

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds.
- 13-104. Dead animals.
- 13-105. Health and sanitation nuisances.

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. (1988 Code, sec. 8-101)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1988 Code, sec. 8-102)

13-103. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1988 Code, sec. 8-103)

¹Municipal code references

Animals and fowls: title 10.

Building code: title 12.

Littering streets, etc.: section 16-107.

13-104. 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. (1988 Code, sec. 8-104)

13-105. 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. (1988 Code sec. 8-105)

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. Initiation of proceedings; hearings.
- 13-204. Orders to owners of unfit structures.
- 13-205. When public officer may repair, etc.
- 13-206. Lien for expenses; sale of salvage materials, other powers not limited.
- 13-207. Basis for a finding of unfitness.
- 13-208. Service of complaints or orders.
- 13-209. Enjoining enforcement of order.
- 13-210. Additional powers of public officer.
- 13-211. Powers conferred are supplemental.

13-201. Findings of board. The City of Crab Orchard finds that there exist in this municipality dwellings which are unfit for human habitation, and hereby ordains that such dwellings shall be repaired, closed or demolished in the manner herein provided. (Ord. No. ____, Nov. 1989)

13-202. Definitions. The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purpose of this chapter, unless a different meaning clearly appears for the context:

- (1) "Municipality" shall mean the City of Crab Orchard, Tennessee.
- (2) "Governing body" shall mean the board of mayor and aldermen of the City of Crab Orchard, Tennessee.
- (3) "Public officer" shall mean the building inspector. He is hereby designated and authorized to exercise the powers prescribed by this chapter and by Tennessee Code Annotated, section 13-21-101 et seq.
- (4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning dwellings in the municipality.
- (5) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

(7) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (Ord. No. ____, Nov. 1989)

13-203. 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 habitation, or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, 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 dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the planning commission at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the planning commission. (Ord. No. ____, Nov. 1989)

13-204. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the planning commission determines that the dwelling under consideration is unfit for human habitation, the public officer shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order: (1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the dwelling (not exceeding fifty percent [50%] of the value of the dwelling), requiring the owner, during the time specified in the order, to repair, alter, or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling; or (2) if the repair, alteration or improvement of said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (not to exceed fifty percent [50%] of the value of the dwelling); requiring the owner within the time specified in the order, to remove or demolish such dwelling. (Ord. No. ____, Nov. 1989)

13-205. When public officer may repair, etc. If the owner fails to comply with the order to repair, vacate, close, remove or demolish the dwelling, the public officer may cause such dwelling to be dealt with as requested by the order served upon said owner and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words:

"This building is unfit for human habitation; the use or occupation of this building is prohibited and unlawful." (Ord. No. ____, Nov. 1989)

13-206. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred. If the dwelling is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court by the public officer, and shall be secured in such manner as may be directed by such court, and shall be disbursed by such court provided, however, that nothing in this section shall limit in any way the power of the City of Crab Orchard to define and declare nuisances and to cause their removal or abatement by appropriate proceedings. (Ord. No. ____, Nov. 1989)

13-207. Basis for a finding of unfitness. The public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings 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, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness. (Ord. No. ____, Nov. 1989)

13-208. 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 printed and published in the city, or in the absence of such newspaper, in one printed and published in the county and circulating 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 the county, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. No. ____, Nov. 1989)

13-209. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public officer from carrying out

the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such suit in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (Ord. No. ____, Nov. 1989)

13-210. Additional powers of public officer. The public officer is hereby authorized to exercise such powers as may be necessary or convenient in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate the dwelling conditions in the city in order to determine which structures therein are unfit for human habitation;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. No. ____, Nov. 1989)

13-211. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers and procedures conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. (Ord. No. ____, Nov. 1989)

CHAPTER 3

JUNKYARDS

SECTION

13-301. Junkyards.

13-301. 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. (1988 Code, sec. 8-301)

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).