ORDINANCE NO. _____

TITLE

AN ORDINANCE TO AMEND TITLE 13, TITLED "PROPERTY MAINTENANCE REGULATIONS," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING CHAPTER 2, TITLED "OAK RIDGE PROPERTY MAINTENANCE CODE," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW CHAPTER 2, TITLED "OAK RIDGE PROPERTY MAINTENANCE CODE," TO ADOPT THE 2012 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, INCLUDING APPENDIX A, AND TO PROVIDE FOR ANY NECESSARY AMENDMENTS THERETO.

WHEREAS, the City of Oak Ridge has adopted the International Property Maintenance Code, 2003 edition, establishing minimum standards for the condition of maintenance of all property, buildings, and structures within the City Limits of Oak Ridge for the protection and safety of the public; and

WHEREAS, an updated edition of the International Property Maintenance Code is available for adoption; and

WHEREAS, the City desires to adopt the International Property Maintenance Code, 2012 edition, specifically including Appendix A, Boarding Structures, with any necessary amendments thereto.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Title 13, titled "Property Maintenance Regulations," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting Chapter 2, titled "Oak Ridge Property Maintenance Code," in its entirety and substituting therefor a new Chapter 2, titled "Oak Ridge Property Maintenance Code," which new chapter shall read as follows:

Chapter 2

Oak Ridge Property Maintenance Code

Sec. 13-201. International Property Maintenance Code Adopted.

The International Property Maintenance Code, 2012 edition, specifically including Appendix A, *Boarding Standard*, as published by the International Code Council, Inc., is hereby adopted by reference as the "Oak Ridge Property Maintenance Code" for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said code; and shall become a part of this chapter as if copied herein verbatim, with the additions, insertions, deletions and changes prescribed in this chapter.

Sec. 13-202. Deletions and Insertions to the International Property Maintenance Code, 2012 Edition.

The City of Oak Ridge, Tennessee, hereby amends the International Property Maintenance Code, 2012 Edition, as follows:

Section 101.1 Title. Delete in its entirety and Insert a new section: "Section 101.1 Title. These regulations shall be known as the Oak Ridge Property Maintenance Code of the

City of Oak Ridge, Tennessee, hereinafter referred to as "this code", "ORPMC" and/or "IPMC.""

Section 103 Department of Property Maintenance Inspection. Shall be renamed and known as the "Code Enforcement Division of the Community Development Department."

Section 103.1 General. Delete in its entirety and insert a new section: "Section 103.1 General. "The Code Enforcement Division of the Community Development Department is hereby created and the City Manager or his/her duly authorized designee is in charge thereof shall be known as the code official for the enforcement of the provisions of the Oak Ridge Property Maintenance Code."

Section 103.5 Fees. Delete in its entirety and Insert a new section: "Section 103.5 Conflict of Interest. No City employee having investigative or enforcement responsibilities under this code shall be financially benefited or involved in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or in the making of plans or specifications thereof, unless he or she is the owner of such building."

Section 104.5 Notices and Orders. Delete in its entirety and Insert a new section: "Section 104.5 Notices and Orders. The City Manager or his/her duly authorized designee, the City of Oak Ridge Board of Building and Housing Code Appeals or the Administrative Hearing Officer shall issue all necessary notices or orders as needed to ensure compliance with this code."

Section 106.3 Prosecution of Violation. Delete second sentence in its entirety and insert a new sentence: "If the notice of violation is not complied with, the City Manager or his designee shall institute the appropriate proceeding at law including the issuance of A.H.O. citation(s) or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the property or structure in violation of the provisions of adopted codes or the order or direction made pursuant thereto."

Section 106.4 Violation Penalties. Delete in its entirety and insert a new section: "Section 106.4 Violation Penalties. It shall be unlawful for an owner, lessee, occupant or any other person, corporation or other entity to fail to comply with the provisions of this code or any notice or order by the city manager or his/her duly authorized designee or the Board of Building and Housing Code of Appeals. Failure to comply with such notice or order may be punishable as provided in §1-107 of this code of ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. Each day such failure to comply continues beyond the fixed date set by a notice of violation or order for compliance constitutes a separate offense.

Section 106 Violations. Insert a new section: "Section 106.6 Repeat Violations. Owners, operators or legal occupants of any occupancy that previously violated provision(s) of this code which ultimately caused the City to abate such violation(s) any repeat or future violation(s) of the same provision(s) within twelve (12) calendar months shall give cause to the City to correct or abate the same violation(s) with notice per § 107 of this code with exception of registered mail requirement at the owners, operators or legal occupants expense and the City may assess unpaid expenses against the property as a lien.

Exception:

(a) Violations of Unfit for Human Occupation or Use

(b) Change of property ownership, operator or legal occupant"

Section 106 Violations. Insert a new section: "Section 106.7 Recovery of Costs. If any person fails to comply with any order or notice given under the Oak Ridge Property Maintenance Code, the city manager may cause such structure to be repaired, altered, improved, vacated, cleaned and sealed or closed, or demolished or removed and the cost of the same shall be assessed against the owner and shall, upon filing of a notice of lien on the property in the office of register of deeds in the county in which the property is located, constitute a lien on the property in favor of the city, second only to liens of the state, county and municipality for taxes, or any other special assessments and any other valid lien, right or interest in such property duly recorded or duly perfected prior to the filing of such notice. These costs shall be placed upon the tax roll of the city as a lien, and shall be added to the property tax roll to 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 are collected, and shall be subject to the same penalty and interest as delinquent property taxes. Any cost recovered by the sale of any of the materials of a structure demolished or removed hereunder shall be credited to the cost of demolition or removal, and any balance remaining shall be deposited in the chancery court and shall be disbursed by such court to such person(s) found to be entitled thereto. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceeding or otherwise."

Section 106 Violations. Insert a new section: "Section 106.8 Legal Action. The city attorney or the city attorney's duly authorized designee may institute appropriate action to compel necessary repairs, vacating, demolition or payment of penalties as provided by notice or order of the city manager, the Board of Building and Housing Code Appeals or the Administrative Hearing Officer under the City of Oak Ridge adopted building or property maintenance codes."

Section 107 Notice and Orders. Insert a new section: "Section 107.3.1 Complaints, Notice or Orders; service and filing. Complaints, notices or orders involving decisions of unfit for occupation or use or other non-immediate danger related notice violations issued by the city manager, or the Board of Building and Housing Code Appeals shall be served upon persons either personally, electronic mail with confirmed receipt or by registered mail as required, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the city manager, the board or the administrative hearing officer in the exercise of reasonable diligence, the city manager or his/her duly authorized designee or the board shall make affidavit to that effect, then the serving of such complaint or order upon such person(s) may be made by publishing a legal abstract of the same once each week for two (2) consecutive calendar weeks in a newspaper or other legally acceptable medium published, posted or distributed in the city at large. A copy of such complaint, notice or order shall also be posted in a conspicuous place on the premises affected by the complaint, notice or order. A copy of such complaint, notice or order shall also be filed for record in the register of deeds of the county in which the structure or property is located, and such filing of the complaint, notice or order shall have the same force and effect as other lis pendens notices provided by law."

Section 107 Notice and Orders. Insert a new section: "Section 107.3.2 Presumption. There is hereby created a rebuttable presumption that the person listed upon the most recent County tax roll as the owner of a property, dwelling, dwelling unit or structure is the owner for purposes of enforcement of the Oak Ridge Property Maintenance Code."

Section 107.3 Method of Service. At bottom of new section 107.3.2, insert "EXCEPTION: Administrative Hearing Officer process method of service and process shall be

accordance to Title 3, Chapter 6 of the City of Oak Ridge Code of Ordinances and T.C.A. § 6-54-1001 et seq."

Section 108.1.3 Structure Unfit for Human Occupancy. Delete in its entirety and insert a new section: "Section 108.1.3 Structures Unfit for Human Occupation or Use. Under Tennessee Code Annotated (T.C.A.), §13-21-102, the City has the power to exercise its police powers to repair, vacate or demolish structures found to be unfit for human occupation or use if any or all of the following conditions exist due to dilapidation or lack of maintenance, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, illumination, heating facilities or sanitary facilities, contains filth and contamination, vermin or rat infested, or due to other conditions rendering such structures defective, 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 which therefore constitutes a public nuisance that is declared unlawful, and shall be repaired, vacated, demolished or otherwise abated as provided herein or by other applicable law."

Insert a new section: "Section 108.1.3.1 Structural Defects. Structures to be considered unfit for human occupation or use for structural defects, the following conditions apply but not limited to: those interior vertical walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base; or those which exclusive of the foundation show thirty-three percent (33%) or more of damage or deterioration of the supporting member(s) of fifty percent (50%) or more of damage or deterioration of the non-supporting portions of the structure or outside walls or coverings; or those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used."

Section 108.1.4 Unlawful Structure. Delete in its entirety and insert a new section: "Section 108.1.4 Unlawful Structure. An unlawful structure is one found in whole or in part standing incomplete with invalid/expired building permits with no evidence of a reasonable completion plan from the owner or was erected, altered or occupied contrary to the law or is or to be occupied by more persons than permitted under this code.

Insert a new section: "Section 108.1.6 Extensive Alterations. When the total area of all the work areas included in an alteration or repair exceeds 50 percent of the area of the structure or dwelling unit, the work shall be considered a reconstruction and shall comply with the requirements of the provisions for reconstruction work."

> "Exception: Work areas in which the alteration work is exclusively plumbing, mechanical, or electrical shall not be included in the computation of the total area of all work areas."

Section 109.2 Temporary Safeguards. Modify section by inserting the phrase: "or the recognition of a public or attractive nuisance" after the existing "imminent danger due to an unsafe condition,..."

Section 110.1 General. Modify this Section by deleting all references to the "code official" and replace in lieu thereof "Board of Building and Housing Code Appeals" and delete reference to the "building official" and replace in lieu thereof "city manager or his/her duly authorized designee".

Section 111 Means of Appeal. Delete in its entirety and Insert a new section: "Section 111 Board of Building and Housing Code Appeals.

Section 111.1 The Board of Building and Housing Code Appeals may be referred to as "the board" or "BBHCA" in this code.

Section 111.2 BBHCA; Appointment.

(a) There is hereby created a board of building and housing code appeals consisting of seven (7) members, which shall be residents of the City of Oak Ridge, Tennessee and shall consist of the following: one physician or person from a health related field; one architect or engineer; one building-related contractor or building supply dealer; one realtor; and three members from the public at large; provided that, if no individuals meeting these criteria apply for appointment, City Council may appoint persons who do not possess such qualifications.

(b) Appointment to the board shall be staggered three (3) year terms, provided the terms of members of the initial board shall be as follows:

(i) Three (3) members from the public at large--3 years
(ii) One (1) Physician or other member from health related field--2 years
(iii) One (1) Architect or Engineer--2 years
(iv) One (1) Realtor--1 year
(v) One (1) Building related contractor or building supply dealer--1 year

(c) Members of the board may be removed by the City Council for good cause shown.

(d) Vacancies on the board shall be filled by City Council for the unexpired term of such vacancy.

(e) All members of the board shall serve without compensation.

(f) As soon as practical after appointment, the members of the board shall meet and organize by electing a chairperson, vice-chairperson and secretary. The City Manager or his/her duly authorized designee shall serve as Ex-Officio. Thereafter, officers of the board shall be elected by the members at the first annual meeting of the board. Four (4) members shall constitute a quorum and the affirmative vote of at least four (4) members shall be required to take any action, except to continue a meeting where no quorum is present. A member shall not act in a case in which such member or his or her family member or employer has a personal or financial interest. The board shall establish such other written rules and regulation for its own procedure not inconsistent with the provisions of ORMPC and a copy shall be kept on file with the City Clerk.

(g) All hearings before the board shall be open to the public. The appellant, the appellant's representative, the City Manager or his/her duly authorized designee and any person whose interests are affected shall be given the opportunity to be heard.

(h) Any reference in any provision of the Code of Ordinance, City of Oak Ridge, Tennessee to the board of building code appeals or the board of housing code appeals shall be deemed to refer to the Board of Building and Housing Code Appeals.

Section 111.3 Duties and Powers of the Board of Building and Housing Code Appeals. The board shall hear all City of Oak Ridge Property Maintenance Code appeals submitted by any person directly affected by a decision of the City Manager or his/her duly authorized designee or a notice or order issued under this code shall have the right to appeal to the board in accordance to Section 111.6 of this code.

(a) Board of Building and Housing Code Appeals shall meet monthly or as needed to hear all cases of structures unfit for human occupation or use and shall hear all appeals of notices for housing violations, if any have been filed, but in any event shall meet within fifteen (15) business days after receipt of an application or notice of appeal if so requested by the City Manager or his/her duly authorized designee or by the Appellant.

(b) At such hearings, the board shall hear and receive such relevant testimony and evidence as presented by the City Manager or his/her duly authorized designee or by the Appellant.

(c) The board shall determine whether the structure is unfit for human occupation or use, whether an appealed violation exists, whether the City Manager or his/her duly authorized designee's notice of violation is proper and/or whether a request for an extension of time or waiver shall be granted.

(d) Extensions of time may be granted only upon a showing of undue hardship, or that such is necessary to complete the abatement of violation, and shall not exceed ninety (90) calendar days from the date the board's decision. After a hearing, additional extensions may be granted, not to exceed a total of ninety (90) calendar days, if they are requested at least fifteen (15) business days prior to the expiration of the current order, provided such extension shall only be granted where the appellant/owner shows that he or she has been making a good faith effort and progress toward completing the abatement of violation(s), and that such additional time is necessary.

(e) Anything herein to the contrary notwithstanding, no more than one thirty (30) calendar days extension of time may be granted to complete board ordered repairs or demolition to any structure that constitutes an imminent or immediate threat or danger to the health, safety or general welfare of any person or to the public. As a condition of granting such extension, the board may impose restrictions on the appellant/owner to secure the property or to take other measures to protect the health, safety and general welfare of the public.

(f) Upon application, the board is empowered to grant a waiver from specific minimum requirements of this ordinance, provided however, waivers shall be granted only for unique or special conditions of the dwelling or structure or that imposition of the minimum requirement to the applicant would impose an extreme and undue hardship; and that waiver of the particular requirement would not endanger the health, safety or welfare of the occupants or the general public, or would not cause or threaten an imminent deterioration of property values in the area in which such property/structure is located. It is the intent of this provision that waivers are not to be liberally granted, but rather are intended only for purposes specifically enumerated herein. Economic hardship alone shall be insufficient reason for granting of a waiver.

(g) Appeals of notice and orders (other than Imminent Danger notices per Section 109 of this code) shall stay the enforcement of the notice and order until the appeal is heard by the board.

(h) The board shall issue a written decision upholding or dismissing the notice of the City Manager or his/her duly authorized designee, or modifying the notice to the extent the board determines the order was improper, or granting or denying an extension of time for compliance or granting or denying a waiver, or declaring a structure unfit for human occupation or use. Copies of all decisions shall be

given to the City Manager or his/her duly authorized designee and the appellant/owner, and filed with the city clerk.

(i) The board shall also hear appeals under the building code or any other city code wherein the board is designated to hear appeals.

(j) The board shall further have the duty, in accordance with § 11-105 of the Code of Ordinances, City of Oak Ridge, Tennessee, to receive and investigate complaints of discrimination in housing, and to recommend ways of eliminating any injustices caused thereby.

Section 111.4 Standards for Repair, Vacation or Demolition. The following standards shall be followed in substance by the BBHCA in ordering repair, vacation or demolition of a structure unfit for human occupation or use:

(a) If the structure can reasonably be repaired, altered or improved so that it will no longer exist in violation of the provisions of this code, it shall be ordered repaired, altered or improved to render the structure fit for human occupation or use or to vacate and close the structure as a place of human occupation or use.

(b) If the structure is fifty percent (50%) or more damaged or decayed or in disrepair from its value or condition prior to becoming a nuisance, and it is otherwise unreasonable to repair, it shall be ordered vacated and demolished or removed.

(c) In any case where the structure is abandoned or in such a condition as to make it dangerous to the health, safety or general welfare of its occupants or the general public, it shall also be ordered vacated and the BBHCA may additionally order the structure and the property to be secured in such a manner to protect the health, safety or general welfare of the public or persons on the property until such repairs or demolition has been completed, or may order other immediate actions reasonably necessary.

Section 111.5 Duties of the City Manager or his/her duly authorized designee.

(a) Whenever a petition is filed with the city manager by at least five (5) residents of the city that a structure is unfit for human occupation or use or is in violation of the Oak Ridge Property Maintenance Code, or whenever it appears to the city manager (upon the city managers own motion) that a structure is unfit for human occupation or use, the city manager shall, if the city managers 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 specific charge(s) and containing a notice that a hearing will be held before the BBHCA at a place fixed therein, no less than ten (10) calendar days and no more than thirty (30) calendar days after serving the notice; provided that by mutual agreement the time for the hearing may be lessened or extended. Such notice shall state that:

(i) 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 to give testimony at the hearing.

(ii) The rules of evidence prevailing in a court of law or equity shall not be controlling at the hearing.

(b) If, after such notice and hearing, the BBHCA determines that a structure is unfit for human occupation or use, the board shall issue written findings of fact in support of such determination and shall issue and cause to be served upon the

owner thereof an order to repair, vacate or demolish the structure, in accordance to Section 110 of this code, and shall provide a reasonable time for the compliance not to exceed ninety (90) calendar days.

(c) If the owner fails to comply with an order or to vacate and close the structure, the BBHCA may cause such structure to be repaired or to be vacated and closed and shall cause to be posted at the main entrance to the structure so closed a placard stating: *"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."*

(d) If the owner fails to comply with an order to demolish or remove the structure, the city manager may cause such structure to be demolished or removed.

(e) For any structure that has been ordered vacated during the repairs or demolition of the structure, the owner of the structure shall cause to be posted at the main entrance to the structure a placard stating: "*This structure has been found to be unfit for human occupation or use. This notice is to remain posted conspicuously on the property until the structure is repaired or demolished.*"

Section 111.6 Right to Appeal. Any person receiving or aggrieved by a notice issued by the city manager or his/her duly authorized designee pursuant to the Oak Ridge Property Maintenance Code, except environmental violations (including but not limited to weeds, vines, bushes and hedges, motor vehicles abandoned or inoperable or otherwise illegal, and accumulation of rubbish and garbage) which appeals are handled by the community development department of the City of Oak Ridge, may appeal such notice to the Board of Building and Housing Code Appeals. The appeal may contest the fact of the violation(s) set forth in the notice or may request additional time to comply with the notice.

(a) Form. The appeal shall be made on a form prescribed by the board or the city, which form shall minimally identify the name of the appellant, the property on which the violation(s) is said to occur and the date of the notice and shall contain a statement of why the appeal is made and what relief is sought.

(b) Timeframe. Such appeal must be filed with the city manager or his/her duly authorized designee within ten (10) calendar days of the date of the notice, or within three (3) business days from the date of the notice for environmental violation to the community development director or his/her duly authorized designee of the City of Oak Ridge.

(c) Extension of time to complete. If the owner has undertaken in good faith to correct the violation as set forth in the notice, the owner may request an extension of time to complete the cleanup, repairs or demolition provided the owner files such a request with the city manager or his/her duly authorized designee at least ten (10) business days prior to the date such cleanup, repairs or demolition where ordered to be completed. While the board may waive this ten (10) calendar day requirement for good cause shown, no request for an extension of time shall be filed after the expiration of the time of completion set forth in the notice. The decision made by the community development department will be final and the extension of time will not be granted.

Section 111.6.1 Right to Appeal an Order Declaring a Structure Unfit for Human Occupation or Use.

(a) As set forth in state law, any person affected by an order declaring a structure to be a non-imminent danger unfit for human occupation or use may file a bill in the

chancery court for an injunction restraining the BBHCA from carrying out the provisions of the order, and the court may, upon the filing of such bill, issue a temporary injunction restraining the board pending the final disposition of the cause; provided, that within sixty (60) calendar days after the posting and service of the order of the board, such person shall file such bill in the court.

(b) The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the board 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 board shall be entitled to recover any damages for action taken pursuant to any order of the board, or because of non-compliance by such person with any order of the board.

Section 112.4 Failure to Comply. Delete in its entirety and Insert a new: "Section 112.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable and subject to penalties of not less than $50.00 or more than $500.00 per violation and as set forth in Section 106.4 of this code."

Section 202 General Definitions. Delete title "General Definitions" and insert a new title: "General Definitions and Phrases"; also insert respectively:

"**Abandoned Motor Vehicle.** A motor vehicle or trailer or recreational vehicle designed to be towed by a motor vehicle that is left unattended on public property for more than thirty (30) calendar days; is in an obvious state of disrepair and is left unattended on public property for more than ten (10) calendar days; has remained illegally parked or placed on public property for any period of time exceeding forty-eight (48) consecutive hours; has remained on private property without the consent of the owner or person in control of the property for any period of time exceeding forty-eight (48) consecutive hours."

"**Administrative Hearing Officer (A.H.O).** Means the Administrative Hearing Officer created by Title 3, Chapter 6 of the City Code pursuant to Tennessee Code Annotated §6-54-1001 et seq. who hears violations of designated building and property maintenance codes.

"**Antique Motor Vehicle.** A motor vehicle over twenty-five (25) years old with a non-modified engine and body which is used for participation in club activities, exhibits, tours, parades and similar uses as a collector's item, but in no event used for general transportation."

"**Any and all other objectionable, unsightly or unsanitary matter of whatever nature.** means any condition, object, material or other matter that is dangerous or detrimental to human life or health; that renders the ground, the water, the air or food a hazard or likely to cause injury to human life or health; that is offensive to the senses; or that threatens to become detrimental to the public health. The term includes but is not limited to any abandoned wells, pools, landscape water features, shafts or basements; abandoned refrigerators; stagnant or unwholesome water; sinks; privies; filth; carrion; rubbish; junk, trash, debris or refuse; impure or unwholesome matter of any kind; and any matter, condition or object which is objectionable, unsightly or unsanitary to a person of ordinary sensitivities."

"**Attractive Nuisance.** The doctrine in tort law which holds that one who maintains a dangerous instrumentality on his or her property which is likely to attract children is under a duty to reasonably protect those children against the dangers of that attraction."

"**Bushes and Hedges.** means vegetative growth or plant that includes but not limited to holly, box hedges, azaleas, roses, rhododendrons, laurel, lilac, hibiscus and evergreens."

"**Corner Visibility Triangle.** means a triangular area formed within a corner lot by the intersecting lot lines abutting the streets or the projections thereof and a straight line connecting them 7.5 meters (24.6 feet) from their point of intersection."

"**Driveway Visibility Triangle.** means a triangular area formed by the intersection of the lateral limit of the travelled portion of a driveway and a lot line abutting a street or the projections thereof and a straight line connecting them 4.57 meters (15 feet) from their point of intersection."

Delete "Inoperable motor vehicle" and insert new definition: "**Inoperable Motor Vehicle.** A vehicle, motor vehicle or trailer or recreational vehicle designed to be towed by a motor vehicle which cannot be driven or operated upon the public streets for reason including but not limited to being unlicensed, unregistered, wrecked, abandoned, in a state of disrepair causing unsafe operation, one or more flat tires or incapable of being moved under its own intended power."

"**Lot or parcel of real estate.** includes, in addition to those grounds within their respective boundaries, all lots or parcels of ground lying and being adjacent thereto and extending beyond the property line of any such lot or parcel of real estate to the curb-line of adjacent streets where a curb-line has been established, and any abutting rights-of-way beyond the property line where no curb-line has been established and also to the center of adjacent alleys."

"**Natural Landscaped Area** - Natural landscaping, also called **native gardening**, is the use of native plants, including trees, shrubs, groundcover, and grasses which are indigenous to the geographic area of the garden which is either naturally established or designed and cultivated that when established will sustain itself with minimal maintenance effort that do not contain noxious weeds or poisonous plants that cause a public nuisance."

"**Nuisance.** Use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance, or inconvenience which can also be considered an attractive or public nuisance.

"**Parties of Interest.** Means all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof."

"**Place of Public Accommodation.** Means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited."

"**Public Nuisance.** Means a nuisance which affects numerous members of the public or the public at large (how many people it takes to make a public is unspecified), as distinguished from a nuisance which only does harm to a neighbor or a few private individuals. A public nuisance is an unreasonable interference with the public's right to property. It includes conduct that interferes

with public health, safety, peace or convenience. The unreasonableness may be evidenced by statute, or by the nature of the act, including how long, and how bad, the effects of the activity may be. All structures and appurtenances which are found unfit for human occupation or use within the terms of § 108.1.3 as determined by the Board of Building and Housing Code Appeals are also considered a public nuisance."

"**Rental Unit.** Dwelling, dwelling unit, rooming unit, or sleeping unit or any part of a structure used as a home, residence, or sleeping unit by a single person, household unit by any person(s) other than the legal owner of the property which is leased, rented, or otherwise occupied from the owner or other person in control of such unit(s), whether by day, week, month, year or any other term, regardless of monetary exchange."

"**Swimming Pool.** Means any structure intended for swimming or recreational bathing that contains water more than 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

"**Trash and Debris.** means all manner of refuse, Including but not limited to mounds of dirt, compost, piles of leaves, grass and weed clippings, paper trash, useless fragments of building material, rubble, household items and appliances, items of salvage such as scrap metal and wood, barrels, tires, objects that hold water for an extended time, tree and brush trimmings, and other miscellaneous wastes or rejected matter."

"**Turf grass** - refers to all species of grass that are perennial and are typically used for lawns."

"**Vines.** means a vegetative growth or plant with a long stem that grows along the ground or climbs a support such as, but not limited to: Clematis, Climbing Roses, Honey Suckle, Ivy, Jasmine, Morning Glory, Trumpet Vines, and Wisteria."

"**Weeds** - a plant other than trees, shrubs, turf grass and cultivated flowers or gardens that is not valued where it is growing and is usually of vigorous growth; especially one that tends to overgrow or choke out more desirable plants."

Section 302.4 Weeds. Insert height in bracket: "10 inches"

Section 302.4 Weeds. Insert new section: "302.4.1 Accumulation or Condition Declared Unlawful.

(a) Whenever and wherever weeds, shrubbery, rubbish or any other objectionable, unsightly and unsanitary matter of whatever nature shall exist, covering or partly covering the surface of any lot or parcel of real estate within the city so as to produce an unsightly appearance or which may harbor reptiles or rodents, create a fire hazard or result in unsanitary conditions, such a condition is declared to be unlawful, the abatement of which shall be a public necessity.

(b) Vines that cover 50 percent or more of the ground surface area in a residential front yard, to include side yards if visible from the street, shall not exceed 12 inches in height. Vines used as ground cover, shall be cut back so they do not grow onto any curb, sidewalk, or driveway.

(c) Bushes and hedges shall be trimmed to prevent encroachment on any sidewalk, walk-way or extend over the curb or edge of a street. Bushes and hedges shall not be allowed to create a visibility triangle issue for vehicles or pedestrians."

Insert new section: "302.4.2 Natural Landscaped Area, Native Gardens shall be allowed for the purposes of vegetated buffers, stormwater retention and control, stabilizing slopes and preventing erosion, supporting birds and other desirable wildlife and establishment of plant communities' native to this region. Natural landscaped areas and native gardens shall not violate the provisions of this code or have a negative impact on any structures or appurtenances nor be permitted to become a public nuisance or fire hazard as determined by the authority having jurisdiction.

Insert new section. "Section 302.10 Dog to be controlled so as to not commit nuisances. It shall be unlawful for any person owning or having control or custody of any dog to permit the animal to defecate upon the public property of this City or upon the private property of another unless the person immediately remove the feces and properly dispose of it; provided, however, that nothing hereln contained authorizes such person to enter upon the private property of another without permission."

Insert new sub-section. "Section 302.10.1 Suitable container or instrument for removal. It shall be unlawful for any person to walk a dog on public property of this City or upon the private property of another without carrying at all times a suitable container or other suitable instrument for the removal and disposal of dog feces."

Insert new sub-section. "Section 302.10.2 Seeing Eye Dog. Visually handicapped persons who use Seeing Eye Guide Dogs are exempt from this law."

Section 304.14 Insect Screens. Insert dates in two brackets respectively: "April 1"... "November 1"

Section 304.10 Stairways, decks, porches and balconies. Insert new language to continue sentence: "and shall not be used for outdoor storage of excessive trash, junk, debris or items with intended purpose for indoor use.

Section 308.1 Accumulation of rubbish or garbage. Insert after "...property and premises," new language to sentence: "including decks, porches, and open carports..."

Section 602.3 Heat Supply. Insert dates in two brackets respectively: "September 1" ... "May 1"

Section 602.4 Occupiable Work Spaces. Insert dates in two brackets respectively: "September 1" ... "May 1"

Appendix A, Boarding Standards. A102 Materials insert new subsection "Section A102.4 Other approved method(s). The city manager may allow alternative means or methods of boarding structures meeting the intent of this code in the event the requirement herein is determined to be impractical or cost infeasible."

Section 2. All other ordinances or parts thereof in conflict with this ordinance are hereby repealed.

Section 3. That nothing in this legislation or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this law; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

Section 4. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

Kenneth R. Krushenski, City Attorney

Thomas L. Beehan, Mayor

Diana R. Stanley, City Clerk

First Reading: _____
Publication Date: _____
Second Reading: _____
Publication Date: _____
Effective Date: _____