

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

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- 13-105. Dead animals.
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13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the City of Erin. (1974 Code, § 8-701)

13-102. 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, § 8-705)

13-103. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1974 Code, § 8-706)

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-212(9).

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one foot (1'). (1974 Code, § 8-707)

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 health officer and dispose of such animal in such manner as the health officer shall direct. (1974 Code, § 8-708)

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, § 8-709)

13-107. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the municipality and unless a permit therefor shall have been first duly issued by the building inspector, as provided for in the building code. (1974 Code, § 8-704)

13-108. Milk ordinance adopted by reference.¹ (1) The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products sold for ultimate consumption within the City of Erin, Tennessee or its police jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; and the issuance and revocation of permits to milk producers, haulers, and distributors shall be regulated in accordance with the provisions of Part I of the Grade A Pasteurized Milk Ordinance--1965 Recommendations of the United States Public Health Service,² three (3) copies

¹The provisions in this section are taken substantially from the model ordinance prepared and distributed by the Tennessee Department of Health.

²This ordinance is Public Health Service Publication No. 229 and is for sale by the Superintendent of Documents, U. S. Government Printing Office, (continued...)

of which shall be filed in the office of the city recorder; provided, that in Section 1, "Definitions," A, "Milk" - Milk shall be understood to contain not less than 8 1/2 per cent milk solids-not-fat and not less than 3 1/2 per cent milkfat and that "not less than 8 1/4 per cent milk solids-not-fat and not less than 3 1/4 per cent milkfat" shall be deleted; D - "Reconstituted or Recombined Milk and Milk Products" and, I - "Fortified Milk and Milk Products" shall be deleted; O - "Milk Products"--It shall be understood that "cottage cheese" and "creamed cottage cheese" have been added to this definition as defined in footnote No. four and that "modified skim milk," "modified flavored skim milk drink," and "modified cultured buttermilk" as defined in the Tennessee Dairy Laws are included in this definition; provided further, that in Section 3, the paragraph beginning with the words, "Upon written application of any person whose permit has been suspended, " shall be deleted in its entirety, and any reference elsewhere in this ordinance dealing with hearings before a permit can be suspended is also deleted; provided further, that the last sentence in the first paragraph of Section 5 shall read "Any violation of the same requirement of Section 7 on such reinspection shall call for permit suspension in accordance with Section 3 as amended, and/or court action."; provided further, that Sections 9, 16, and 17 of said unabridged ordinance shall be replaced respectively by Sections 2, 3, and 4 below.

(2) From and after the date on which this ordinance is adopted, only Grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments; provided, that in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the health authority, in which case, such milk and milk products shall be labeled "ungraded."

(3) Any person who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$50.00, and/or such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.

(4) All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect upon its adoption as provided for by law. (1974 Code, § 8-711)

CHAPTER 2**JUNKYARDS****SECTION**

13-201. Junkyards.

13-201. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six 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. (1974 Code, § 8-710)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

SLUM CLEARANCE¹

SECTION

- 13-301. "Public officer" designated; powers.
- 13-302. Initiation of proceedings; hearings.
- 13-303. Orders to owners of unfit structures.
- 13-304. When public officer may repair, etc.
- 13-305. When public officer may remove or demolish.
- 13-306. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-307. Basis for a finding of unfitness.
- 13-308. Service of complaints or orders.
- 13-309. Enforcement.

13-301. "Public officer" designated; powers. A person shall be appointed by the Board of Mayor and Aldermen of the City of Erin authorized to exercise the powers prescribed by this chapter and that such person be designated "public officer," and such public officer is hereby authorized such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

- (1) To investigate conditions in the municipality 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 entries 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 the ordinance; and
- (5) To delegate any of his functions and powers under the chapter to such officers and agents as he may designate. (1974 Code, § 8-601(1))

13-302. 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 municipality 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

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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. (1974 Code, § 8-601(2))

13-303. Orders to owners of unfit structures. If, after such notice and hearing, 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 cannot be made at a reasonable cost in relation to the value of the structure, requiring the owner, within 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 as a place of human occupancy or use.

(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, requiring the owner, within the time specified in the order, to remove or demolish such structure.

(3) For the purpose of defining "reasonable cost" it is provided that reasonable cost shall mean: When the estimated value of existing structure (to be determined upon hearing) exceeds the estimated cost of repair (to be determined upon hearing), it shall be considered that the structure may be repaired at a reasonable cost. (1974 Code, § 8-601(3))

13-304. 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, 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 structure 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." (1974 Code, § 8-601(4))

13-305. When public officer may remove or demolish. If the owner fails to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (1974 Code, § 8-601(5))

13-306. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such costs was incurred. 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 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; provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1974 Code, § 8-601(6))

13-307. Basis for a finding of unfitness. The public officer may determine that a structure is unfit for human occupation or use if he finds conditions that 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 of neighboring structures or other residents of the municipality. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. (1974 Code, § 8-601(7))

13-308. Service of complaints or orders. Complaints or orders issued by the public officer 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 The Stewart-Houston Times, a newspaper published in Houston County and circulating in the City of Erin. 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 Houston County, Tennessee, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (1974 Code, § 8-601(8))

13-309. Enforcement. The board of mayor and aldermen shall, upon the due adoption of this chapter, determine and estimate the costs necessary for the enforcement of this chapter and make sufficient appropriations therefor. (1974 Code, § 8-601(9))