

**TITLE 13**

**PROPERTY MAINTENANCE REGULATIONS**

**CHAPTER**

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. DISPOSAL OF WRECKED, JUNKED, OR ABANDONED VEHICLES.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

**13-101. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

**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. (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

**13-103. Weeds and grass.** 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 administrator or public officer to cut such vegetation when it has reached a height of over one foot (1'). (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

**13-104. Overgrown and dirty lots.** (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the City of Spencer Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be

assessed against the owner of the property. Upon the filing of the notice with the office of the Register of Deeds in Van Buren County, the costs shall 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 placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the 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.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the city administrator within ten (10) days following the receipt of the notice issued pursuant to subsection (4) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

**13-105. Dead animals**. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city administrator or public officer and dispose of such animal in such manner as the city administrator or public officer shall direct. (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

**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. (Ord. #5, May 1963, as replaced by Ord. #2004-3, May 2004)

**13-107. Violations and penalty.** Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2004-3, May 2004)

## CHAPTER 2

### SLUM CLEARANCE

#### 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. When public officer may remove or demolish.
- 13-207. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-208. Basis for a finding of unfitness.
- 13-209. Service of complaints or orders.
- 13-210. Enjoining of enforcement of orders.
- 13-211. Additional powers of public officer.
- 13-212. Powers conferred are supplemental.
- 13-213. Structures unfit for human habitation deemed unlawful.

**13-201. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq. the board of mayor and aldermen finds that there exist in the city structures which are unfit for human occupation 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. #2004-3, May 2004)

**13-202. 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 Spencer, Tennessee, and the areas encompassed within existing city 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" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power 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. #2004-3, May 2004)

**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 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. #2004-3, May 2004)

**13-204. 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. #2004-3, May 2004)

**13-205. 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. #2004-3, May 2004)

**13-206. When public officer may remove or demolish.** If the owner fails to comply with an order, as specified above, or to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #2004-3, May 2004)

**13-207. 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 Van Buren 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 municipality 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 municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality 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 Van Buren 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 Spencer to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #2004-3, May 2004)

**13-208. 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 and 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 Spencer. 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. #2004-3, May 2004)

**13-209. 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 Van Buren County, Tennessee, and such filing shall have the same effect as other lis pendens notices provided by law. (as added by Ord. #2004-3, May 2004)

**13-210. Enjoining of 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 positing and service of the order of the public officer, such person shall file such bill in the court.

The remedy provide 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. #2004-3, May 2004)



**13-211. 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;

(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. #2004-3, May 2004)

**13-212. 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. #2004-3, May 2004)

**13-213. Structures unfit for human habitation 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 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 under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2004-3, May 2004)

## CHAPTER 3

### JUNKYARDS

#### SECTION

13-301. Junkyards.

13-302. Violations and penalty.

**13-301. Junkyards.** 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 feet (6') 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. (as added by Ord. #2004-3, May 2004)

**13-302. Violations and penalty.** Violations of this chapter shall subject the offender to a penalty under the general penalty provisions of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2004-3, May 2004)

## CHAPTER 4

### DISPOSAL OF WRECKED, JUNKED, OR ABANDONED VEHICLES

#### SECTION

- 13-401. Wrecked, junked, or abandoned vehicles prohibited.
- 13-402. Wrecked, junked, or abandoned vehicle defined.
- 13-403. Procedure for removal.
- 13-404. Notice.
- 13-405. Hearing.
- 13-406. Removal.
- 13-407. Storage of vehicles.
- 13-408. Expense of disposal charged to owner.
- 13-409. Penalty.
- 13-410. Delegation of authority.

**13-401. Wrecked, junked, or abandoned vehicles prohibited.** It shall be unlawful to park, store, or leave any motor or other vehicle as wrecked, junked, partially dismantled, or in an abandoned condition, on public or private property in the City of Spencer for a period of longer than fifteen (15) days unless it is in connection with a purpose or business enterprise lawfully situated and licensed. All such wrecked, junked, or abandoned vehicles are hereby declared to be public nuisances. (as added by Ord. #2004-3, May 2004)

**13-402. Wrecked, junked, or abandoned vehicle defined.** For the purposes of this chapter, a wrecked, junked, or abandoned vehicle shall mean a vehicle of any age that is damaged or defective in 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:

(1) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(2) 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.

(3) 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.

(4) Missing or partially or totally disassembled essential interior parts, including, but limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(5) 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.

(6) 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.

(7) 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.

(8) 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. (as added by Ord. #2004-3, May 2004)

**13-403. 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 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 lien holders to the extent that their names and addresses may be reasonably ascertained after the city has first been apprised of such violation. If in the opinion of the mayor, designated public officer, an emergency situation exists, the vehicle may be immediately removed. (as added by Ord. #2004-3, May 2004)

**13-404. 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 lien holders, 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 lien holders at their last known address, place of residence, or place of business. (as added by Ord. #2004-3, May 2004)

**13-405. 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 Board of Mayor and Aldermen of the City of Spencer. The hearing shall be held as soon as practicable after the filing of the request therefore 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 board of mayor and aldermen. (as added by Ord. #2004-3, May 2004)

**13-406. 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 board of mayor and aldermen after hearing, pursuant to the police power to do all things whatsoever necessary for promoting or maintaining the general welfare of the city or its inhabitants, said vehicle shall be removed and taken into possession by the City of Spencer. Any tow trucks or vehicles used for such removal, other than city vehicles, shall be covered by insurance in the form and extent of which shall be approved by the board of mayor and aldermen. (as added by Ord. #2004-3, May 2004)

**13-407. Storage of vehicles.** If the vehicle owner pays the city 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 § 13-401 of this chapter, 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 city. (as added by Ord. #2004-3, May 2004)

**13-408. Expense of disposal charged to owner.** All costs and expenses incurred by the City of Spencer 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 percent (6%) annually. (as added by Ord. #2004-3, May 2004)

**13-409. Penalty.** Any person violating any provision of this chapter shall be fined in accordance with state statute. (as added by Ord. #2004-3, May 2004)

**13-410. Delegation of authority.** The mayor is hereby authorized to designate the agency, or department, or public officer to implement the provisions of this chapter. (as added by Ord. #2004-3, May 2004)