere with all of the goals and purposes of community historic preservation in particular and of our built environment in general.

In most communities buildings that fall below certain standards of maintenance can be demolished for public health and safety reasons. The cost of demolition is levied as a lien against the property.

State enabling legislation gives municipalities an alternative to demolition of extremely deteriorated building in historic zones.

If the building is of historic value, demolition would go against the best interests of the public, especially if the building contributes significantly to the character of an historic district.

In an historic zone building deterioration and demolition by neglect represent changes not approved by the Historic Zoning Commission and therefore are unlawful.

An ordinance to prevent demolition by neglect is designed to go after the extreme cases of neglect.

But much more important, it provides **awareness of the importance of building maintenance and an incentive for dialogue with neglectful property owners.**

Effective use of an ordinance to prevent demolition by neglect depends on the strength and effectiveness of the administration of Historic Zoning.

I see three phases in the development of effective historic zoning:

1. Crafting and passing a good ordinance
2. Developing effective administration of historic zoning
3. Developing citizen support for historic zoning

Effective use of an ordinance to prevent demolition by neglect depends on having developed at least the first 2 phases of historic zoning.

Jonesborough's ordinance provides for about 12 steps toward enforcement including citation. It also provides for economic hardship and the terms of enforcement itself. Enforcement can take the form of repair and lien similar to the method used for demolition for health and public safety mentioned above. In extreme cases the property may be subject to the Town's power of eminent domain to purchase and repair either directly or through an independent agent, presumably a non-profit organization.

The Jonesborough Historic Zoning Commission uses its ordinance against demolition by neglect routinely to promote good maintenance. Since the ordinance was passed in 1993 it has been used toward enforcement only in 2 cases, only one of which actually reached the level of citation.

Available materials:

Ordinance Chapter 16

Scheme and Notes for Proceedings under the Ordinance

Policies and Procedures under the Ordinance

Some Warnings for Historic Zoning Commissions

Sample annual report by Building Maintenance Inventory Committee

Sample of field worksheet used by the committee

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Demolition Prevention: Tools and Techniques

July 29, 2006

Bill Kennedy, Chairman
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Demolition by neglect occurs when a building is allowed to deteriorate to the point that it becomes a hazard to public health and safety or cannot feasibly be rehabilitated for economic reasons. Most municipalities have ordinances that permit the local government to demolish hazardous structures and place a lien on the property for the expense of demolition.

In a historic district gradual deterioration is a **change not approved by the Preservation Commission**. If the deteriorated building contributes to the historic character of the district, its demolition is **not in the best interest of the public**.

An ordinance establishing minimum maintenance requirements to prevent demolition by neglect can be very helpful.

An ordinance against demolition by neglect should include...

- The **specific types of buildings** to which it applies, such as those classified as contributing to the character of the historic district
- A listing of **characteristics of deterioration**
- The **characteristics of minimum maintenance** required
- A means of officially and publicly **identifying a building possibly deteriorating** because of neglect and therefore undergoing gradual demolition
- A procedure for **declaring** that the building has fallen below the minimum maintenance requirements – a procedure for **citation**
- Provisions for **enforcement and penalties**
- A provision for unreasonable **economic hardship**

The Jonesborough Ordinance is structured to permit the Historic Zoning Commission and the building inspector to work with a property owner through about 12 steps of enforcement toward repair at the owner's expense, transfer of ownership, or (as a last resort) repair by the Town or its agent at their expense placing a lien on the property. The Town's agent has been a non-profit preservation organization. We had to establish a policy of non-profit financial support to the Town before we could get the ordinance passed.

The existence of the ordinance motivates the Preservation Commission and property owners to work together toward preventing deterioration of buildings.

The greatest value of the ordinance is that it provides motivation for meaningful discussion leading toward maintenance.

In Jonesborough the ordinance stands as a silent force motivating maintenance of several buildings each year, but **has been enforced only twice since it was passed in 1993!**

The Jonesborough Historic Zoning Commission has established **Policies and Procedures for...**

- Systematically observing from the public right-of-ways and classifying the visible conditions of all buildings each year
- Maintaining a building maintenance inventory
- Discussing building conditions with property owners prior to proceeding under the ordinance

In most cases non-threatening discussions of concerns with the owner have stimulated appropriate maintenance in reasonable periods of time and proceedings under the ordinance have not been necessary.

Some Warnings for Preservation Commissions: In order to be effective under an ordinance against demolition by neglect...

- The Commission must be well organized
- The work of the Commission must be consistently well administered
- The Town must work closely with the Commission and support the Commission
- The Building Inspector has a major role as the enforcement officer and must be both interested and dedicated
- Instead of the Commission responding to property owner's initiative, the property owner has to respond to the initiative of the Commission. The situation is therefore likely to be tense, maybe even adversarial.
- Proper legal administrative procedures must be meticulously followed in preparation for court, which is a more likely outcome than in the ordinary work of the Commission.

One last note: The owner of a historic property who is a good steward will not let a property deteriorate. Therefore, when working to prevent demolition by neglect, **always encourage transfer of ownership.** If you can, hypnotize the neglectful property owner and whisper over and over again, "Sell it! Sell it! Sell it!" If it seems right, help find a buyer!

Additional references:

- ❖ Jonesborough Ordinance Chapter 16
- ❖ Jonesborough Historic Zoning Commission Policies and Procedures under Chapter 16
- ❖ Implementing the Ordinance: Some Warnings

Jonesborough Historic Zoning Commission
Demolition By Neglect Worksheet

Address:

DATE _____

Description of Structure:

NOTE: Use criteria below to determining Demolition by Neglect- as observed from public right of way. Some items listed below may not be observable from public right of way, or may require the insight of a certified structural engineer /building inspector with closer inspection, but if you suspect a problem list it.

Demolition by neglect is determined to be deterioration of a building and/or its surrounding environment, and a failure to meet minimum maintenance requirements by one or more of the following:

- 1) ___ Structures which have parts thereof which are so attached that they may fall and injure members of the public or property. NOTES: _____
- 2) ___ Foundations that are deteriorated or inadequate. NOTES: _____
- 3) ___ Floor supports that are defective or deteriorated or floor supports insufficient to carry imposed loads with safety. NOTES: _____
- 4) ___ Members of walls or other vertical support that split, lean, list or buckle due to defective material or deterioration. NOTES: _____
- 5) ___ Members of walls or other vertical supports that are insufficient to carry imposed loads with safety. NOTES: _____
- 6) ___ Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration. NOTES: _____
- 7) ___ Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety. NOTES: _____
- 8) ___ Fireplaces or chimneys which list, bulge, or settle due to defective material
or
deterioration.
NOTES: _____
- 9) ___ Important defining architectural features that are substantially deteriorated.
NOTES: _____



- 10) ___ Those buildings with the peeling of external paint, rotting, holes, and other forms of decay. NOTES: _____

- 11) ___ Unsafe electrical and/or mechanical conditions. NOTES: _____

- 12) ___ Exterior plaster or mortar that is deteriorated or crumbling.
NOTES: _____

- 13) ___ Those buildings with a lack of maintenance of the surrounding environment that is associated with the defining historical character of the structure; e.g. fences, gates, steps, signs, accessory structures and landscaping. NOTES: _____

- 14) ___ Any fault, defect, or condition in the building which renders the same structurally unsafe, not properly water tight, or likely to lead to the deterioration characteristics listed above. NOTES: _____

Completed By _____

Additional notes and/or observations:

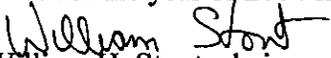
Outbuildings that have be neglected (see #13):

Jonesborough Zoning Commission
Mar.1, 2005
Subject: Building Maintenance

Properties in Jonesborough's Historic Zone (H-1 &H-2) are reviewed annually for the purpose of determining which properties/structures have been neglected. These structures, if allowed to continue in their current state will be completely destroyed by neglect. Given that all man made structures will be destroyed by nature over time, the prudent property owner makes repairs and performs maintenance to slow down the effects of demolition by nature. One of the functions of the Historic Zoning Commission is to identify properties that have been neglected by owners and hold them accountable for their actions. Neglect not only harms the individual structure, but it is blight to the community as a whole.

The purpose of this report is to provide a building maintenance/neglect guide to the Jonesborough Historic Zoning Commission. This report does not recommend any action other than to classify the maintenance condition (see below for classifications) Any action is to be determined by the Zoning Commission.

The committee of individuals who reviewed properties with an eye toward building maintenance for the year of 2004 is:

- 
- 1) William H. Stout, chairman, and JHZC member
 - 2) Mitzi Sobol, member, and JHZC member
 - 3) Larry Childress, member, concerned citizen

Classifications of Maintenance Condition:

Class 1- Serious problems, if left unattended, for very long will result in major repairs, or major repairs are required now. Stated differently- the longer you wait the more effort required to bring the historic building up to the standards required by the Zoning Commission and community. Considered a candidate for Demolition by Neglect.

Class 2- Structure requires maintenance, and left unattended for a period of time, the building would be classified as a Class 1. Not considered a candidate for Demolition by Neglect at this point in time. The Structure will be reviewed for maintenance problems at future points in time.

Class 3- Excess vegetation. A home would not be a home without the beauty of trees and plants, But close in and climbing plants can cause major damage to a structure if left unchecked for several years. Not considered a candidate for Demolition by Neglect. A letter to the owner might be in order, per request of commission

Listed below, in alphabetical/street number order, are the addresses of properties that this committee feels the owner is neglecting, be it Class 1, Class 2 or Class 3. If nothing is done, the structure on this property could be lost because the repair costs would be more than replacement costs. The loss of one historic structure to Jonesborough, whose stock and trade relies on its historic structures, would be an incalculable loss. The assessments are made from the public right of way using worksheets derived from the Town ordinance on demolition by neglect.

- Item 1)- 118 South Cherokee Street (Old Livery Stable Office)- New this list. Building needs paint and tuck-pointing. Class 2.
- Item 2)- 120 South Cherokee Street (Willett-Stephenson House, c1855)- New this List. Close in vegetation, clapboard needs paint, gutters need cleaning, window sash/sills needs painting, shutters need paint and repair. In the rear of the structure at the roofline, missing bricks, needs repair. Class 1.
- Item3)- 306 South Cherokee Street (Vernacular)- Reference committee report dated June 19, 2003. Left chimney missing bricks at its top- Still a class 2, but since it was on previous list, maybe the owner should be notified of our concern.
- Item 4)- 205 West College Street (Old Jonesborough Female Academy, c1834)- New to list. Ivy and close in vegetation. Class 3.
- Item 5)- 301 West College Street - New this list. Ivy and close in vegetation. Class 3.
- Item 6)- 103 Courthouse Square (Herald and Tribune Building, c1920)- New to list. Concrete steps broken, gutter missing, trim needs painting. Class 2.
- Item 7)- 127 East Main Street (Old Naff House, c1840)- New this list. Brick spalding, front porch foundation and in the front walls. large amount of ivy on right side wall. With ivy to the roofline in places. Class 2.
- Item 8)- 214 East Main Street (Old Outlaw House, c1820)- New this list. Porch has rotten spots, especially at the gutter line. Portions of the gutter drooping and on the ground, entire building in need of paint. Gable window, east side needs repairing. Outbuilding- missing clapboard in 5 places. Class 1.
- Item 9)- 233 East Main Street (Old Dungen School, c1855)- New this list. Outbuilding only- rusty roof, missing clapboard siding, windows missing glass. Class 2
- Item 10)- 117 West Main Street (Main Street Cafe, c1930)- New this list. Large amount of ivy (to roofline), east side and rear of building. Class 3.
- Item 11)- 125 West Main Street (Jonesborough Repertory Theater)- New this list. Excess

moss/ vegetation. Class 3.

- Item 12)- 204 West Main Street (Greek Revival Town House, c1850)- Reference \ committee Report dated June 19, 2004. Chimney missing brick, ivy covering wall east side, excess vegetation, and unclean gutters. Still a class 2, but since it was on previous list, maybe owner should be notified of our concern.
- Item 13)- 207 West Main Street- (#2 Sisters Row, c1820)- Reference committee report Dated June 19, 2003. Some improvement over last years report, but more maintenance needs to be done. Class 2.
- Item 14)- 208 West Main Street (Dr Panhorst House)- Brown pebble-dashed stucco. Reference committee report dated June 19, 2003. No change, Class 1.
- Item 15)- 209 West Main Street- (#3 Sisters Row, c1820)-. Reference committee report dated June 19, 2003. No repairs since last report, Class1.
- Item 16)- 300 West Main Street (Greek Revival, c1864))- Outbuilding, lattice. Reference committee report dated June 19, 2003. Repaired, and in good shape. Remove from list.
- Item 17)- 421 West Main (Johnson-Smith House, c1872)- New this list. Front chimney in need of repair, top layer missing bricks. Class 2.
- Item 18)- 505 West Main Street (Princess Anne, d1880- New this list. Outbuildings in back, the larger of the two buildings have one wooden sill resting on the ground. Class 2.
- Item 19)- 509 West Main Street (Old Pritchett House, c1885)- Outbuilding (garage) Reference committee report dated June 19,2003. Garage off its foundation and spreading apart at the front entrance. No change from last report, but owner has requested permission for repair. Class 2.
- Item 20)- 511 West Main (Old John Williams House, c1889)- New this list. Both front and left side porch roofs are missing a vertical support column (left side) the roofs are small, maybe they were built that way. Class 2. Outbuilding/carriage house- in need of repair/painting. One side has vinyl siding, which should be removed. Class1.
- Item 21)- 514 West Main Street- Reference committee report dated June 19, 2003. Looks better, some repair has been done, still excess vegetation. Remove from list
- Item 22)- 601 West Main Street- Reference committee report dated June 19, 2003. One brick missing from the tops of the two chimneys, gutters need cleaning, excess vegetation. - No change, still a class 2

- Item 23)- 102 Oak Grove (Bungalow, c1920)- New this list. Gutter needs repair. Class 2.
- Item 24)- 108 Oak Grove Avenue (Old Clyde Haws House, c1933)- New this list. Ivy and close in vegetation. Class 3.
- Item 25)- 103 Sevier Street- New this list. Board missing in the gable, and needs painting. Class 2.
- Item 26)- 107 Sevier Street (Shotgun, c1900)- Reference committee report dated June 19, 2003. Metal roofing material has lifted from its nailing, in one location, maybe enough to allow water inside. Boards in the gable and bottom post needs painting- No change from last report, still a class 2, maybe owner should be notified.
- Item 27) 117 Spring Street (Old Beckett House, c1870)- New this list. Porch floor rotten in places, needs painting, vegetation close to structure and needs to be trimmed back, ivy climbing on chimney.. Also metal roof rusting, gutter pulling away on porch roof, south side, Outbuilding has a bottom sill in the ground and structure is leaning. Possible class1.
- Item 28)- 100 East Woodrow Ave- New this list. Ivy and close in vegetation. Class 3.
- Item 29)- 102 West Woodrow Ave (1st Christian Church Parsonage, c1873)- New to list Needs paint. Two window lintels missing, west side. Class 2.
- Item 30)- 112 West Woodrow Ave (Fleming-Farris House, c1850)- New to list. Missing brick, large crack in wall, railroad side. Class 2
- Item 31)- 200 West Woodrow Ave (Tipton House c1800)- New to list. Chimney needs tuck pointing. Class 2.
- Item 32) 206 West Woodrow Ave (AMEZ Church)- New this list. Needs paint. Class 2.
- Item 33)- 210 Woodrow Ave (Weatherboard vernacular)- Reference committee report dated June 19, 2003. No repairs since last report. Class 1.
- Item 34)- 215 Woodrow Ave (Victorian Cottage, c1885)- Reference committee report dated June 19, 2003. Some maintenance has been accomplished, still a long way from being considered inhabitable. The close in vegetation has been removed. The front porch is close to falling in, with very rotted structural members. Probable termite infestation of lower structural members. Class 1