

## TITLE 13

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

#### CHAPTER

1. MISCELLANEOUS.
2. LITTER.
3. JUNK CONTROL.
4. AUTOMOBILE GRAVEYARDS.
5. SUBSTANDARD PROPERTIES.

#### 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. (1990 Code, § 13-101)

**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. (1990 Code, § 13-102)

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

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<sup>1</sup>Municipal code references

Animals: title 10.

Automobile graveyards: title 13, chapter 4.

Littering streets, etc.: § 16-107.

Wastewater treatment: title 18.

and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one foot (1'). (1990 Code, § 13-103)

**13-104. Overgrown and dirty lots.**<sup>1</sup> (1) Prohibition. Pursuant to the authority granted to municipalities in 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 accumulation 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 building inspector is designated as the public officer who shall enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the building inspector 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 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 Mount Carmel Municipal Code, 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) Clean-up at property owners' 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 building

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<sup>1</sup>Municipal code reference

Litter: chapter 2.

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. The cost shall be a lien upon the property in favor of the town, which costs shall be placed upon the tax rolls of the town as a lien upon the property, and shall be collected in the same manner as the town's taxes are collected. The provisions of this subsection 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 herein.

(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 city 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 public officer or of the board of mayor and aldermen under this section 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 debris, trash, litter, or garbage or any combination of the preceding elements. (1990 Code, § 13-104, as amended by Ord. #290, Feb. 205, 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 city recorder and dispose of such animal in such manner as the city recorder shall direct. (1990 Code, § 13-105)

**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. (1990 Code, § 13-105)

**13-107. Violations and penalty.** Violations of this chapter shall be punished in accordance with the general penalty provision of this municipal code of ordinances, except that violations of § 13-104 shall be handled in accordance with the provisions prescribed in that section. (1990 Code, § 13-107)

## CHAPTER 2

### LITTER

#### SECTION

13-201. Definitions.

13-202. Littering public and private places prohibited.

13-203. Prima facie evidence against driver of motor vehicle.

13-204. Litter bearing a person's name.

13-205. Initiation of prosecution.

13-206. Reporting of violations by witnesses.

13-207. Penalties.

**13-201. Definitions.** The following definitions shall apply in the interpretation of this chapter unless the context requires otherwise:

(1) "Garbage" includes putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(2) "Refuse" includes all putrescible and nonputrescible solid waste.

(3) "Rubbish" includes nonputrescible solid waste consisting of both combustible and noncombustible waste.

(4) "Litter" includes garbage, refuse, rubbish and all other waste materials. (1990 Code, § 13-201)

**13-202. Littering public and private places prohibited.** A person shall not throw, dump, deposit or cause to be thrown, dumped, or deposited litter on property owned by another person without the permission of the owner or occupant of such property or on any public highway, street or road, upon public parks or recreation areas, or upon any other property except property designated for that use. (1990 Code, § 13-202)

**13-203. Prima facie evidence against driver of motor vehicle.** If the throwing, dumping, or depositing of litter was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, dumping, or depositing was done by the driver of the motor vehicle. (1990 Code, § 13-203)

**13-204. Litter bearing a person's name.** If an object of litter is discovered on another's property without his permission, on any public highway, street, or road, upon public parks or recreation areas, or upon any other public property except property designated for that use, bearing a person's name, it shall be prima facie evidence that the person whose name appeared on the object threw, dumped, deposited, or caused it to be thrown dumped, or deposited there. (1990 Code, § 13-204)

**13-205. Initiation of prosecution.** Prosecution for a violation of this chapter may be initiated by a peace officer who witnessed an offense in violation of this chapter or discovered an article bearing a person's name on the property of another, or any public highway, street or road, upon a public park or recreation area, or upon any other public property except that designated for that use, or by any private citizen, who witnessed an offense or discovered incriminating evidence, who is willing to make the initial charge and testify for the town. (1990 Code, § 13-205)

**13-206. Reporting of violations by witnesses.** Any person, whether or not such person is a citizen of the State of Tennessee, who shall witness the throwing, dumping, or depositing of litter from a motor vehicle onto any public highway, street, road, onto another's property without the owner's permission, onto public park or public recreation lands or onto any other public property except such as is designated for the throwing, dumping, or depositing of litter may report the date and time of day of the littering and the license plate, registration number, and the state of registration to any state or local law enforcement authority. The license plate registration number as recorded shall constitute prima facie evidence that the littering was done by the person to whom such motor vehicle is registered. Nothing in this section shall be construed to modify or change the burden of the town to prove the defendant guilty by a preponderance of the evidence. Any person so reporting a violation shall be required to appear as a witness in any prosecution resulting therefrom. (1990 Code, § 13-206)

**13-207. Penalties.** Any person found guilty of violation of any part of this chapter shall be punished in accordance with the general penalty clause for this code. However, the judge, in his discretion, may allow the individual to remove the litter in lieu of the punishment provided for in the general penalty clause for this code. (1990 Code, § 13-207, as amended by Ord. #231, Dec. 2001, modified)

## CHAPTER 3

### JUNK CONTROL

#### SECTION

13-301. Definitions.

13-302. Storage of junk regulated.

**13-301. Definitions.** For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(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) "Junk yard." 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. (1990 Code, § 13-202)

**13-302. Storage of junk regulated.** It shall be unlawful and a violation of this section for any person, firm, or corporation to keep or store junk in the Town of Mount Carmel, unless such junk is located in a zone allowing the storage of such junk, and only then if such junk is sorted in such a manner as not to be visible from adjacent property, including public streets. In no event shall it be lawful for any person, firm, or corporation, to allow junk to accumulate on any property not properly zoned for the storage of junk. Nothing contained in this section shall be construed to 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. (1990 Code, § 13-303)

## CHAPTER 4

### AUTOMOBILE GRAVEYARDS

#### SECTION

- 13-401. Definition of "automobile graveyard."
- 13-402. Permit required; issuance and revocation.
- 13-403. Appeals to board.
- 13-404. Requirements for "automobile graveyards."
- 13-405. Application to existing "automobile graveyards."

**13-401. Definition of "automobile graveyard."** For the purpose of this chapter, "automobile graveyard" means any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found. The term "automobile graveyard" or "automobile junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal produce is scrap iron, steel, or nonferrous scrap for sale for remelting purposes only. (1990 Code, § 13-401)

**13-402. Permit required; issuance and revocation.** No person shall own or maintain any "automobile graveyard" within the town until he shall receive a permit so to do from the city recorder. The city recorder shall issue such a permit to any applicant whose premises comply with the requirements of this and all other applicable ordinances of the town. Any permit so issued may be revoked by the city recorder for failure to comply with any requirement of this chapter. However, charges shall be preferred in writing by the recorder and served upon the permittee and he shall be given the right to be heard as to why his license should not be revoked. (1990 Code, § 13-402)

**13-403. Appeals to board.** Any person aggrieved by the city recorder's action relative to the issuance or revocation of an "automobile graveyard" permit may appeal to the board of mayor and aldermen which shall hold a hearing and decide whether or not the city recorder's action was reasonable. Based upon its findings at such hearing the board of mayor and aldermen shall affirm or reverse the city recorder's action. (1990 Code, § 13-403)

**13-404. Requirements for "automobile graveyards."** All "automobile graveyards" within the town shall be operated and maintained subject to the following regulations:

- (1) All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitos may breed and so that



they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such "automobile graveyards" shall be enclosed within a close fitting plank or metal solid fence touching the ground on the bottom and being not less than six feet (6') in height, such fence to be so built that it will be impossible for stray cats and/or stray dogs to have access to such "automobile graveyards."

(3) Such "automobile graveyards" shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1990 Code, § 13-404)

**13-405. Application to existing "automobile graveyards."** Any owner and/or operator of an "automobile graveyard" in existence at the time the provisions in this chapter become effective shall have sixty (60) days in which to get a permit or remove the offending vehicles. (1990 Code, § 13-405)

## CHAPTER 5

### SUBSTANDARD PROPERTIES

#### SECTION

13-501. Structures unfit for human occupation or use.

13-502. Property other than owner occupied residences.

13-503. Penalty.

#### **13-501. Structures unfit for human occupation or use.**

(1) Findings and declaration of policy. It is hereby found and declared that there exist in the town structures in use which are, or may become in the future, substandard with respect to structural soundness, equipment or maintenance, or further that such conditions including but not limited to structural deterioration, lack of maintenance of exterior of premises, infestation, lack of essential heating or plumbing equipment, lack of maintenance or upkeep of essential utilities and facilities, existence of fire hazards, inadequate provisions for light and air, or unsanitary conditions and overcrowding, constitute a menace to the health, safety, welfare and reasonable comfort of the citizens and inhabitants of the town. It is further found and declared that by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate same, and that by reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

(2) Purpose. The purpose of this chapter is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, condition and occupancy of residential and nonresidential premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon owners and operators, and occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; to fix penalties for the violations of this chapter; and to provide for the repair, demolition or vacation of premises unfit for human habitation or occupancy or use.

(3) Administration fees. All owners or persons in possession, charge or control, of any place or premises on which a nuisance is created, accumulated or produced which must be abated by the town as a result of their failure or

refusal to comply with an order of the building inspector, are liable for and shall pay an administration fee in addition to the cost of repair, alteration or improvement, or vacating and closing, or, removal or demolition by the building inspector; which fee shall be set by resolution of the board of mayor and aldermen.

(4) Care of premises. Having adopted by reference the International Building Code published by the International Code Council, it shall hereby be unlawful, conformance with said code, for the owner or occupant of a residential building, structure, or property to utilize the premises of such residential property for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items as listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from the building inspector.

(5) Administration. All inspections, regulations, enforcement and hearings on violations of the provisions of this chapter shall be under the direction and supervision of the building inspector. The building inspector may designate such other employees to perform duties as may be necessary to the enforcement of this section, including the making of inspections and holding of hearings.

(6) Applicability. Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial, business or industrial occupancy or use shall comply with the provisions of this chapter, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this chapter, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this chapter. This chapter shall also apply to mobile home parks.

(7) Controlling standard. In any case where the provisions of this chapter impose a higher standard than set forth in any other ordinance or under the laws of the state, then the standards set forth herein shall prevail, but if the provisions of this chapter impose a lower standard than any other local ordinance or of the laws of the state, then the higher standard shall prevail.

(8) Compliance with other ordinances. No provision herein shall relieve any owner, operator or occupant from complying with any other provision, nor relieve any inspector of the town from enforcing any other provision of the code of ordinances.

(9) Dwellings unfit for human habitation. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., it is hereby found that there exists in the Town of Mount Carmel, structures which are unfit for human occupation or use 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 structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the town.

(10) Definitions. The following terms wherever used herein or referred to in this chapter shall have the following respective meanings for the purposes of this section, unless a different meaning clearly appears from the context:

(a) "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;

(b) "Occupant" means any person who has charge, care or control of a dwelling or premises, or a part thereof, whether with or without the knowledge and consent of the owner.

(c) "Owner" means any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises in fee simple and every mortgage of record.

(d) "Parties in interest" means all individuals, associations or corporations who have interests of record in a structure or parcel of land or have actual possession thereof.

(e) "Premises" means a lot, plot or parcel of land including any buildings or structures thereon.

(f) "Public officer" means the building inspector of the Town of Mount Carmel.

(g) "Structure" means any dwelling or place of public accommodation.

(11) Building inspector designated to act. The building inspector is hereby designated as the public officer of the Town of Mount Carmel who shall exercise the power herein prescribed.

(12) Institution of action and notification. Whenever a petition is filed with the building inspector by a public authority or by at least five (5) residents of the Town of Mount Carmel charging that any structure is unfit for human occupation or use, or whenever it appears to the building inspector on his own motion that any structure is unfit for occupation or use, the building inspector shall, if, after making a preliminary investigation, such 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 building inspector (or his designated agent) at a time and place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that the owners and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and, that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings

before the building inspector or his designated agent. As contained herein, "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 of Mount Carmel or the State of Tennessee relating to health, fire, building regulation, or other activities concerning structures in the Town of Mount Carmel.

(13) Determination of and further notice by building inspector. If, after such notice and hearing as above prescribed, the building inspector determines that the structure under consideration is unfit for human habitation 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:

(a) If the repair, alteration, or improvement of the said structure can be made at a reasonable cost in relation to the value of the structure 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 if not adequately repaired, altered or improved within the time specified in the order to vacate and close the dwelling as a place of human habitation or use; or

(b) If the repair, alteration or improvement of the said structure cannot be made at a reasonable cost in relation to the value of the structure requiring the owner within the time specified in the order to remove or demolish such structure.

(c) The building inspector shall determine the value of the structure in question existing on the land and the value of the land itself shall not be considered, and if the structure can be made to conform to such standards as will make it properly habitable by an expenditure of not more than fifty percent (50%) of said value, the order referred to in the proceeding paragraph shall conform to the first alternative. If an expenditure of more than fifty percent (50%) of the value just referred to would be necessary to make the structure properly habitable, the order in the proceeding paragraph shall conform to the second alternative.

(d) Any repair, alteration or improvement instituted in compliance with this chapter shall be made in conformance with the then existing zoning and building codes.

(14) Failure of owner to comply to vacate and repair. If the owner fails to comply with the order under § 13-501(13)(a), the building inspector may cause such structure to be repaired, altered or improved or be vacated and closed; and in such event the building inspector may cause to be posted on the main entrance of any structure so closed a placard with the following words: "This building is unfit for human occupation; the use or occupation of this building for human occupation or use is prohibited and unlawful."

(15) Failure of owner to remove or demolish. If the owner fails to comply with an order as set forth in § 13-501(13)(b), the building inspector may cause such structure to be removed or demolished.

(16) Creation of lien and payment into court. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the building inspector shall, upon the filing of the notice with the office of the register of deeds of the county in which the property lies, be a lien in favor of the town against the real property on which such cost was incurred, second only to liens of the state, county and town for taxes, any lien of the town 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. The costs shall be collected by the town tax collector at the same time and in the same manner as property taxes are collected. If the structure is removed or demolished by the building inspector, 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 by the building inspector, 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; provided however, that nothing in this section shall be construed to impair or limit in any way the power of the Town of Mount Carmel defined and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(17) Conditions rendering dwelling unfit for human habitation. In addition to other standards set forth in this chapter, the building inspector may determine that a structure is unfit for human occupation or use if he finds that conditions exist in such structure which are dangerous or injurious to the health or safety of the occupants of such structure, the occupants of neighboring structures or other residents of the town; such conditions may include the following but 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; and uncleanness.

(18) Service of complaints or orders. Complaints or orders issued by the building inspector pursuant to this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the building inspector in the exercise of reasonable diligence, and the building inspector shall make 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 the town. A copy of such complaint or order shall be posted in a conspicuous place on the 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 the county in which the structure is located and such filing of the complaint or order shall have the same force and effects as other lis pendens notices provided by law.

(19) Enjoining enforcement of order. (a) Any person affected by an order issued by the building inspector may file a bill in the chancery

court for an injunction restraining the building inspector from carrying out the provisions of the order, and the court may, upon the filing of such bill, issue a temporary injunction restraining the building inspector pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the building inspector, such persons shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

(b) The court shall hear and determine the issue raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the building inspector as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the building inspector shall be entitled to recover any damages for action taken pursuant to any order of the building inspector or because of noncompliance by such person with any order of the building inspector.

(20) Powers given the building inspector. The building inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

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

(b) To administer oaths and affirmations, examine witnesses and receive evidence.

(c) To enter upon premises for the purposes of making examinations provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession. (1990 Code, § 12-601, as amended by Ord. #235, Dec. 2001, Ord. #290, Feb. 2005, and Ord. #2012-373, May 2012)

**13-502. Property other than owner occupied residences.**

(1) Building inspectors designated to act. The building inspector is hereby designated as the public officer of the Town of Mount Carmel who shall exercise the powers set out in this section.

(2) Institution of action and notification. Pursuant to Tennessee Code Annotated, § 6-54-113, if it is determined by the building inspector that any owner of record of real property has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulation 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, the building inspector shall provide notice to the owner of record to remedy the

condition immediately. The notice shall be given by 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. The notice shall be written in plain language and shall also include but not be limited to the following elements:

(a) A brief statement of this section which shall contain the consequences of failing to remedy the noted condition;

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

(c) A cost estimate for remedying the noted condition which shall be in conformity with 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.

(3) Failure of owner to comply. If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice, 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 assessed against the owner of the property. Upon filing of the notice with the office of the register of deeds of the county in which the property lies, the costs shall be a lien upon the property in favor of the town, 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 town tax collector at the same time and in the same manner as town property taxes 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.

Provided, however, if the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage, or other materials, the ten (10) day period of the first sentence of this section shall be twenty (20) days, excluding Saturdays, Sundays, and legal holidays.

(4) Rules; hearing; and stay of enforcement: hearing: and stay of enforcement. (a) The board of mayor and aldermen may make rules and regulations necessary for the administration and enforcement of this section. The building inspector shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to subsection (2). A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to subsection (2). Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing.

(b) Any person aggrieved by an order or act of the building inspector under provisions of this chapter may seek judicial review of the



order or act. The time period established in this subsection (3) shall be stayed during the pendency of a hearing.

(5) Limitation. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located. (1990 Code, § 12-602, as amended by Ord. #235, Dec. 2001, and Ord. #290, Feb. 2005)

**13-503. Penalty.** The violation of any provision of this chapter shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation. (1990 Code, § 12-626, as amended by Ord. #235, Dec. 2001, and Ord. #290, Feb. 2005)