

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

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CHAPTER 1

HAZARDOUS STRUCTURES

SECTION

- 13-101. Removal of hazardous structures.
- 13-102. Board of mayor and aldermen to determine if structures are hazardous.
- 13-103. City has authority to remove hazardous structures.

13-101. Removal of hazardous structures. Any dwelling, business, house, or other structure, which because of casualty, being unattended to, or other reason, becomes present or potential hazard to the public's health and safety, shall be removed by the owner(s) thereof within 90 days of the date that written notice of same, from the City of Elkton, is received by the owner(s). (Ord. #III-83, June 1983)

13-102. Board of mayor and aldermen to determine if structures are hazardous. The Board of Mayor and Aldermen of the City of Elkton shall determine if a structure constitutes a present or potential hazard to the public's health and safety. In the event that the board determines a structure to be a present or potential hazard to the public's health and safety, written notice of same shall be given the owner(s) of the subject property by the city recorder. (Ord. #III-83, June 1983)

13-103. City has authority to remove hazardous structures. In the event that the hazard is not removed or cured by the owner(s) of the property within the 90 day period, the City of Elkton shall have authority to remove the same and the owner(s) of the property shall be liable to the City of Elkton for the costs and expenses incident thereto. (Ord. #III-83, June 1983)

¹Municipal code references

Littering streets, etc.: title 20.

Toilet facilities in beer places: § 8-117(9).

CHAPTER 2

FLEA MARKETS AND JUNK DEALERS

SECTION

13-201. License required.

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13-201. License required. It shall be unlawful for any person, firm, corporation, merchant, church, club or charitable institution to operate a flea market or to carry on the business of a junk dealer within the corporate limits of the City of Elkton without first obtaining a license for that purpose.

13-202. This chapter doesn't apply for businesses operated less than 48 hours. This chapter shall not apply to flea markets and junk sales which are operated and carried on for a period not exceeding forty-eight (48) hours.

13-203. Application for license. An application for license to operate a flea market or junk business shall be made in writing to the city recorder and signed by the applicant(s). The application shall contain (1) the name of the applicant if an individual, the names of partners, if a partnership, or the names of the principal officers, if a corporation, church, club or charitable institution; (2) the location of the place or places where the flea market or junk business is to be conducted; and (3) the length of time during which it is proposed that said business shall be conducted.

13-204. License fee. The fee to be charged for such license shall be five dollars (\$5.00). All licenses shall expire twelve (12) months from the date of issuance.

13-205. Nuisances prohibited. No street, alley, or highway shall be blocked by any merchandise offered for sale hereunder. Merchandise placed outside of permanent structures or in open areas shall be securely and adequately placed so that it will not endanger passersby or fall, extrude or happen into streets, alleys or highways.

The licensee shall not operate said business in a manner which would cause a nuisance or create a fire hazard; nor shall said licensee allow the

premises upon which said business is conducted to appear in an unclean and untidy condition or that will be obnoxious to the eye.

13-206. Inspections to be made. The chief of police and the chief of fire department shall make or cause to be made sufficient inspections to insure the compliance with the provisions of this chapter.

13-207. Violation and penalty. Any person, firm, club, corporation or other aforesaid entity violating any provision of this chapter shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

13-208. Revocation of license. The licenses issued pursuant to this chapter may be revoked by the board of mayor and aldermen, after notice and hearing, upon a violation of any of the provisions of this chapter.

Notice of hearing before the board of mayor and aldermen for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee, at his last known address, at least five (5) days prior to the date set for the hearing.

CHAPTER 3

SLUM CLEARANCE

SECTION

- 13-301. Findings of board.
- 13-302. Definitions.
- 13-303. "Public officer" designated; powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Enjoining enforcement of orders.
- 13-312. Additional powers of public officer.
- 13-313. Powers conferred are supplemental.
- 13-314. Structures unfit for human habitation or use deemed unlawful.

13-301. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the city 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 dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (as added by Ord. #05-10, Nov. 2010)

13-302. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(3) "Municipality" shall mean the City of Elkton, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

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

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

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

(7) "Public authority" shall mean 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 structures in the city.

(8) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #05-10, Nov. 2010)

13-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the chief of police of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the chief of police official. (as added by Ord. #05-10, Nov. 2010)

13-304. 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, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing 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 service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #05-10, Nov. 2010)

13-305. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he 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 structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #05-10, Nov. 2010)

13-306. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #05-10, Nov. 2010)

13-307. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #05-10, Nov. 2010)

13-308. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of Giles County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been

assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Giles County 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. Nothing in this section shall be construed to impair or limit in any way the power of the City of Elkton to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #05-10, Nov. 2010)

13-309. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human 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 or users of such structure, the occupants or users of neighboring structures or other residents of the City of Elkton. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (as added by Ord. #05-10, Nov. 2010)

13-310. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Giles County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #05-10, Nov. 2010)

13-311. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the

posting and service of the order of the public officer, such person shall file such bill in the court. 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. (as added by Ord. #05-10, Nov. 2010)

13-312. Additional powers of public officer. The public officer, 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 conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;

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

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

(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. (as added by Ord. #05-10, Nov. 2010)

13-313. 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 conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #05-10, Nov. 2010)

13-314. Structures unfit for human habitation or use deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city 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 dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. Violations of this section shall subject the offender to a penalty of fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #05-10, Nov. 2010)

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Penalty for violations.

13-401. Definitions. For the interpretation and application of following words and phrases shall meanings:

(1) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one (1) or combination of any of the following ways that either makes the vehicle immediately, inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(a) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;

(b) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle;

(c) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows;

(d) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever;

(e) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator;

(f) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

(g) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method;

(h) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the

vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(2) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(3) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(4) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(5) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same. (as added by Ord. #06-10, Nov. 2010)

13-402. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle. (as added by Ord. #06-10, Nov. 2010)

13-403. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

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

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property

maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city. (as added by Ord. #06-10, Nov. 2010)

13-404. Enforcement. Pursuant to Tennessee Code Annotated, a summons for violations of this chapter on private property. The public officer shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the public officer finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the public officer may:

- (1) Request the city judge to issue a summons; or
- (2) Request a police officer to witness the violation.

The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101, et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. In addition, pursuant to Tennessee Code Annotated, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. (as added by Ord. #06-10, Nov. 2010)

13-405. Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as added by Ord. #06-10, Nov. 2010)

CHAPTER 5

MISCELLANEOUS

SECTION

13-501. Littering generally.

13-502. Accumulation of rubbish.

13-503. Weeds and other vegetation.

13-501. Littering generally. It is unlawful for any person to throw or deposit or permit to be deposited or scattered upon any sidewalk, alley, street, bridge or public passageway, or upon any private property, any waste, waste paper, cans or other materials, litter, garbage, trash or rubble of any kind or to allow these items to accumulate upon public property immediately adjacent to and abutting that person's private property and between the private property and the public streets or alleyways upon which the property fronts. It is the responsibility of all owners and occupants of private property to keep abutting rights of way free and clear of rubbish, trash, etc. It is further the responsibility of private property owners and occupants to keep the rights-of-way upon which the property fronts mowed and clear of weeds, tall grass, etc. (as added by Ord. #04-10, Nov. 2010)

13-502. Accumulation of rubbish. It is unlawful for any person owning, leasing, occupying, or having control of property, regardless of whether the property is a vacant lot or contains any form of structure to permit the accumulation upon the property of garbage, trash, rubbish or other refuse in any form or nature, other than as authorized for city pick-up and disposal. All such accumulations are declared to be a public nuisance. The failure to clean up and remove such rubbish is a violation of this section. (as added by Ord. #04-10, Nov. 2010)

13-503. Weeds and other vegetation. (1) It is unlawful for any person or other entity owning, leasing, occupying or having control of property in the city, regardless of whether the property is vacant or contains any form of structure, to permit the growth upon the property of weeds, grass, brush and all other rank or noxious vegetation to a height greater than twelve inches (12") when the growth is within two hundred feet (200') of other improved and/or occupied property or is within two hundred feet (200') of the right of way of any street, thoroughfare, or highway within the city.

(2) Excluded from these provisions are tracts of land of five (5) acres or larger in unplatted, undeveloped areas (i. e., not in a subdivision approved by the city planning board, and the plat of which is recorded with the register of deeds, or in a subdivision developed prior to the creation of the planning board,

a plat of which is of record with the register of deeds) or tracts that are being used for current agricultural purposes.

(3) Property not exempt due to its size or the active practice of agriculture which is contiguous to parcel(s) of land that front on public streets or roadways, or contain any improvements shall be cleared of all weeds, tall grass and other noxious vegetation to within two hundred feet (200') of the property line of the developed property adjoining the subject tract and/or front property line adjoining the right-of-way of any street or roadway.

(4) Also excluded are natural wooded areas containing trees. As to these naturally wooded areas, the clearing requirements of this section extend only to the line of woods or trees adjoining developed (improved) property or public thoroughfares.

(5) It is also unlawful for any person or other entity to permit poison vines or plants injurious because of pollination or a menace to health, to grow in the city where they may cause injury or discomfort to any person, regardless of height, which plants are hereby declared to be a public nuisance. The failure to destroy poison vines or other such plants constitutes a violation of this section.

(6) It is unlawful to plant, maintain, or allow any vegetation, shrubbery, hedge rows, etc., so near or upon public road rights of way as to obstruct the view of a person driving in the roadway or otherwise constitute a hazard to vehicular and/or pedestrian traffic. Failure of owners of property adjoining the rights-of-way or owners of property upon which the vegetation exists to trim or remove it is guilty of a violation of this section.

(7) The failure to cut and destroy, weeds, grass, brush and all other rank or noxious vegetation not subject to the exclusions above constitutes a violation of this section and violators are subject to the general penalty provisions of this code.

(8) It is unlawful to transfer title to property that has a notice of violation posted on it.

(9) Violators of this section shall be subject to a fifty dollar (\$50.00) fine plus the cost for remedial measures necessary to bring the property into compliance with city standards. The city's general penalty clause is a fifty dollar (\$50.00) fine for the violation of municipal ordinances.

(10) The provisions of this section are supplemental to other regulations and provisions adopted by the city board or allowed by state law. (as added by Ord. #04-10, Nov. 2010)