

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
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- 13-103. Weeds and grass.
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- 13-105. Dead animals.
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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. (Ord. #262, April 2016)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (Ord. #262, April 2016)

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

¹Municipal 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 building inspector to cut such vegetation when it has reached a height of over one foot (1'). (Ord. #262, April 2016)

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 maintain 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 English 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 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 ordinance #262 of Town of Mosheim, Tennessee, which has been enacted under the authority *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 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) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition with the 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 building inspector shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be

assessed against the owner of the property. Upon the filing of the notice with the office of the Register of Deeds in Greene 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 Greene County, Tennessee 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) 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 town 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.

(6) 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.

(7) 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. (Ord. #262, April 2016)

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 Town of Mosheim office and dispose of such animal in such manner as the town shall direct. (Ord. #262, April 2016)

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 the 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. (Ord. #262, April 2016)

13-107. Violations and penalty. Violations of this chapter shall be subject the offender to a civil penalty of fifty dollars (\$50.00) per offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #262, April 2016)

CHAPTER 2

SLUM CLEARANCE¹

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 insanitary, or dangerous or detrimental to the health, safety, and morals, or otherwise inimical to the welfare of the residents of the town. (Ord. #262, April 2016)

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 Mosheim, Tennessee, and the areas encompass within existing town limits or as hereafter annexed.

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

¹State 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 an 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 powers 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. (Ord. #262, April 2016)

13-203. Public officer designated; powers. There is hereby designated and appointed a "public officer" to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (Ord. #262, April 2016)

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 office (on his own motion) that any structure is unfit for human occupancy 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 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 court of law or equity shall not be controlling in hearings before the public officer. (Ord. #262, April 2016)

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 occupancy

or use, he shall state in writing his findings 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 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 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. (Ord. #262, April 2016)

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 of occupation of this building for human occupation or use is prohibited and unlawful." (Ord. #262, April 2016)

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. (Ord. #262, April 2016)

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 shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of Greene County, be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, and lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded perfected by filing, prior to the filing of such notice. These costs shall be collected by the 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. 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 misjoinder of parties. If the structure is removed or demolished by the public officer, he 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 Greene County by the public officer, shall be secured in such a manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Mosheim to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #262, April 2016)

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 occupancy 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 Mosheim. 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. (Ord. #262, April 2016)

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 printed and published in Greene County, Tennessee. 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 Greene County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #262, April 2016)

13-211. Enjoining enforcement of orders. (1) 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.

(2) The remedy provided herein shall be the exclusive remedy and no person affected by any 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. (Ord. #262, April 2016)

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuated 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. (Ord. #262, April 2016)

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 violation thereof, and the powers conferred by this chapter shall be in addition and supplement the powers conferred by the charter and other laws. (Ord. #262, April 2016)

13-214. Structures unfit for human habitation deemed unlawful.

(1) 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.

(2) Violations of this section shall subject the offender to a civil penalty of one hundred dollars (\$100.00) per offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #262, April 2016)

CHAPTER 3

JUNKYARDS^{1,2}

SECTION

- 13-301. Short title.
- 13-302. Definitions.
- 13-303. General provisions.
- 13-304. Violations and penalty.

13-301. Short title. This chapter shall be known as the "Junk Control Ordinance" of the Town of Mosheim, Tennessee. (Ord. #48, Dec. 1983)

13-302. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this chapter:

(1) "Junk." For the purpose of this chapter, the term "junk" shall mean any motor vehicle, machinery, appliance, product, or merchandise with parts missing, or scrap metal, or other scrap materials that are damaged, deteriorated, or that are in a condition which prevents their use for the purpose for which they were intended. This definition specifically includes motor vehicles not movable under their own power, and that cannot be made so movable by minor repairs such as inflating a tire or installing fuel or battery.

(2) "Junk dealer." Any person, in any way acquiring, buying, selling, exchanging, trading, or dealing in scrap iron, brass, second-hand metals, or parts of any sort.

(3) "Junkyard." Any open or uncovered land on which dilapidated automobiles, rags, old papers, boxes, barrels, or other used articles defined as "junk" herein, are assembled for purposes of trade. (Ord. #48, Dec. 1983)

13-303. General provisions. It shall be unlawful and a violation of this chapter for any person, firm, or corporation to keep or store "junk" as defined in § 13-302 in the Town of Mosheim, unless such junk is located and stored in such a manner as to not be visible from adjacent property, including public streets. In no event shall it be lawful for any person, firm, or corporation, to allow junk, as defined in § 13-302, to accumulate on any property not properly prepared for the storage of junk. Nothing contained in this section shall be construed to

¹Municipal code reference
Refuse and trash disposal: title 17.

²State law reference
Tennessee Code Annotated, § 7-51-701.

prevent persons, firms, or corporations which repair motor vehicles, appliances, etc., from accumulating unserviceable articles left with them in the normal course of their business, provided, however, such unserviceable articles shall not be visible from adjoining property. (Ord. #48, Dec. 1983)

13-304. Violations and penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (Ord. #48, Dec. 1983)

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, or 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.¹ 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; or

(3) To park, store, keep, or maintain on private property a junk vehicle.

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.

¹State law reference

Tennessee Code Annotated, § 55-5-122.

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property 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.

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.