

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. DISPOSAL OF WRECKED, JUNKED, OR ABANDONED VEHICLES.
4. SUBSTANDARD BUILDINGS--VACATION, REMOVAL, DEMOLITION AND REPAIR.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
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- 13-103. Stagnant water.
- 13-104. Weeds.
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13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the city council shall appoint or designate to administer and enforce health and sanitation regulations within the town. (1983 Code, § 8-101)

13-102. 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. (1983 Code, § 8-104)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Occupational safety and health program: title 4.

Toilet facilities in beer places: § 8-211(10).

without treating it so as effectively to prevent the breeding of mosquitoes. (1983 Code, § 8-105)

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, whether vacant or occupied, 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 eight inches (8").

Any failure to comply with an order to cut such vegetation when it has reached a height of over eight inches (8") within ten (10) days of notification shall result in the city cutting the vegetation and billing the property owner for the actual cost. (1983 Code, § 8-106, modified, as amended by Ord. #390, Jan. 2013)

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 health officer and dispose of such animal in such manner as the health officer shall direct. (1983 Code, § 8-107)

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. (1983 Code, § 8-108)

CHAPTER 2**JUNKYARDS****SECTION**

13-201. Junkyards.

13-201. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

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

(3) Such yards 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. (1983 Code, § 8-109)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

DISPOSAL OF WRECKED, JUNKED, OR ABANDONED VEHICLES

SECTION

- 13-301. Wrecked, junked or abandoned vehicles prohibited.
- 13-302. Public nuisance.
- 13-303. Procedure for removal.
- 13-304. Notice.
- 13-305. Hearing.
- 13-306. Removal.
- 13-307. Storage of vehicles.
- 13-308. Expense of disposal charged to owner.
- 13-309. Penalty.
- 13-310. Delegation of authority.

13-301. Wrecked, junked or abandoned vehicles prohibited. It shall be unlawful to park, store or leave any motor or other vehicle as a wrecked, junked, partially dismantled, or abandoned condition, on public or private property in the Town of Carthage unless it is in connection with a purpose or business enterprise lawfully situated and licensed. (1983 Code, § 9-601)

13-302. Public nuisance. All vehicles within the terms of this chapter are hereby declared to be public nuisances. (1983 Code, § 9-602)

13-303. Procedure for removal. The owner of any such vehicle or the owner of the private property on which the same is located shall be responsible for its removal upon appropriate notice and the opportunity to be heard. Prior to commencing the hearing procedure set out in §§ 13-304 through 13-306 of this chapter, notices shall be sent to the owner or resident of the property upon which the said vehicle is located stating that the condition of said vehicle has caused a violation of this chapter and that unless this violation is corrected within twenty-four (24) hours, procedures will be commenced to affect the removal of the vehicle. Such twenty-four (24) hour notice, or one similar thereto, shall also be provided the vehicle owner and any lienholders to the extent that their names and addresses may be reasonably ascertained after the town has first been apprised of such violation. If in the opinion of the mayor, the chief of police, fire chief, health officer or their designees, an emergency situation exists, the vehicle may be immediately removed. (1983 Code, § 9-603)

13-304. Notice. If the twenty-four (24) hour preliminary notice does not accomplish the correction of the violation, the procedure hereinafter set out shall be invoked. A notice shall be directed to the owner of the vehicle and any

lienholders, if known, and the owner of the premises where same is located at least two (2) days before the time for compliance therewith.

It shall be sufficient service of notice if it is posted in a conspicuous place upon the premises affected and a copy is mailed to such owners and lienholders at their last known address, place of residence or place of business. (1983 Code, § 9-604)

13-305. Hearing. Within two (2) days after the mailing or other service of said notice, the persons to whom the notices are directed, or their duly authorized agents, may file a written request for a hearing before the town council. The hearing shall be held as soon as practicable after the filing of the request therefor and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof. At any such hearing the city and the persons to whom the notices have been directed may introduce such witnesses and evidence as is deemed necessary and proper by the town council. (1983 Code, § 9-605)

13-306. Removal. If the violation described in the notice has not been remedied within five (5) days of the mailing or service thereof, or in the event that a notice requesting a hearing is timely filed and the existence of the violation is affirmed by the town council after hearing, pursuant to the police power to do all things whatsoever necessary for promoting or maintaining the general welfare of the town or its inhabitants, said vehicle shall be removed and taken into the possession of the town. Any town trucks or other vehicles used for such removal, other than town vehicles, shall be covered by insurance the form and extent of which shall be approved by the town council. (1983 Code, § 9-606)

13-307. Storage of vehicles. If the vehicle owner pays the town for all expenses involved in the removal and storage of same within ten (10) days of such removal, and indicates, in writing, that such vehicle will not be taken to a location where it will be in violation of § 13-301 above, possession shall be relinquished to such owner. If possession is not thus relinquished to the owner, the mayor shall sell any such vehicles after publication of notice thereof ten (10) days prior to the sale in a newspaper of general circulation in the town. (1983 Code, § 9-607)

13-308. Expense of disposal charged to owner. All costs and expenses incurred by the town in carrying out the provisions of this chapter shall be and constitute a charge and lien against:

- (1) The owner of the vehicle,
- (2) The owner of the real property when it is determined that the vehicle belongs to said owner, and

(3) The vehicle until paid with interest to secure at the rate of six (6) percent annually. (1983 Code, § 9-608)

13-309. Penalty. Any person violating any provision of this chapter shall be fined in accordance with the general penalty provision of this code. (1983 Code, § 9-609)

13-310. Delegation of authority. The mayor is hereby authorized to designate the agency or department to implement the provisions of this chapter. (1983 Code, § 9-610)

CHAPTER 4

SUBSTANDARD BUILDINGS--VACATION, REMOVAL, DEMOLITION AND REPAIR¹

SECTION

- 13-401. Purpose and scope.
- 13-402. Dangerous buildings defined.
- 13-403. Dangerous buildings declared public nuisances.
- 13-404. Duties of building inspector.
- 13-405. Duties of the town council.
- 13-406. Duties of city attorney.
- 13-407. Duties of fire and police departments.
- 13-408. Emergency cases.
- 13-409. When owner absent from town.
- 13-410. Standards to be applied by the building inspector and town council.
- 13-411. Violation; penalties.
- 13-412. Administrative liability.

13-401. Purpose and scope. The purpose and scope of this chapter are to provide for the vacation, removal, repair or demolition of any dangerous building and structure in the Town of Carthage which is or threatens to be a public nuisance, is dangerous to the health, morals, safety, or general welfare of the people of the Town of Carthage, or which constitutes a fire menace, and to provide for the assessment of the costs of such vacation, removal, repair or demolition as a municipal lien against such premises, and to provide for the recovery of such costs in an action at law. (1983 Code, § 4-601)

13-402. Dangerous buildings defined. Any building or structure of any kind which has any one or combination of the following defects shall be deemed a dangerous building within the context of this chapter:

- (1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) Those which, exclusive of the foundation, show thirty-three (33) percent or more, of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.

¹Charter reference

Removal of old and dilapidated buildings, etc.: § 9.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the Town of Carthage.

(5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

(6) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(9) Those which because of their condition are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this town.

(10) Those buildings existing in violation of any provision of the building code of this town, or any provision of the fire prevention code, or other ordinances of this town. (1983 Code, § 4-602)

13-403. Dangerous buildings declared public nuisances. All dangerous buildings within the terms of § 13-402 above are hereby declared to be public nuisances, and shall be vacated, removed, repaired or demolished as provided in this chapter. (1983 Code, § 4-603)

13-404. Duties of the building inspector. The building inspector shall:

(1) Inspect or cause to be inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of § 13-402 of this chapter.

(2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter.

(3) Inspect any building, wall or structure reported by the fire or police departments of the town as probably existing in violation of the terms of this chapter.

(4) Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of Smith County, of any building found by him to be a dangerous building within the standards set forth in § 13-402 of this chapter, that:

(a) The owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this chapter;

(b) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession;

(c) The mortgagee, agent or other persons having an interest in said building as shown by the land records of the recorder of deeds of the County of Smith may at his own risk repair, vacate, or demolish said building or have such work or act done; provided that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

(5) Set forth in the notice provided for in subsection (4) above, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding 30 days, as is reasonable.

(6) Report to the town council with the notice provided for in subsection (4) and (5) above.

(7) Appear at all hearings conducted by the town council, and testify as to the condition of dangerous buildings.

(8) Place a notice on all dangerous buildings reading as follows:

"THIS BUILDING HAS BEEN FOUND TO BE A DANGEROUS BUILDING BY THE BUILDING INSPECTOR. THIS NOTICE IS TO REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED, VACATED, OR DEMOLISHED IN ACCORDANCE WITH THE NOTICE WHICH HAS BEEN GIVEN THE OWNER, OCCUPANT, LESSEE, MORTGAGEE, OR AGENT OF THIS BUILDING, AND ALL OTHER PERSONS HAVING INTEREST IN SAID BUILDING AS SHOWN BY THE LAND RECORDS OF THE RECORDER OF DEEDS OF SMITH COUNTY. IT IS UNLAWFUL TO REMOVE THIS NOTICE UNTIL SUCH NOTICE IS COMPLIED WITH." (1983 Code, § 4-604)

13-405. Duties of the town council. The town council shall:

(1) Upon receipt of a report of the building inspector as provided for in § 13-404(6), give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the

land records of the recorder of deeds of Smith County to appear before him on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector's notice provided for herein in § 13-403(5).

(2) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the land records of the recorder of deeds of Smith County shall offer relative to the "dangerous building."

(3) Make written findings of fact from the testimony offered pursuant to subsection (2) above as to whether or not the building in question is a dangerous building within the terms of § 13-402 hereof.

(4) Issue an order based upon findings of fact made pursuant to subsection (3) above commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of Smith County, to repair, vacate or demolish any building found to be a "dangerous building" within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said dangerous building; or any person not the owner of said dangerous building but having an interest in said building as shown by the land records of the recorder of deeds of Smith County may demolish said dangerous building at his own risk to prevent the acquiring of a lien against the land upon which said "dangerous building" stands by the town as provided in subsection (5) below.

(5) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (4) above within 10 days, the town council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided for in § 13-402 of this chapter, and shall with the assistance of the city attorney cause the costs of such repair, vacation, or demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit at law against the owner; provided, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of this city, the town council shall notify the city attorney to take legal action to force the owner to make all necessary repairs or demolish the building.

(6) Report to the city attorney the names of all persons not complying with the order provided for in subsection (4) above. (1983 Code, § 4-605)

13-406. Duties of city attorney. The city attorney shall:

(1) Prosecute all persons failing to comply with the terms of the notices provided for herein in § 13-404(4) and (5).

(2) Appear at all hearings before the town council in regard to dangerous buildings.

(3) Bring suit to collect all municipal liens, assessments, or costs incurred by the town council in repairing or causing to be vacated or demolished dangerous buildings.

(4) Take such other legal action as is necessary to carry out the terms and provisions of this chapter. (1983 Code, § 4-606)

13-407. Duties of fire and police departments. The employees of the fire and police departments shall make a report in writing to the building inspector of all buildings or structures which are, may be, or are suspected of being dangerous buildings within the terms of § 13-402. Such reports must be delivered to the building inspector within twenty-four (24) hours of the discovery of such buildings or structures by said employees. (1983 Code, § 4-607)

13-408. Emergency cases. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building as defined herein is immediately repaired, vacated, or demolished, the building inspector shall report such facts to the town council and the town council shall cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such "dangerous building" shall be collected in the same manner as provided in § 13-405(5). (1983 Code, § 4-608)

13-409. When owner absent from town. In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the town all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the land records of the recorder of deeds of Smith County to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service. (1983 Code, § 4-609)

13-410. Standards to be applied by the building inspector and town council. The following standards shall be followed in substance by the building inspector and town council in ordering the vacation, removal, repair or demolition of any structure or building:

(1) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter it shall be ordered repaired.

(2) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.

(3) In any case where a dangerous building is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of the city or statute of the State of Tennessee, it shall be demolished. (1983 Code, § 4-610)

13-411. Violation; penalties. The owner of any dangerous building or structure who shall fail to comply with any notice or order to vacate, remove, repair or demolish said building or structure given by any person authorized by this chapter to issue such notice or order shall be guilty of a misdemeanor and upon conviction shall be punished under the general penalty provision of this code.

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said structure or building in accordance with notice given in accordance with this chapter shall be guilty of a misdemeanor and upon conviction shall be punished according to the general penalty provision of this code. (1983 Code, § 4-611)

13-412. Administrative liability. No officer, agent, or employee of the Town of Carthage shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent, or employee of the Town of Carthage as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the city attorney until the final determination of the proceedings therein. (1983 Code, § 4-612)