

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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- 13-107. House trailers.
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13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the city council shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1983 Code, § 8-101)

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. (1983 Code, § 8-105)

13-103. 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.

¹Municipal code references
 Animal control: title 10.
 Littering streets, etc.: § 16-107.

Violators are subject to immediate citation into city court. (1983 Code, § 8-106, as amended by Ord. #95-62, April 1995)

13-104. Weeds and grass. Any property owner or tenant shall be subject to immediate citation into city court should weeds or grass reach a height of over twelve (12) inches. (Ord. #95-62, April 1995)

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. (1983 Code, § 8-108)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him/her:

(1) 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. Violators are subject to immediate citation into city court.

(2) To permit appliances to set on property for the purpose of storage. This includes but is not limited to stoves, ranges, washers, dryers, television sets, and refrigerators. Violators are subject to immediate citation into city court.

(3) To permit the gathering of combustible material or other material that could provide a haven for rodents or insects. This includes but is not limited to cardboard, paper, wood, and rags. Violators are subject to immediate citation into city court.

All properties within 150' of any street or sidewalk which is visible from the street or sidewalk shall be maintained in a clean manner, devoid of:

(a) Items that could be construed as junk or refuse and

(b) Any kind of objects, including but not limited to machinery, that are strewn and provide an eyesore. Violators are subject to immediate citation into city court. (Ord. #95-62, April 1995)

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 city and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1983 Code, § 8-104)

13-108. Open burning (leaves) within the city limits. These are the rules to be followed as they relate to open burning (leaves) within the city limits of Dyer, Tennessee, to wit:

(1) That leaves (only) be allowed to be burned inside the city limits of Dyer, Tennessee on Fridays and Saturdays between the hours of 8:00 A.M. and 8:00 P.M.

(2) That no burning of leaves shall take place within fifty (50) feet of any structure in order to eliminate fire hazard.

(3) That the fire must be attended by a person at all times; moreover, that a water hose must be available and connected to a source of water sufficient to reach the burning site and reasonable surrounding area.

(4) That no burning shall take place when the wind is of sufficient force to create a dangerous situation in that the leaves cannot be burned safely.

(5) That no burning of leaves shall take place if prohibited by any other order or directive of any other government agency or official; or fire official of the city.

(6) That any damages caused as a result of the burning of leaves to the property of others may be the responsibility of the person burning said leaves and/or the owner of the property where the leaves are burned.

(7) That violation of these rules and/or any ordinance of the city relating to open burning of leaves shall be subject to court citations, fines, and costs.

(8) It shall be the duty of the person burning the leaves of the owner of the property on which said leaves are being burned to see that the burning is done in a safe and cautious manner; and that the burning of said leaves shall be the risk and responsibility of those involved in said burning.

The council feels that the open burning of leaves is appropriate but subject to restrictions and rules which protect the person and property of others. The permit requirement as promulgated in the Standard Fire Prevention Code, § 501.11 et seq., as established by the Southern Standard Building Code Congress International, Inc., 1994 edition, as adopted by the City of Dyer is hereby expressly waived. All provisions set forth in this section not in conflict, if any, with the above stated adopted fire protection code shall be deemed in addition to said code. (Ord. #97-78, Feb. 1997)

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 (6) feet 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. Violators of this section are subject to immediate citation into city court. (1983 Code, § 8-110, as amended by Ord. #95-62, April 1995)

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

ABANDONED MOTOR VEHICLES

SECTION

- 13-301. Unlawful to store, leave, etc., abandoned motor vehicles.
- 13-302. Abandoned motor vehicles declared nuisance.
- 13-303. Notice to remove abandoned motor vehicles.
- 13-304. Violations after notice.
- 13-305. Removal and disposal of abandoned motor vehicles by the public safety department.
- 13-306. Authority to enter upon the premises to remove abandoned motor vehicles.
- 13-307. Right of possessor to remove or house abandoned motor vehicles.
- 13-308. Alternative remedies of the city.

13-301. Unlawful to store, leave, etc., abandoned motor vehicles. It shall be unlawful to park, store, or leave, or to permit the parking or storing of any licensed or unlicensed motor vehicle of any kind for a period in excess of seventy-two hours which is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any public property including any city street, alley, parking lot, or other city property, or private property within the city unless the same is completely enclosed within a building or unless it is connected with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise. (1983 Code, § 9-701)

13-302. Abandoned motor vehicles declared nuisance. The accumulation and storage of one or more such motor vehicles in violation of the provisions of this chapter shall constitute rubbish and unsightly debris, and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the City of Dyer, and it shall be the duty of the registered owner of such motor vehicle and of the person in charge or control of the private property upon which such motor vehicle is located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage or to have the motor vehicle housed within a building where it will not be visible from the street. (1983 Code, § 9-702)

13-303. Notice to remove abandoned motor vehicles. Whenever there are reasonable grounds to believe that a violation of the provisions of this chapter exists, the chief of police shall give or cause to be given written notice that said motor vehicle violates the provisions of this chapter, and demanding that said motor vehicle be removed to a place of lawful storage within ten days

of the serving of such notice, or that within ten days of the serving of such notice said motor vehicles be housed in a building where it will not be visible from the street and advising of the intention of the chief of police to remove and impound such motor vehicle if it has not been removed or housed at the end of such time. Such notice shall be given by:

- (1) Affixing such notice to such motor vehicle;
- (2) Sending notice by certified mail to owner of such motor vehicle at his last known address if the owner is reasonably ascertainable;
- (3) By sending notice by certified mail to the person owning or controlling the property on which such motor vehicle is located;
- (4) Or serving notice by any city officer as with the service of any process; or
- (5) Publication as provided by the laws of the State of Tennessee. (1983 Code, § 9-703)

13-304. Violations after notice. Any person who fails, neglects, or refuses to remove the abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle or to house the same and abate said nuisance in accordance with the notice given pursuant to the provisions of § 13-303 shall be in violation of the provisions of this chapter and shall be guilty of a misdemeanor. (1983 Code, § 9-704)

13-305. Removal and disposal of abandoned motor vehicles by the public safety department. In addition to and not in lieu of any other procedure prescribed in this chapter for removal of abandoned motor vehicles from any public or private property, if the registered owner of any motor vehicle which is in violation of this chapter or the owner or person in lawful possession or control of the private property upon which the same is located shall fail, neglect, or refuse to remove or house such abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle in accordance with the notice given pursuant to the provisions of § 13-303, the chief of police may remove and impound said motor vehicle until lawfully claimed. If it is not lawfully claimed within a period of ten days, he may dispose of the same at public sale and thereafter maintain an action in the name of the City of Dyer in the appropriate court against any person or persons upon whom notice was served as required by § 13-303 to recover the costs of removing, impounding, and disposing of such motor vehicle. In the event the proceeds of any sale thereof shall be insufficient to recover such costs, any such unsatisfied costs shall become a lien upon the real property upon which said motor vehicle was located in violation of this chapter, said lien to be satisfied as any other delinquent tax lien. (1983 Code, § 9-705)

13-306. Authority to enter upon the premises to remove abandoned motor vehicles. The chief of police or any regularly employed and salaried

officer of the public safety department of the City of Dyer, contracting agents of the City of Dyer and employees of such contracting agents and authorized officers, employees, and agents of the City of Dyer are hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this chapter. It shall be unlawful for any person to interfere, hinder, or refuse to allow them to enter upon private property for such purposes and to remove any motor vehicle in accordance with the provisions of this chapter. (1983 Code, § 9-706)

13-307. Right of possessor to remove or house abandoned motor vehicles. Any person to whom notice was given pursuant to § 13-303 shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense, at any time prior to the arrival of the chief of police or his authorized representative for the purpose of removal of said motor vehicle. (1983 Code, § 9-707)

13-308. Alternative remedies of the city. Authority is reserved for the City of Dyer to follow the provisions of this chapter or the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109, or use the provisions of this chapter and referenced code, or portions thereof, jointly, severally, or part joint and part several. (1983 Code, § 9-708)

CHAPTER 4

UNFIT STRUCTURES

SECTION

13-401. Definitions.

13-402. Structures unfit for habitation to be repaired or closed and/or demolished.

13-403. Procedures for abating structures.

13-404. Conditions rendering structure unfit for human occupation or use.

13-405. Service of complaints or orders.

13-406. Powers of public officer.

13-407. Chapter confers supplementary powers and procedures.

13-401. Definitions. The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter unless a different meaning clearly appears from the context:

(1) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the city council of the City of Dyer, Tennessee.

(3) "Municipality" shall mean the City of Dyer, Tennessee.

(4) "Owner" shall mean the holder of the 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 municipality or state relating to health, fire, building regulations, or other activities concerning dwellings in the municipality.

(8) "Public officer" shall mean the building inspector, who is hereby designated and authorized to exercise the powers prescribed by this chapter and by the Tennessee Code Annotated, title 13, chapter 21.

(9) "Structure" means any dwelling or place of public accommodation. (Ord. #93-46, July 1993)

13-402. Structures unfit for habitation to be repaired or closed and/or demolished. The City of Dyer hereby finds that there exists in this municipality structures which are unfit for human habitation and hereby ordains that such structures shall be required repaired or closed and/or demolished in the manner herein provided. (Ord. #93-46, July 1993)

13-403. Procedures for abating unfit structures. (1) 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 occupation or use, or whenever it appears to the public officer, on his own motion, that any structure is unfit, 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 structures a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of said complaint; that 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 that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(2) If after such notice and hearing, the public officer determines that the structure under consideration is unfit for human occupation or use, the public officer shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(a) If the repair, alteration or improvement of the said structure can 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 structure, requiring the owner, within the time specified in the order to repair, alter, or improve such structure to render it fit for human habitation or to vacate and close the structure; or

(b) If the repair, alteration or improvement of the 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 structure, requiring the owner, within the time specified in the order, to remove or demolish such structure.

(3) If the owner fails to comply with an order to repair, vacate, close, remove or demolish the structure, the public officer may cause such dwelling to be dealt with as required by the order served on said owner, and the public officer shall 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 IS PROHIBITED AND UNLAWFUL."

(4) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the Gibson County Register of Deeds, 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 upon 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. 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 sales against the cost of the removal or demolition, and any balance remaining shall be deposited with the Clerk and Master of the Chancery Court of Gibson County, Tennessee, 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 to 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 nuisance and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #93-46, July 1993)

13-404. Conditions rendering structure unfit for human occupation or use. The public officer may determine that a structure is unfit for human occupation or use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structure or other residents of the municipality; such conditions include, but are not limited to, the following:

- (1) Defects therein increasing the hazards of fire, accident, or other calamities;
- (2) Lack of adequate ventilation, light, or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair;
- (5) Structural defects;
- (6) Uncleanliness. (Ord. #93-46, July 1993)

13-405. 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 makes affidavit to such 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 Tri-City Reporter, a newspaper with its principal office in Dyer, Tennessee, or other such newspaper as may then be the newspaper with its principal office nearest Dyer, Tennessee. 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 with the Gibson County Register of Deeds, and such filing of the complaint or order shall have the same force and affect as other lis pendens notices provided by law. (Ord. #93-46, July 1993)

13-406. Powers of public officer. The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but not limited to, the following powers in addition to others herein granted:

(1) To investigate the structure conditions in the municipality in order to determine which structures therein are unfit for human occupation or use;

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

(3) To 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) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter;

(5) To delegate any of his functions and power under this chapter to such officers and agents as he may designate. (Ord. #93-46, July 1993)

13-407. Chapter confers supplementary powers and procedures. Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the municipality to enforce any provisions of its charter or other ordinances or regulations, nor to prevent or punish violations thereof, and the powers and procedures prescribed by this chapter shall be in addition and supplemental to the powers conferred by any other law. (Ord. #93-46, July 1993)