

## TITLE 13

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

#### CHAPTER

1. MISCELLANEOUS.
2. CONTROL AND ERADICATION OF KUDZU.
3. ABANDONED PROPERTY AND VEHICLES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds.
- 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. (1992 Code, § 8-101)

**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. (1992 Code, § 8-102)

**13-103. Weeds.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the town clerk or chief of police to cut such vegetation when it has reached a height of over one foot (1'). (1992 Code, § 8-103)

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<sup>1</sup>Municipal code references  
 Animal control: title 10.  
 Littering streets, etc.: § 16-107.

**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 Lookout Mountain 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 city/town; and

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

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city/town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city/town may bring one (1) action for debt against

more than one (1) or all of the owners of properties against whom such 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. Upon the filing of the notice with the office of the register of deeds in Hamilton County, the costs shall 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 placed on the tax rolls of the municipality as a lien and shall be added to property tax bills 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.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) 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 recorder 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.

(7) 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.

(8) 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 city/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.

**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 clerk and dispose of such animal in such manner as the clerk shall direct. (1992 Code, § 8-105)

**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. (1992 Code, § 8-106)

**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

### CONTROL AND ERADICATION OF KUDZU

#### SECTION

13-201. Purpose.

13-202. Right to inspect.

13-203. Notice to eradicate.

13-204. Enforcement of chapter.

**13-201. Purpose.** It is hereby established that the control and eradication of kudzu is of paramount importance to the preservation of the beauty and value of property within the town limits of the Town of Lookout Mountain, Tennessee. (1992 Code, § 8-401)

**13-202. Right to inspect.** Any designated agent of the town shall have authority to enter upon property within the town limits for the purpose of determining the existence and extent of growth of kudzu. (1992 Code, § 8-402)

**13-203. Notice to eradicate.** Upon a finding of kudzu growth, the designated agent of the town shall have the authority to advise the property owner and/or occupant in writing of the finding and shall also advise the owner and/or occupant of the existence of assistance for control and eradication of kudzu. The notice shall invite the owner or occupant to contact the town within ten (10) days to receive instruction in control and eradication of kudzu and to set up a timed program for implementing the control and eradication measures. (1992 Code, § 8-403)

**13-204. Enforcement of chapter.** In the event the owner or occupant fail to take appropriate steps to control and eradicate kudzu, the town may enter upon the property and apply control and eradication chemicals to the kudzu and charge the reasonable costs thereof to the owner and/or occupant of the land, and further may charge the cost thereof which shall become a municipal lien against the land until paid in full. (1992 Code, § 8-404)

## CHAPTER 3

### ABANDONED PROPERTY AND VEHICLES

#### SECTION

13-301. Definitions.

13-302. Abandoning prohibited.

13-303. Leaving nonoperating, junked vehicle on street prohibited.

13-304. Allowing on property.

13-305. Removal of violations.

13-306. Forfeiture of unclaimed personal property.

13-307. Sale of unclaimed personal property.

13-308. Disposition of proceeds of sale of personal property; report of expense.

13-309. Violations and penalty.

**13-301. Definitions.** The following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Property" shall mean any real property within the town which is not a street or highway or public right-of-way.

(2) "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon. (1992 Code, § 8-601)

**13-302. Abandoning prohibited.** No person shall abandon any vehicle within the town, and no person shall leave any vehicle at any place within the town, for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (1992 Code, § 8-602)

**13-303. Leaving nonoperating, junked vehicle on street prohibited.** No person shall leave any partially dismantled, nonoperating, wrecked, or junked vehicle on any street, alley or highway within the town, or on any public right-of-way. (1992 Code, § 8-603)

**13-304. Allowing on property.** No person in charge or control of any property within the town, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially or wholly dismantled, nonoperating, wrecked, junked, or discarded vehicle to remain on such property longer than seventy-two (72) hours; except that this division shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage

place or depository maintained in a lawful place and manner by the town or other governmental authority. (1992 Code, § 8-604)

**13-305. Removal of violations.** (1) The chief of the police department, or any member of his department designated by him, are hereby authorized to remove or have removed any vehicle left at any place within the town which reasonably appears to be in violation of this chapter, or is lost, stolen, or unclaimed. Such vehicle shall be impounded at the cost of the owner until lawfully claimed or disposed of in accordance with §§ 13-308 and 13-309 hereof.

(2) The chief of police, or any member of his department so designated, shall, if possible, give notice to the owner or tenant of real property upon which a violating vehicle is located or in whose name a violating vehicle is titled, giving such person or persons a period of time of at least seventy-two (72) hours after notice to remove or otherwise dispose of the violating vehicle. If such violating vehicle is not removed at the end of this period, the offending person shall be cited to the municipal court for violation of this chapter and such citation shall be heard at the first available court date. (1992 Code, § 8-605)

**13-306. Forfeiture of unclaimed personal property.** All unclaimed personal property which comes into the possession of the police department shall, if it remains unclaimed for a period of thirty (30) days thereafter, be delivered to the town marshal, to be forfeited and disposed of by him. The town marshal, before selling same, shall make every reasonable effort to give actual notice to the owner thereof if such has not been done by the department that came into possession of same. (1992 Code, § 8-607)

**13-307. Sale of unclaimed personal property.** At intervals during each year, the town marshal shall hold a public sale of unclaimed personal property delivered to him. Notice of sale, giving the time and place, shall be by advertisement at least once in all daily newspapers published in the town at least ten (10) days prior to the time set for the sale. Such sale shall be made at public auction to the highest bidder for cash, and shall be conducted by the town marshal or some person designated by him. The town marshal shall furnish the town treasurer a list to be kept of all articles sold and the price for which each article was sold. If, however, it is more advantageous and less costly, the town marshal may arrange for a private sale of the property. (1992 Code, § 8-608)

**13-308. Disposition of proceeds of sale of personal property; report of expense.** (1) The money received from the sale of unclaimed personal property, as provided in this chapter, shall be paid by the town marshal into the town treasury, and he shall certify to the town treasurer the expense incurred in making the sale or otherwise disposing of such personal property, including the cost and expense of storage during the period such personal property was in possession of the town.

(2) In the event the owner of any article of personal property sold shall, within a period of thirty (30) days after the sale, present satisfactory proof to the town that he was the owner of any article sold, he shall be entitled to the proceeds of the sale thereof, less the expenses of the sale.

(3) The net proceeds arising from sales of all unclaimed personal property shall be paid by the town treasurer into the general fund of the town. (1992 Code, § 8-609)

**13-309. Violations and penalty.** Any person violating any of the provisions of this chapter shall be punished by a fine or not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). Each day such violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such. Further, if such violating vehicle is not removed at the end of that period or any period set by the court, such vehicle shall be impounded and disposed of as in § 13-305. (1992 Code, § 8-606)