

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. GENERAL.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. JUNKED OR ABANDONED MOTOR VEHICLES.
5. TREES.

CHAPTER 1

GENERAL

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. (1974 code, sec. 8-405)

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. (1974 code, sec. 8-406)

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: section 16-107.

Toilet facilities in beer places: section 8-213(12).

Wastewater treatment: title 18, chapter 2.

on his property, and it shall be unlawful for any person to fail to comply with an order by the building inspector to cut such vegetation when it has reached a height of over one (1) foot. (1974 code, sec. 8-407, modified)

13-104. Overgrown and dirty lots.¹ (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, section 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 city council 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 city council 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 section 13-104 of the Harriman Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, section 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;

¹Municipal code reference

Section 13-103 applies to cases where the city wishes to prosecute the offender in city court. Section 13-104 can be used when the city seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in city court.

This title, chapter 2.

(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 city council 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 Roane 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 cost 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 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.

(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 city council. The appeal shall be filed with the building inspector within ten (10) days following the receipt of the notice issued pursuant to subsection (3) 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 city council 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.

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 animal control officer and dispose of such animal in such manner as the animal control officer shall direct.

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. (1974 code, sec. 8-409)

13-107. Violations and penalty. Violations of this chapter shall be punished in accordance with the general penalty provision of this municipal code of ordinances except that violations of section 13-104 shall be handled in accordance with the provisions of that section.

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of city council.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.

13-201. Findings of city council. Pursuant to Tennessee Code Annotated, section 13-21-101, et seq., the city council finds that there exists 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. (Ord. 1009)

13-202. Definitions. (1) "Municipality" shall mean the City of Harriman, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body" shall mean the city council charged with governing the city.

(3) "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, 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 structures in the city.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

(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) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (Ord. 1009)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (Ord. 1009)

13-204. 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 occupancy 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. (Ord. 1009)

13-205. 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 occupancy 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, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy 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. (Ord. 1009)

13-206. 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 occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (Ord. 1009)

13-207. 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. (Ord. 1009)

13-208. 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 Roane 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 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 action for debt against more than one 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 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 Roane 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 provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the City of Harriman to define and

declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. 1009)

13-209. 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 Harriman; 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. 1009)

13-210. 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. 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 Roane County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. 1009)

13-211. Enjoining enforcement of orders. 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. (Ord. 1009)

13-212. 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. (Ord. 1009)

13-213. 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. (Ord. 1009)

CHAPTER 3

JUNKYARDS¹

SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Non-conforming junkyards.
- 13-308. Permits and fees.

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(3) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(4) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city.

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in a manner that is in compliance with all applicable provisions of the Harriman Zoning Ordinance.

¹Municipal code reference

Refuse and trash disposal: title 17.

13-303. Screening methods. The following methods and materials for screening are given for consideration only:

(1) Landscape planting. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) Earth grading. The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood.

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen.

13-304. Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the city. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(1) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

(2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(3) Screening shall be located on private property and not on any part of the highway right-of-way.

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area.

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city.

If not replaced within sixty (60) days the city shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in

the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the city.

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition.

13-307. Non-conforming junkyards. Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:

- (1) The junkyard must continue to be lawfully maintained.
- (2) There must be existing property rights in the junk or junkyard.
- (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason.

If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.

- (5) The junkyard may not be extended or enlarged.

13-308. Permits and fees. It shall be unlawful for any junkyard located within the city to operate without a "Junkyard Control Permit" issued by the city.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's fiscal year begins on July 1 and ends on June 30 the year next following.

(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the city.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued.

CHAPTER 4

JUNKED OR ABANDONED MOTOR VEHICLES

SECTION

- 13-401. Definitions.
- 13-402. Public nuisance.
- 13-403. Impoundment and disposal.
- 13-404. Order to remove.
- 13-405. Abatement of public nuisance.
- 13-406. Exceptions.
- 13-407. Violation and penalty.

13-401. Definitions. (1) A "junked motor vehicle" is any motor vehicle, the condition of which is any one or more of the following:

- (a) Wrecked,
- (b) Dismantled or partially dismantled,
- (c) Inoperative,
- (d) Discarded, and/or
- (e) In an obvious state of disrepair.

(2) "Obvious state of disrepair" means a motor vehicle exhibiting one (1) or more of the following characteristics: inoperable under its own power, missing one (1) or more wheels or inflated tires, burned throughout, or with more than one (1) broken window.

(3) An "abandoned motor vehicle" is such as is defined in Tennessee Code Annotated, section 55-16-103.

(4) A "motor vehicle" for all purposes hereunder is defined as any vehicle which is self-propelled and any device in, upon, or by which any person or property is, or may be, transported from one location to another, excepting devices moved only by human power. (Ord. 1057D)

13-402. Public nuisance. The location or presence of any junked motor vehicle on a lot, tract, or parcel of land, or portion thereof, or upon any street, highway, road, or public property of any governmental entity, or upon any property occupied or unoccupied, improved or unimproved, shall be unlawful, and shall be deemed, and is hereby declared to be, a public nuisance.

It shall also be unlawful, and deemed a public nuisance, for any person or other legal entity to cause, maintain, or permit a motor vehicle or vehicles to be in a wrecked, dismantled, inoperable, abandoned, and/or discarded condition, and/or to otherwise cause, maintain, suffer, permit, or allow such motor vehicle or vehicles to be in an obvious state of disrepair, upon the property of another, or to cause, suffer, permit, or allow the same to be placed, located, maintained, or to exist upon real property belonging to such person or other legal entity. (Ord. 1057D)

13-403. Impoundment and disposal. Junked and abandoned motor vehicles, as defined herein and by reference, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, sections 55-16-103 through 55-16-111, and in instances wherein said state code sections are not applicable; or, in the case of junked motor vehicles, as an alternative or in addition thereto, in accordance with the following sections of this chapter. (Ord. 1057D)

13-404. Order to remove. Whenever any junked motor vehicle is found within the City of Harriman in violation of this chapter, the chief of police, or his duly authorized representative, shall cause the owner of the vehicle or the occupant of the premises on which such vehicle is located to be served with an order to remove such vehicle within ten (10) days after service of such order and it shall be unlawful for the person, or persons, upon whom said order is served to fail, neglect or refuse to obey such order within the time prescribed therein. (Ord. 1057D)

13-405. Abatement of public nuisance. If the premises on which a junked motor vehicle is located contrary to the provisions of this chapter are unoccupied and the owner, or agent, or any person having an interest therein, cannot be found, the chief of police, or his duly authorized representative, shall abate such public nuisance by entering upon the property and impounding and taking in to custody the motor vehicle in question and disposing of the same in accordance with the provisions of Tennessee Code Annotated, sections 55-16-103 through 55-16-110, inclusive. Such impoundment and disposition shall not relieve any person or party from any liability or penalty imposed upon conviction for violating other provisions of this chapter, but is in addition to any other penalty provided by law. (Ord. 1057D)

13-406. Exceptions. The provisions of this chapter shall not apply to the following:

- (1) Motor vehicles in an operable condition and specifically adapted or constructed for racing or operation on drag strips or raceways.
- (2) [Repealed.]
- (3) Motor vehicles stored with the permission of the property owner by a member of the armed forces of the United States who is on active duty assignment.
- (4) Motor vehicles in a completely enclosed building or legally operated junk yard, automobile repair shop or body shop. However, for automobile repair or body shops, such vehicles shall be kept and maintained to the side or rear of the building out of which the business operates, and not in front of the same.
- (5) Motor vehicles in an appropriate storage place officially designed and maintained by the City of Harriman. (Ord. 1057D, modified, as amended by Ord. #99-09, Oct. 1999)

13-407. Violation and penalty. Any person, firm, corporation, or other legal entity, violating this chapter, upon conviction thereof, shall be fined not more than fifty dollars (\$50.00) for each offense, and each day of continued violation shall constitute a separate and distinct offense.

The City of Harriman shall also have the right and remedy to file proceedings in any state court which has jurisdiction to abate a public nuisance. (Ord. 1057D)

CHAPTER 5

TREES

SECTION

- 13-501. Definitions.
- 13-502. Creation and establishment of city tree board.
- 13-503. Duties and responsibilities.
- 13-504. Street tree species to be planted.
- 13-505. Distance and spacing requirements.
- 13-506. Public tree care.
- 13-507. Tree topping, pruning and corner clearance.
- 13-508. Dead or diseased tree removal on private property.
- 13-509. Removal of stumps.
- 13-510. Arborists license and bond.
- 13-511. Review by city council.
- 13-512. Interference with city tree board.
- 13-513. Penalties.

13-501. Definitions. (1) Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets within the city.

(2) Park trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

(3) Street: "Street" is herein defined as being any public, city maintained street, alley, avenue, drive, road, lane, place, way, circle or court. (as added by Ord. #1067, § 1, Nov. 1997)

13-502. Creation and establishment of city tree board. There is hereby created a city tree board for the City of Harriman, Tennessee, which shall consist of five members, citizens and residents of the city, who shall be appointed by the mayor with the approval of the city council.

The term of office of the five persons to be appointed by the mayor shall be three years, except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event a vacancy shall occur during the term of any member, the successor thereto shall be appointed for the unexpired portion of the term.

Members of the board shall serve without compensation. (as added by Ord. #1067, § 1, Nov. 1997)

13-503. Duties and responsibilities. It shall be the responsibility of the board to study, investigate, council and develop and/or update annually, and

administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the city council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Harriman, Tennessee. The board, when requested by the city council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

The board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (as added by Ord. #1067, § 1, Nov. 1997)

13-504. Street tree species to be planted. The city tree board shall compile and adopt a list which will constitute the official street tree species for the City of Harriman, Tennessee. No species other than those included in this list may be planted as street trees without written permission of the City Tree Board. The street tree list shall make provision for three species size classes of trees which may be planted as street trees, these classes being: small trees, medium trees and large trees. (as added by Ord. #1067, § 1, Nov. 1997)

13-505. Distance and spacing requirements. (1) The spacing of street trees will be in accordance with the three species size classes listed in section 13-504 of this chapter, and no trees may be planted closer than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.

(2) The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 13-504 of this chapter, and no tree may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

(3) No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 10 feet of any fireplug.

(4) No street trees other than those species listed as small trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility. (as added by Ord. #1067, § 1, Nov. 1997)

13-506. Public tree care. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The city tree board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with sections 13-504 through 13-505 of this chapter (as added by Ord. #1067, § 1, Nov. 1997)

13-507. Tree topping, pruning and corner clearance. (1) It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the city tree board.

(2) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or right-of-way within the city so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.

(3) The city shall have the right to prune, cut, clear, or remove any tree, shrub, bush or flower on public or private property which overhangs any street, right-of-way or public easement within the city so as to constitute a hazard to the safety or property of any person upon such street, right-of-way or easement, or to prune, cut, clear or remove any tree, shrub, bush or flower on public or private property when such interferes with the proper spread of light along the street from a street light, or interferes with the visibility of any traffic control, device or sign, or interferes with pedestrian travel, or interferes with the safe line of sight along any street or roadway, or which is injurious or a potential threat to sewers, electrical power lines, gas lines, water lines, or other public improvements. (as added by Ord. #1067, § 1, Nov. 1997)

13-508. Dead or diseased tree removal on private property. The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees by certified, return receipt mail. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of the owners to comply with such provisions, the city

shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice. (as added by Ord. #1067, § 1, Nov. 1997)

13-509. Removal of stumps. All stumps of street or park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (as added by Ord. #1067, § 1, Nov. 1997)

13-510. Arborists license and bond. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be \$25 annually in advance; provided; however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$135,000.00 for bodily injury per person (with maximum liability of \$350,000.00 for all persons so injured) and \$100,000.00 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (as added by Ord. #1067, § 1997)

13-511. Review by city council. The city council shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal within ten (10) days from any ruling or order of the city tree board to the city council who shall hear the matter and make a final decision. (as added by Ord. #1067, § 1997)

13-512. Interference with city tree board. It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private grounds as authorized in this chapter. (as added by Ord. #1067, § 1997)

13-513. Penalty. Any person violating any provision of this chapter shall be punished in accordance with the general penalty provision of this municipal code of ordinances. (as added by Ord. #1067, § 1997)