

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. JUNKED MOTOR VEHICLES.
5. DEBRIS AND TRASH REMOVAL.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

**13-101. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

**13-102. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

**13-103. Weeds and grass.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering generally: title 11.

Littering streets, etc.: § 16-107.

Property maintenance code: title 12.

Wastewater treatment: title 18, chapter 2.

on his property, and it shall be unlawful for any person to fail to comply with an order by the zoning officer to cut such vegetation when it has reached a height of over one foot (1'). (modified)

**13-104. Overgrown and dirty lots.** (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Bean Station Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the zoning officer within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(5) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(6) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (modified)

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the zoning officer and dispose of such animal in such manner as the zoning officer shall direct. (modified)

**13-106. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.

**13-107. Violations and penalty.** Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 2

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

#### SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.

**13-201. Findings of board.** Pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*, the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

**13-202. Definitions.** (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(3) "Municipality" shall mean the Town of Bean Station, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

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

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, title 13, chapter 21.

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

(6) "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.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

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

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

**13-205. Orders to owners of unfit structures.** If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such

determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration, or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

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

**13-206. When public officer may repair, etc.** If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."

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

**13-208. Lien for expenses; sale of salvaged materials; other powers not limited.** The amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in *Tennessee Code Annotated*, §§ 67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner

through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Grainger or Hawkins County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Bean Station to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

**13-209. Basis for a finding of unfitness.** The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety, or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Bean Station. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness.

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

**13-211. Enjoining enforcement of orders.** Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction, restraining the public officer pending the final

disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy, and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

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

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

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

**13-214. Structures unfit for human habitation deemed unlawful.** It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, and morals, or otherwise inimical to the welfare of the residents of the town.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.



## CHAPTER 3

### JUNKYARDS<sup>1,2</sup>

#### SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Permits and fees.
- 13-308. Violations and penalty.

**13-301. Definitions.** (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(3) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(4) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the town. (Ord. #2012-05-100, June 2012)

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<sup>1</sup>Municipal code reference

Refuse and trash disposal: title 17.

<sup>2</sup>State law reference

*Tennessee Code Annotated*, § 7-51-701.

**13-302. Junkyard screening.** Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (Ord. #2012-05-100, June 2012)

**13-303. Screening methods.** The following methods and materials for screening are given for consideration only.

(1) Landscape planting. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) Earth grading. The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood;

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative; and

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (Ord. #2012-05-100, June 2012)

**13-304. Requirements for effective screening.** (1) Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the town.

(2) The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(a) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

(b) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(c) Screening shall be located on private property and not on any part of the highway right-of-way.

(d) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (Ord. #2012-05-100, June 2012)

**13-305. Maintenance of screens.** (1) The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to ensure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the town.

(2) If not replaced within sixty (60) days, the town may replace said screening and require payment upon demand. (Ord. #2012-05-100, June 2012)

**13-306. Utilization of highway right-of-way.** The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (Ord. #2012-05-100, June 2012)

**13-307. Permits and fees.** It shall be unlawful for any junkyard located within the town to operate without a "junkyard control permit" issued by the town.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The town's fiscal year begins on July 1 and ends on June 30 the year next following.

(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the town,

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued. (Ord. #2012-05-100, June 2012)

**13-308. Violations and penalty.** Any person violating this chapter shall be subject to a civil penalty not exceeding fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall constitute a separate violation. (Ord. #2012-05-100, June 2012)

## CHAPTER 4

### JUNKED MOTOR VEHICLES

#### SECTION

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Violations and penalty.

**13-401. Definitions.** For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings.

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including, but not limited to, any one (1) or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own

power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(b) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

**13-402. Violations a civil offense.**<sup>1</sup> It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle. (modified)

**13-403. Exceptions.** (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) This exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 55-5-122.

maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking, or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep, and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the town. (modified)

**13-404. Enforcement.** Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall, upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the town judge to issue a summons; or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, §§ 7-63-101 *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property.

**13-405. Violations and penalty.** Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.

## CHAPTER 5

### DEBRIS AND TRASH REMOVAL

#### SECTION

- 13-501. Title.
- 13-502. Declaration of nuisance.
- 13-503. Definitions.
- 13-504. Permitting accumulation of junk, trash, refuse, etc.
- 13-505. Designation of public officer or department.
- 13-506. Initiation of proceedings; notice to property owner; hearings.
- 13-507. Additional powers of board of mayor and aldermen.
- 13-508. Judicial review.
- 13-509. Supplemental nature of this section.
- 13-510. Additional penalties.
- 13-511. Exceptions.

**13-501. Title.** This chapter shall be known as the "Town of Bean Station Debris and Trash Removal Ordinance." (Ord. #2013-05-103, May 2013)

**13-502. Declaration of nuisance.** The existence within the corporate limits of the Town of Bean Station of lots and parcels of land burdened with accumulations of debris, junk, trash, litter, garbage, or refuse or any combination of such elements is hereby declared to be a nuisance. (Ord. #2013-05-103, May 2013)

**13-503. Definitions.** (1) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(2) "Municipality" shall mean the Town of Bean Station, Tennessee, and the areas within existing town limits or as hereafter annexed.

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

(4) "Parties in interest" shall mean all individuals, associations, corporations, and others who have interests of record in a dwelling or lot and any who are in possession thereof. (Ord. #2013-05-103, May 2013)

**13-504. Permitting accumulation of junk, trash, refuse, etc.** (1) Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any person owning, leasing, occupying, or having control of property in the town to create, maintain, permit, or suffer debris, junk, trash, litter, garbage, or refuse to accumulate on such property to such an extent that a nuisance is created which is injurious to the health, safety, morals, and welfare of the inhabitants of the town or that infestation by rats or other harmful animals is encouraged.

(2) In complying with the provisions of this chapter, it shall be unlawful for any person owning, leasing, occupying, or having control of property in the town to rake up, cut up, or pile up vines, grass, underbrush or other vegetation, dead or broken tree limbs, dead trees or debris, trash, junk, litter, garbage, or rubbish into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct the flow of water drainage. (Ord. #2013-05-103, May 2013)

**13-505. Designation of public officer or department.** The board of mayor and aldermen may designate an appropriate department or person to enforce the provisions of this chapter. In lieu of any designation the Town of Bean Station Zoning Officer and persons acting under his or her authority shall serve in this capacity. (Ord. #2013-05-103, May 2013)

**13-506. Initiation of proceedings; notice to property owner; hearings.** (1) Whenever a citation is filed with the Town of Bean Station Municipal Court by the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman charging that provisions of this chapter have been violated, or whenever it appears to the board of mayor and aldermen upon their own motion, that the provisions of this chapter have been violated, if a preliminary investigation discloses a basis for such charges; then in such event it shall be the duty of the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman, to serve upon the owner of record in violation of this chapter, a notice in plain language to remedy the condition within ten (10) days, excluding Saturdays, Sundays, and legal holidays.

(2) Such notice may be served by:

(a) Personally delivering the notice upon the owner, lessee, occupant, or person having control of such property;

(b) Mailing the notice to the last known address of such owner, lessee, occupant, or person having control of such property by certified United States mail;

(c) Posting the notice on the property on which such violations exist; or

(d) If the whereabouts of such persons are unknown and the same cannot be ascertained by the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman in the exercise of reasonable diligence, and the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman to make an affidavit to that effect, then the serving of such citation or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper of general circulation. Service of



notice by any of the methods set out in subsections (a), (b), (c), or (d) above shall be due notice within the meaning of this chapter; provided, however, that no owner out of possession shall be liable to the penalty imposed by this chapter unless there shall be personal service of such notice upon him or such notice mailed to him by certified mail as provided in this section.

(3) The notice shall state that the owner of the property is entitled to a hearing before the Town of Bean Station Municipal Court, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of this chapter of the Bean Station Municipal Code, which has been enacted under the authority of the *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner be cleaned up at the expense of the owner and a lien placed against the property to secure the costs of the cleanup;

(b) The person, office, address, and telephone number of the department or person giving the notice; and

(c) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing. Failure to make the request for a hearing within ten (10) days of the notice shall, without exception, constitute a waiver of the right to a hearing.

(4) Any hearing requested by any such owner must be requested within ten (10) days of the receipt by such owner of any notification issued hereunder. Such request must be made in writing to the clerk of the Town of Bean Station Municipal Court and shall include an attached copy of the notification received or sufficient information so as to allow the court to properly identify the affected property. Upon the receipt of any request for a hearing the clerk shall notify the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman that a hearing has been requested and said zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman has thereafter file with the clerk of the Town of Bean Station Municipal Court a copy of any citation issued, notice sent to such property owner, and any and all other documents or materials generated during the investigation and initiation of proceedings under this chapter with the court. The court shall docket a hearing upon such request for a hearing within at the next scheduled court date or at such other time as may be designated by the court and the parties shall be notified to appear. At such hearing, the court shall be empowered to determine if the procedure outlined herein has been properly followed, if any property subject to the notice and request for a hearing is in fact a violation of this chapter, and any other matter necessary to effect the purpose of this chapter. At the conclusion of such hearing the court shall issue a written order making such findings as may be, necessary to effectuate the ordinance. If the court determines that the property in question is in violation of the ordinance and that the proceedings hereunder have been properly carried out

the court shall permit the remedies allowed under this chapter to proceed. (Ord. #2013-05-103, May 2013, modified)

**13-507. Additional powers of board of mayor and aldermen.** The zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures and lots in the town in order to determine which structures therein are unfit for human occupation or use, or which are a public nuisance;

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

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

(4) To appoint and fix the duties of any officers, agents, and employees as deemed necessary to carry out the purpose of this chapter; and

(5) To delegate any of their functions and powers under this chapter to such officers and agents as they may designate. (Ord. #2013-05-103, May 2013)

**13-508. Judicial review.** Any person aggrieved by an order or act of the board of mayor and aldermen under this chapter may see judicial review of the order or act as may be permitted under the laws of the State of Tennessee. (Ord. #2013-05-103, May 2013)

**13-509. Supplemental nature of this section.** The provisions of this chapter are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, the municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant, or occupant of property who has created, maintained, or permitted to be maintained on such property the accumulation of debris, junk, trash, litter, or garbage, or any combination of the proceeding elements, under its charter, any other provisions of the municipal code of ordinances or any other applicable law. (Ord. #2013-05-103, May 2013)

**13-510. Additional penalties.** In addition to the foregoing provisions, any person violating any of the provisions of this junk and trash ordinance shall be guilty of a Class C misdemeanor, and conviction thereof shall result in the penalties of a monetary fine not to exceed fifty dollars (\$50.00). The zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and aldermen, shall be empowered to issue a citation for such an offense to the any property owner requiring such owner to

appear before the Town of Bean Station Municipal Court for hearing to determine if a violation of the ordinance has occurred. Each day any violation of this chapter shall continue shall constitute a separate offense as allowed by the laws of the State of Tennessee. This additional remedy is permitted in addition to the remedies allowed in the foregoing and may be sought at the discretion of the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and aldermen. (Ord. #2013-05-103, May 2013)

**13-511. Exceptions.** Nothing in this chapter shall prevent any refuse producer from collecting, removing, and disposing of his own refuse, provided he does so in such a manner as not to create a nuisance and provided further he is in full compliance with this chapter. (Ord. #2013-05-103, May 2013)