

TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

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13-101. Unlawful to allow weeds, junk cars, abandoned appliances and other debris to accumulate on the premises. The owners and/or occupants of all lots or property within the corporate limits of the City of Clarksburg are hereby required to cut, trim or remove all weeds, grass, tree branches and offensive or hazardous materials from the site. It shall be unlawful for any person to allow junk cars, abandoned appliances and other debris to accumulate on property under their control.

This chapter shall be enforceable when it is determined by the building inspector/code enforcement officer, that a nuisance or a health hazard exists. (Ord. #10-5-00, Oct. 2000)

13-102. Definitions. The purpose of this section is to eliminate ambiguity by providing full definition of certain words which are used in this chapter.

(1) "Abandoned appliances." Any manufactured appliance(s) not functional and not presently used for its manufacture purpose.

(2) "Grass." Any of numerous plants of the grass family measured to be a minimum of one foot in height measuring from the base of the plant at ground-surface level.

(3) "Junk car." Any automobile or any motor vehicle manufactured for transportation which is incapable of being self-propelled upon the public streets

or which does not meet the requirements for operation upon the public streets including current licenses and registration also, if the vehicle is not functional within sixty (60) days of the notice and registered within sixty (60) days is considered a junk car.

(4) "Offensive or hazardous materials." Any tangible or intangible material which is disagreeable to the senses and/or a material which may be dangerous to the environment or the people.

(5) "Weeds." Any of various usually common or abundant growing plants measured to be a minimal of one (1) foot in height measuring from the base of the plant at ground-surface level. (Ord. #10-5-00, Oct. 2000)

13-103. Notice to clean up premises by owner. Upon the failure of any owner to cut, trim, and remove all weeds, grass, tree branches, and offensive or hazardous materials and/or junk cars, abandoned appliances, and other debris as noted in the first section of this chapter, it shall be the duty of the building inspector/code enforcement officer to serve a notice mailed by certified mail to the last known address of the person or persons having control over the building premises, or such notice may be served personally to the owner of the property or may be posted on the property on which the violation exists. Service of notice shall consist of any of the above methods and shall state:

You are hereby notified that the premises under your control, being (property description) have been found to be in an unsanitary, unhealthy and unattractive condition.

You are directed by the City of Clarksburg, Tennessee, to remove all accumulation of _____ (weeds, grass, tree branches, offensive or hazardous materials to include junk cars, abandoned appliances and other debris) from the premises within the next ten (10) days at your own expense.

Should you fail to act upon this directive within the above described time, the city shall take appropriate action. (Ord. #10-5-00, Oct. 2000)

13-104. Cleaning up the premises by the city. The owners of all lots or property in violation may request that the City of Clarksburg, Tennessee, clean up the premises with the property owner reimbursing the city of the costs incurred by the city for such cutting, cleaning or removal of debris on their property, and all such costs and payment methods shall be set by the city.

Upon failure of any owner of lots or property to cut/remove or to refuse to be cut/removed all violations specified in this chapter upon the property described in the sections above, within ten (10) days thereof the street department, acting through the director of public works, and at his direction, is authorized and directed to cut/remove or have cut/removed, trimmed, clipped,

or cleared all such violations as specified in this chapter and a statement of the cost thereof shall be prepared by the office of the director of public works and filed with the city clerk for collection. Pursuant to the authority conferred by the General Assembly of Tennessee, a tax lien may be declared on such property for all costs and expenses, of cutting, trimming or removing incurred by the street department if costs incurred are not reimbursed to the city by the property owner after submission of statement of costs. (Ord. #10-5-00, Oct. 2000)

13-105. Collection of costs incurred by city. Upon receipt of such statement of costs, the city clerk shall bill the owner, by certified mail in a manner similar to that followed in mailing monthly utility bills, for the amount of the costs incurred by the city for such cutting or clearing of his property and that such bills or charges shall bear interest at the rate of ten percent (10%) per annum during that period of time commencing thirty (30) days after the date of mailing such bills or statements of charges and ending on the date of payment. At the same time unpaid real estate taxes are certified or turned over to the city attorney for collection, the city clerk may also certify to turn over to him for collection all unpaid and uncollected bills or charges for the cutting, trimming or removal of the accumulated debris specified in this chapter, and the city attorney shall file suit or take such other steps as may be necessary to enforce the lien for same on such property (Ord. #10-5-00, Oct. 2000)

13-106. Administration. The city building inspector shall be responsible for the administration and enforcement of this chapter. (Ord. #10-5-00, Oct. 2000)

13-107. Attorney's fee for collecting costs. All uncollected sums for the cutting, trimming, and removal of the accumulated debris, as specified in this chapter, for each year, including interest and all costs incurred by the city for remedying the specified violation, after notice to the property owner as herein provided, are hereby declared to be a special tax to be collected as other general taxes levied by the city, including real estate taxes and special assessments. When placed in the hands of the city attorney for collection, fifteen percent (15%) of the unpaid charges for such costs incurred by the city, shall be added to the principal and interest for the attorney's services in making such collection and retained by him. (Ord. #10-5-00, Oct. 2000)

CHAPTER 2

MINIMUM PROPERTY MAINTENANCE REQUIREMENTS

SECTION

- 13-201. Definitions.
- 13-202. Duty to maintain property.
- 13-203. Declaration of public nuisance.
- 13-204. Service of complaints or orders.
- 13-205. Initiation of proceedings; hearings.
- 13-206. Abatement of nuisance.
- 13-207. Enforcement.
- 13-208. Third party liability.
- 13-209. Severability.

13-201. Definitions. The definitions set forth in this chapter shall apply:

- (1) "City." City means the City of Clarksburg, Tennessee.
- (2) "Dwelling." Dwelling means any structure used for the human habitation, including but not limited to, single and multifamily dwellings, apartment buildings, duplexes, hotels, motels, mobile homes, and other structures whether fixed or mobile, temporary or permanent in nature.
- (3) "Governing body." Governing body means the Board of Mayor and Aldermen of the City of Clarksburg.
- (4) "Junk." Junk means discarded, broken or disabled material including, but not limited to: furniture; appliances; tools; machinery; vehicles of any kind; or other items that are not in functioning condition.
- (5) "Litter." Litter means discarded waste materials, including but not limited to: paper wrappings; packaging materials; discarded or used bottles; and discarded or used cans.
- (6) "Owner." Owner means any person owning property, as shown on the real property records of Carroll County or on the last assessment role for taxes, and shall also mean any lessee, tenant or other person having control or possession of the property.
- (7) "Property." Property means land and any buildings or structures located thereon.
- (8) "Public officer." Public officer shall mean the mayor or the mayor's designee.
- (9) "Trash." Trash means waste food products and other household garbage or discarded items. (Ord. #7-6-01, Aug. 2001)

13-202. Duty to maintain property. No person owning, leasing, renting, occupying, being in possession or having charge of any property in the city, including vacant lots, shall maintain or allow to be maintained on such

property, except as may be permitted by any other city ordinance, any of the following conditions visible from any public street or alley:

(1) Junk, trash, litter, boxes, discarded lumber, salvage materials, or other similar materials in any front yard, side yard, rear yard or vacant lot;

(2) Attractive nuisances dangerous to children, including but not limited to abandoned, broken or neglected equipment, machinery, refrigerators and freezers, excavations, wells or shafts;

(3) Broken or discarded furniture, household equipment and furnishings in any front yard, side yard, rear yard or vacant lot;

(4) Shopping carts in any front yard, side yard, rear yard or vacant lot of any property;

(5) Dead, decayed, diseased or hazardous trees, or any other vegetation a majority of which (other than vegetation located in flowerbeds, or trees or shrubbery) exceeds twelve inches (12") in height, or which is dangerous to public health, safety and welfare, located in any front yard, side yard, rear yard, or upon any vacant lot;

(6) Graffiti or signs, not in compliance with any city zoning code, on the exterior of any building, fence or other structure in any front yard, side yard or rear yard or vacant lot;

(7) Vehicle parts or other articles of personal property which are discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard or vacant lot;

(8) Utility trailers or unmounted camper tops located in any front yard except in the driveway;

(9) Any accumulation of weeds, brambles, berry vines, or other vegetation which is over-growing any structure or which exceeds an average height of twelve inches (12"), other than maintained landscaping, or any accumulation of junk, litter, trash, dead organic matter, debris, offal, rat harborages, stagnant water, combustible materials or vegetation, and similar materials or conditions constituting fire, health or safety hazard;

(10) Dilapidation or state of filthiness or uncleanness of any dwelling or other structure which endangers health or life or which permits entrance by rats, mice or other rodents.

(11) Swine, chickens, cattle or other livestock or animals located within three hundred feet (300') of any home or business located within the corporate limits of the City of Clarksburg.

(12) Any structure used for dwelling purposes without potable water, or sanitary sewer facilities. (Ord. #7-6-01, Aug. 2001)

13-203. Declaration of public nuisance. A public nuisance may be declared by the mayor as the public officer designated under this chapter, or by

a petition filed by at least five (5) residents of the city.¹ (Ord. #7-6-01, Aug. 2001)

13-204. 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 person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper of record in the city. In addition, 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 Carroll County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #7-6-01, Aug. 2001)

13-205. 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 city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, or that a nuisance exists, 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 or premises a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of said 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. #7-6-01, Aug. 2001)

13-206. Abatement of nuisance. Upon conclusion of the hearing, any property found to be maintained in violation of § 13-202 of this chapter is hereby declared to be a public nuisance and shall be abated upon the order of the mayor, as authorized by the Tennessee Code Annotated, § 13-21-101(8), by rehabilitation, removal, trimming, demolition or repair by the owner. Failure of the owner to comply with this chapter within thirty (30) days of the

¹State law reference

Tennessee Code Annotated, § 13-21-103.

determination of the hearing that a nuisance exists shall result in the City of Clarksburg eliminating, or causing to eliminate by either city employees or private contractor which shall act as an agent of the city, such nuisance, and the owner of the property shall pay the costs to the city. Failure to pay such actual costs within ninety (90) days of the abatement shall result in a lien being filed against the property with the recorder of deeds office in Carroll County. Such failure to pay for the costs incurred by the City of Clarksburg shall hereby be construed as the same as delinquent taxes, and shall be collected in the same manner as delinquent taxes. Any additional fines and court costs imposed by the city judge for ordinance violation are separate from actual costs incurred by the city for abatement of a declared nuisance, and shall be paid in a manner prescribed by the city judge. In addition, the public officer may cause to be posted on the main entrance to any dwelling ordered closed a placard with the following words: "This building is unfit for human occupancy or use; the occupation or use of this building for human occupancy or use is prohibited and unlawful." (Ord. #7-6-01, Aug. 2001, modified)

13-207. Enforcement. The provisions of this chapter shall be enforced pursuant to provisions of the charter of the City of Clarksburg, or as may subsequently be amended. Each and every day such nuisance shall continue after proper notification shall constitute a separate offense. (Ord. #7-6-01, Aug. 2001)

13-208. Third party liability. It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this chapter.

It is the specific intent of this chapter to place the obligation of complying with its requirements upon the property owner or owners and no provisions nor term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers and employees, for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

Nothing contained in this chapter is intended to be, nor shall be, construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from the failure of a property owner to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents. (Ord. #7-6-01, Aug. 2001)

13-209. Severability. Should any section, paragraph, sentence, clause or phrase of this chapter, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this chapter be preempted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this chapter or its application to other persons or circumstances. (Ord. #7-6-01, Aug. 2001)

CHAPTER 3

ELIMINATION OF DANGEROUS STRUCTURES

SECTION

- 13-301. Purpose.
- 13-302. Definitions.
- 13-303. Unfit or dangerous structures.
- 13-304. Condition rendering structure unfit or dangerous.
- 13-305. Designation of public officer.
- 13-306. Powers given public officer.
- 13-307. Service of complaints or orders.
- 13-308. Hearing on complaints or petitions.
- 13-309. Finding of dangerous or unfit structures.
- 13-310. Failure to comply with order.
- 13-311. Removal or demolition by municipality.
- 13-312. Recovery of cost and placement of liens.
- 13-313. Allocation of funds for program.
- 13-314. Applicability.
- 13-315. Conflicts.

13-301. Purpose. The purpose of this chapter is to provide the necessary administrative and legal procedures as required by the Charter of the City of Clarksburg and Tennessee Code Annotated, § 13-21-103, for the designation of unsafe, hazardous or dangerous dwellings and structures and for the abatement of same within the municipality. (Ord. #04-14-08B, April 2008)

13-302. Definitions. The following terms wherever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter, unless a different meaning clearly appears from the context:

(1) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human residential habitation or abode 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 Alderman and Mayor of the City of Clarksburg.

(3) "Municipality" shall mean the City of Clarksburg, Tennessee.

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

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

(6) "Place of public accommodation" shall mean any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

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

(8) "Public officer" shall mean the officer or officers who are authorized herein below to exercise the powers prescribed by this chapter.

(9) "Structure" shall mean any dwelling, any place of public accommodation; any place wherein business, trade, commerce or manufacture is conducted; any advertising sign; fences or any other similar man-made facility or object. (Ord. #04-14-08B, April 2008)

13-303. Unfit or dangerous structures. All dwellings, structures and other similar facilities within the municipality which are unsuitable or unsafe for human occupancy or use due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; damage from fire; lack of ventilation, light or sanitary facilities, or due to other conditions rendering such structures unsafe, unsanitary, dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the appropriate public official declared as an "unfit or dangerous structure," and shall be and is hereby declared to be a public nuisance, which shall be upon application of the proper procedure by a public authority abated as directed. (Ord. #04-14-08B, April 2008)

13-304. Condition rendering structure unfit or dangerous. The public officer 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, safety, or morals of the occupants of such structure, the occupants of neighboring structures or other residents of the municipality. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accidents, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation, caused either by neglect or fire or other such damage; disrepair; structural defects, or uncleanness. The public officer of public authority may also utilize the standards and requirements of other related adopted codes of the municipality, such as the building code, housing code, etc. (Ord. #04-14-08B, April 2008)

13-305. Designation of public officer. The codes enforcement official/building inspector is designated as the principle public officer for the administering and enforcement of the provisions of this chapter; however, the following duly elected or appointed and serving officers or employees of the City of Clarksburg are also authorized to enforce the provisions of this chapter:

- (1) Fire marshal/fire chief;
- (2) Chief of police;
- (3) City recorder;
- (4) City attorney;
- (5) City mayor. (Ord. #04-14-08B, April 2008)

13-306. Powers given public officer. The Mayor and Board of Aldermen of the City of Clarksburg hereby authorizes the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions if this chapter, including the following powers in addition to others herein granted:

- (1) To investigate conditions in the municipality 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 examinations, provided that such entries 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 seems necessary to carry out the purpose of this chapter.
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #04-14-08B, April 2008)

13-307. Service of complaints or orders. Complaints or orders issued by a public officer 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 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 local newspaper distributed within the city. 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 be filed for record in the Register's Office, Carroll County, Tennessee, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (Ord. #04-14-08B, April 2008)

13-308. Hearing on complaints or petitions. Whenever a petition is filed with the public officer by a public authority; or by at least five (5) residents of the municipality charging that any structure is dangerous or unfit for human occupations or use; or whenever it appears to the governing body (on his own motion) that any structure is dangerous or unfit for human occupation or use, the governing body shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in

interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the governing body (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner 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 governing body. (Ord. #04-14-08B, April 2008)

13-309. Finding of dangerous or unfit structures. If after such notice and hearing, the governing body determines that the structure under consideration is dangerous or unfit for human occupation or use, then the public officer shall issue and cause to be served upon the owner thereof and order stating that:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (fifty percent (50%) shall be considered a reasonable value) the owner will be required, within the time specified in the order, to repair, alter, or improve such structure to render it safe or fit for human occupations or use, or to vacate and close the structure as a place of human occupation or use; or

(2) If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to value of the structure (fifty percent (50%) shall be considered reasonable), the owner will be required, within the time specified in the order, to remove or demolish such structure. (Ord. #04-14-08B, April 2008)

13-310. Failure to comply with order. If the owner fails to comply with an order to repair, alter, or improve, or to vacate and close the structure, the public officer may cause such structure to be repaired, altered or improved, or to be vacated and closed. The public officer may cause to be posted on the main entrance of any structure so closed (or on the most publicly visible point of a structure such as a billboard or a fence) a placard with the following words, "This structure or building is dangerous or unfit for human occupation or use, and the utilization of this structure or building for human occupation or use is prohibited and unlawful." (Ord. #04-14-08B, April 2008)

13-311. Removal or demolition by municipality. If the owner fails to comply with an order to remove or demolish the structures, the public officers may cause such structure to be removed or demolished. (Ord. #04-14-08B, April 2008)

13-312. Recovery of cost and placement of liens. The amount of the cost of such repairs, alternations, or improvements, or vacating and closing, or

removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred.

(1) 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 removal or demolition, and any balance remaining shall be deposited in the chancery court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court.

(2) Nothing in this section or chapter shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #04-14-08B, April 2008)

13-313. Allocation of funds for program. The governing body of the municipality shall prepare an estimate of the annual expenses of cost to establish, maintain and administer the program authorized by this chapter, and same shall be allocated and funded as a component of the city's annual general fund budget. (Ord. #04-14-08B, April 2008)

13-314. Applicability. The provisions of this chapter extend to all man-made structures within the municipality, including, but not limited to: residential dwellings or abodes; commercial, business or industrial facilities; storage buildings; barns, sheds, and outbuildings; towers; outdoor advertising signs or billboards, and fences. (Ord. #04-14-08B, April 2008)

13-315. Conflicts. In any case where the provisions of this chapter may be in conflict with the provisions of other chapters of the City of Clarksburg which relate to the regulations of dangerous, unfit, or nonconforming buildings or structures, the provisions of the chapter or regulations providing the highest degree of protection to the residents of the municipality shall prevail. (Ord. #04-14-08B, April 2008)