

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. PROPERTY MAINTENANCE CODE.
2. WRECKED, JUNKED, OR ABANDONED VEHICLE CODE.
3. REMOVAL OR REPAIR OF BUILDINGS UNFIT FOR HUMAN OCCUPANCY OR USE.

CHAPTER 1

PROPERTY MAINTENANCE CODE

SECTION

- 13-101. Property maintenance code adopted.
- 13-102. Revisions.
- 13-103. Supplemental provisions.
- 13-104. Penalty clause.

13-101. Property maintenance code adopted. A certain document being marked and designated as the International Property Maintenance Code,² 2012 edition, as published by the International Code Council, Inc., be and is hereby adopted as the property maintenance code of the City of Elizabethton, in the State of Tennessee, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code on file in the office of the building

¹Municipal code references

Animal control: title 10.

Building, utility, and residential codes: title 12.

Garbage and refuse: title 17, chapter 1.

Littering generally: title 11, chapter 7.

Littering streets, etc.: § 16-106.

Wastewater treatment: title 18, chapter 2.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

inspector are hereby referred to, adopted, and made a part thereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 13-102. (Ord. #51-9, June 2015)

13-102. Revisions. The following sections are hereby revised:

Section 101.1. Insert: City of Elizabethton.

Section 103.5. Delete.

Section 107.1. Add: "Exception: The provision of this section shall not be required for a subsequent violation within any given six (6) month period after a notice of violation for said violation has been previously issued and delivered."

Section 111. Delete and add: "This section shall be replaced by title 12, chapter 12, of the Elizabethton Municipal Code."

Section 112.4. Insert: "\$50.00 dollars"; "\$50.00 dollars."

Section 302.4. Insert: "six (6) inches (152 mm)."

Section 304.14. Insert: "March 15"; "October 15."

Section 602.3. Insert: "September 15"; "May 15."

Section 602.4. Insert: "September 15; "May 15." (Ord. #51-9, June 2015)

13-103. Supplemental provisions. The provisions of this chapter are supplemental to other ordinances of the City of Elizabethton. The code enforcement officer is authorized to use whichever ordinance provisions he/she deems appropriate to obtain compliance with property standards. (Ord. #51-9, June 2015)

13-104. Penalty clause. Any person who shall violate a provision of the building and property maintenance codes of the City of Elizabethton, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Such fines shall be a fifty dollar (\$50.00) per day penal fine and five hundred dollars (\$500.00) in remedial fines for each violation, and shall hereafter be cited as the City of Elizabethton general penalty clause. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (Ord. #51-9, June 2015)

CHAPTER 2

WRECKED, JUNKED, OR ABANDONED VEHICLE CODE

SECTION

- 13-201. Title.
- 13-202. Wrecked, junked or abandoned vehicle defined.
- 13-203. Parking and storage of wrecked, junked, or abandoned vehicles prohibited.
- 13-204. Parking and storage on residential property restricted.
- 13-205. Parking and storage on nonresidential property restricted.
- 13-206. Procedure for removal.
- 13-207. Violations and penalty.

13-201. Title. This chapter shall be known as the "Wrecked, Junked, or Abandoned Vehicle Code of the City of Elizabethton" in the State of Tennessee, for the control and regulation of wrecked, junked, or abandoned vehicles as herein defined and provided. (Ord. #48-22, Oct. 2012)

13-202. Wrecked, junked or abandoned vehicle defined. (1) 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 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 angles), sitting on blocks 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) In addition, boats, campers, recreational vehicles, and storage trailers in a wrecked, junked or abandoned condition, as defined above, shall also be considered a public nuisance and in violation of this chapter. (Ord. #48-22, Oct. 2012)

13-203. Parking and storage of 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 Elizabethton for a period of longer than seven (7) days unless it is in connection with a purpose or business enterprise lawfully situated, licensed, and operating as required in § 13-205. All such wrecked, junked, or abandoned vehicles are hereby declared to be public nuisances. (Ord. #48-22, Oct. 2012)

13-204. Parking and storage on residential property restricted.

(1) All wrecked, junked, or abandoned vehicles being temporarily parked or temporarily stored on residential property shall be parked or stored on concrete, asphalt or gravel.

(2) Boats, campers, recreational vehicles, and storage trailers are not required to be parked or stored on concrete or asphalt in accordance with subsection (1) above so long as they:

(a) Are in operable condition;

(b) The surrounding area is maintained and free of grown up vegetation and debris; and

(c) Are not classified as wrecked, junked or abandoned as defined in § 13-202.

(3) No more than three (3) wrecked, junked, or abandoned vehicles may be parked or stored at a dwelling unit for more than a seven (7) day period unless they are enclosed in a building. (Ord. #48-22, Oct. 2012)

13-205. Parking and storage on nonresidential property restricted. No business enterprise shall park, store, leave, or permit the parking, storage or leaving of any vehicle that is wrecked, junked or abandoned, as defined above, on any private property within the city for more than seven (7) days unless:

- (1) The vehicle is completely enclosed in a building.
- (2) The area of property devoted to the storage of the vehicle(s) is enclosed by a solid masonry wall, sight proof fence, a visually solid evergreen hedge, or other year-round sight proof vegetative barrier, none of which may be less than six feet (6') in height (at planting or when being maintained).
- (3) This section shall take effect on January 1, 2016, for all business enterprises currently operating as of the effective date of the ordinance comprising this chapter. All business enterprises which are begun after the ordinance comprising this chapter is adopted are required to comply with this municipal code section. (Ord. #48-22, Oct. 2012)

13-206. Procedure for removal. (1) The City of Elizabethton Police Department may take into custody any motor vehicle found wrecked, junked, or abandoned on public or private property. In such conditions, the police department may employ its own personnel, equipment and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving and storing wrecked, junked, or abandoned motor vehicles.

(2) Any wrecked, junked, or abandoned vehicles found on public or private property taken into custody by the police department must follow and comply with procedures set forth in Tennessee Code Annotated §§ 55-16-101 to 55-16-113. (Ord. #48-22, Oct. 2012)

13-207. Violations and penalty. (1) It shall be unlawful for a person, firm, enterprise, or corporation to be in conflict with or in violation of any of the provisions of this code. Violation procedures shall be adopted from sections 106 and 107 of the International Property Maintenance Code, 2006 edition, as published by the International Code Council, with the additions, insertions, deletions and changes, if any, prescribed in subsection (2) below.

(2) The following sections are hereby revised.

Section 107.1. Add: Exception: The provision of this section shall not be required for a subsequent violation within any given six (6) month period after a notice of violation for said violation has been previously issued and delivered.

(3) Any person who shall violate a provision of the wrecked, junked, or abandoned vehicle code of the city, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Such fines shall be a fifty dollar (\$50.00) per day penal fine and five hundred dollars (\$500.00) in remedial fines for each violation, and shall hereafter be cited as the City of Elizabethton General Penalty Clause. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (Ord. #48-22, Oct. 2012)

CHAPTER 3

REMOVAL OR REPAIR OF BUILDINGS UNFIT FOR HUMAN OCCUPANCY OR USE¹

SECTION

- 13-301. Definitions.
- 13-302. Structures unfit for human occupancy or use--power to demolish.
- 13-303. Designation of city manager to enforce power to demolish.
- 13-304. Powers of city manager.
- 13-305. Conditions rendering structure unfit for human occupation or use.
- 13-306. Enforcement procedures.
- 13-307. Service of complaints or orders.
- 13-308. Enjoining enforcement of order.

13-301. 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) "Owner" means the holder of the title in fee simple and every mortgage of record;

(3) "Parties in interest" means all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof;

(4) "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;

(5) "Public authority" means any housing authority or any officer who is in charge of any department or branch of the government of the municipality or state relating to health, fire building regulations, or other activities concerning structures in the municipality;

(6) "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 ordinance adopted hereunder to exercise the power prescribed by such ordinances and by this chapter;

¹Municipal code references

Building, electrical and property maintenance codes: title 12.

Fire code: title 7.

State law reference

Tennessee Code Annotated, title 13, chapter 12.

(7) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (2000 Code, § 13-301)

13-302. Structures unfit for human occupancy or use--power to demolish. In accordance with the provisions of Tennessee Code Annotated § 13-21-102 the City Council of Elizabethton finds that there exists in this 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 structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of this city. The City Council of Elizabethton hereby determines and declares that the city shall exercise its police powers to repair, close or demolish the aforementioned structure in the manner herein provided. (2000 Code, § 13-302)

13-303. Designation of city manager to enforce power to demolish. In accordance with the provisions of Tennessee Code Annotated § 13-21-103(1) the city manager of the city shall be designated and appointed to exercise the powers prescribed by this chapter. The city manager shall insure compliance with the provisions of Tennessee Code Annotated § 13-21-108 regarding budgetary requirements of the enforcement of this chapter. (2000 Code, § 13-303)

13-304. Powers of city manager. In accordance with the provisions of Tennessee Code Annotated § 13-21-107 the city manager is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers in addition to others herein granted, to:

(1) Investigate conditions in the city in order to determine which structures therein are unfit for human occupation or use.

(2) Administer oaths, affirmations, examine witnesses and receive evidence.

(3) Enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

(4) Appoint and fix the duties of such officers, agents and employees, as the city manager deems necessary to carry out the purposes of this chapter.

(5) Delegate any of the city manager's functions and powers under this chapter to such officers and agents as the city manager may designate. (2000 Code, § 13-304)

13-305. Conditions rendering structure unfit for human occupation or use. The city manager may determine that a structure is unfit

for human occupation or use if the city manager finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of this city. 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. The city manager may also use the criteria for unsafe buildings as set out in the property maintenance code, adopted and referred to in title 13, chapter 1, of this code, to assist him in determining when a structure is unfit for human occupation or use. (2000 Code, § 13-305, as amended by Ord. #48-23, Oct. 2012)

13-306. Enforcement procedures. (1) Whenever a petition is filed with the city manager by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupation or use, or whenever it appears to the city manager (on the city manager's own motion) that any structure is unfit for occupation or use, the city manager shall, if the city manager's 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 city manager (or the city manager's designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint, that:

(a) The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and

(b) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the city manager.

(2) If, after such notice and hearing, the city manager determines that the structure under consideration is unfit for human occupation or use, the city manager shall state in writing the city manager's findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order to either repair or remove the structure.

(a) If the costs of the repair, alteration or improvement of the structure will be less than fifty percent (50%) of the value of the structure, the order shall require the owner, within the time specified in the order, to either repair or remove the structure.

(b) If the costs of the repair, alteration or improvement of the structure will be fifty percent (50%) or more of the value of the structure, the order shall require the owner, within the time specified in the order, to remove or demolish such structure.

(c) The city manager shall determine the value of the structure in question existing on the land. The value of the land itself shall not be considered. If the structure can be made to conform to habitable

standards as set out herein by an expenditure of less than fifty percent (50%) of the value of the building, the order shall conform to the provisions of subsection (2)(a). If an expenditure of fifty percent (50%) or more of the value of the building will be necessary to make the structure properly habitable the order shall conform to the provisions of subsection (2)(b).

(3) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the city manager may cause such structure to be repaired, altered or improved, or to be vacated and closed; that the city manager may cause to be posted on the main entrance of any structure 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."

(4) If the owner fails to comply with an order to remove or demolish the structure, the city manager may cause such structure to be removed or demolished.

(5) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the city manager 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 the county in which the property lies, be a lien on the property in favor of the city, second only to liens of the state, county and city for taxes, any lien of the city 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.

(6) 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 city manager, the city manager shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court by the city manager, 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 to decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (2000 Code, § 13-306)

13-307. Service of complaints or orders. Complaints or orders issued by the city manager 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 city manager in the exercise of reasonable diligence, and the city manager shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city, or in the absence of such newspaper, in one printed and published in the county and circulating in the city in which the structures are located. 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 the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (2000 Code, § 13-307)

13-308. Enjoining enforcement of order. (1) Any person affected by an order issued by the city manager may file a bill in the chancery court for an injunction restraining the city manager from carrying out the provisions of the order, and the court may, upon the filing of such bill, issue a temporary injunction restraining the city manager pending the final disposition of the cause; provided, that within sixty (60) days after the posting and service of the order of the city manager, such person shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

(2) The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the city manager as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies, and no person affected by an order of the city manager shall be entitled to recover any damages for action taken pursuant to any order of the city manager, or because of noncompliance by such person with any order of the city manager. (2000 Code, § 13-308)