

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES.
3. PROPERTY MAINTENANCE BOARD.
4. SLUM CLEARANCE.
5. JUNKYARDS.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 13-101. Health officer.
- 13-102. Overgrown and dirty lots.
- 13-103. Smoke, soot, cinders, etc.
- 13-104. Stagnant water.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Throwing, dumping or depositing litter.
- 13-108. Weeds.

**13-101. Health officer.** The "health officer" of the Town of Livingston is the municipal, county, state, or privately contracted officer as the Mayor shall appoint or designate to administer and enforce health and sanitation regulations within the town. (1989 Code, § 8-101, as replaced by Ord. #2019-2-4, March 2019 *Ch1\_09-08-20*)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

<sup>2</sup>For specific health and sanitation provisions elsewhere in this code with respect to the following, see the references indicated:

- (1) animals and fowls. title 10.
- (2) littering streets, etc. § 16-207.
- (3) spitting. § 11-230.
- (4) taxicabs. § 9-206.

**13-102. Overgrown and dirty lots.** (1) It is 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, rubbish, junk, trash, litter, garbage, filth or to allow the accumulation or creation of debris which could be blown onto neighboring properties, 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 flies, rodents, vermin and other harmful animals on the premises such that the same is a menace to the public health or an annoyance of people residing in the vicinity.

(2) For purposes of this section, "debris," "trash," "junk" and/or "rubbish" shall include discarded, damaged, broken or inoperable items left outdoors and visible on the premises including but not limited to rusted automobile and/or mechanical parts, machine parts, furniture, mattresses, tires, barrels, appliances, televisions and/or other electronics, construction and deconstruction materials, household goods, and articles of clothing.

(3) In addition to the foregoing, the following actions or inactions by any person within the Town of Livingston hereby are declared to be unlawful and nuisances:

(a) For any person to permit or suffer weeds, trees and/or other vegetation to grow or to allow trash, debris or rubbish to accumulate which is injurious to or likely to imperil the health, safety and welfare of the residents of the Town of Livingston and the general public;

(b) For any person to permit or suffer any substance, animal or thing to accumulate on his property, which substance is or is likely to become a public nuisance, or which is likely to imperil the life, health or safety of any persons, or which, through the giving off of odors or noises is or is likely to become offensive or injurious to the comfort or safety of the residents and the general public such nuisance may be abated and the cost of the abatement shall be assessed against the owner of the property as stipulated and in the manner prescribed in § 13-102(3).

(4) To the extent possible without entering the property, the health officer is directed to make regular inspections of all properties within the Town of Livingston to determine if a violation of subsection (1) exists. In the event that the health officer finds any violation as a result of the inspection and investigation, the health officer shall cause notice to be forwarded, by registered or certified mail, return receipt requested, to the last known address of all owners of such property as are shown on the tax books of the town, advising the owners of the existence of the condition that is in violation of subsection (1) hereof, and further advising that unless compliance is effected within fifteen (15) calendar days from the date of mailing such notice, the Town of Livingston will cause the cutting and/or removal to be accomplished, and the expense thereof charged to the property and owners thereof. If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage

or other materials, the time period shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays. When an attempt at notification by United States mail fails or no valid last known address exists for the owner(s) of record, the municipality may publish the notice in a newspaper of general circulation in the county where the property is located for no less than two (2) consecutive issues or personally deliver the notice to the owner(s) of record. For purposes of this section, such publication shall constitute receipt of notice effective on the date of the second publication of the notice; and personal delivery shall constitute receipt of notice immediately upon delivery. In addition to the aforesaid, the notice shall state that the owner(s) of the property is entitled to a hearing, and shall at a minimum, contain the following additional information:

(a) A brief statement of this section, which shall contain the consequences of failing to remedy the noted condition;

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

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

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

(5) In the event the property owner of record fails or refuses to remedy the noted condition within the prescribed time, the health officer shall immediately cause the condition to be remedied or removed and the cost thereof shall be assessed against the owner of the property. The health officer shall then notify the owners of the property of the amount of such expense, by registered or certified mail, return receipt requested, and shall further notify such owners that the reimbursement of such expensed is required within thirty (30) days from the date of such notice. All owners of property shall be liable, jointly and severally, for the expense of the remedy and/or removal accomplished by the town on their property, and the property itself shall be subject to suit or lien, for reimbursement of such expenses at the conclusion of the thirty (30) day period. For properties that are owner-occupied, the lien may be assessed when the costs incurred exceed five hundred dollars (\$500.00).

(6) Upon the filing of the notice with the office of the Register of Deeds in Overton County, the costs shall be a lien on the property in favor of the town, second only to liens of the state, county and town for taxes, any lien of the town for special assessments, and any valid lien, right or interest in such property duly recorded or fully perfected by filing prior to the filing of such notice. These costs shall be placed on the tax rolls of the town as a lien and shall be added to property tax bills for collection at the same time and in the same manner as property taxes are collected and, if the said taxes remain unpaid, subsequently as delinquent property taxes are collected with the same penalty(ies) and interest as delinquent property taxes. In the event such expenses are not reimbursed by December 31 of the year in which they were incurred, or after the

thirty (30) day period has expired, whichever is later, then the health officer shall notify the town attorney of all such amounts so expended, and the town attorney is authorized and directed to institute suits in the name of the Town of Livingston to recover all sums expended by the town pursuant to the provisions of this section, as well as all costs incurred in connection with collecting the unpaid expenses, including, but not limited to, interest, court costs and other reasonable costs.

(7) The owner of record who is aggrieved by the determination and order of the health officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the town recorder pursuant to information provided in the notice under subsection (2)(d). Failure to timely appeal shall, without exception, constitute a waiver of the right to a hearing. Any person aggrieved by an order or act of the board of mayor and aldermen under this section may seek judicial review of the order or act. The fifteen (15) day period prescribed in subsection (2) is stayed during the pendency of a hearing.

(8) 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 town to proceed against an owner, tenant or occupant of property. (1962 code, § 8-102, as replaced by Ord. #2019-2-4, March 2019 **Ch1\_09-08-20**, and Ord. #2020-1, Feb. 2020 **Ch1\_09-08-20**, and amended by Ord. #2020-8-1, Sept. 2020 **Ch1\_09-08-20**)

**13-103. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (Ord. #2000-1-2, Feb. 2000, as replaced by Ord. #2019-2-4, March 2019 **Ch1\_09-08-20**)

**13-104. 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. (1989 Code, § 8-104, as replaced by Ord. #2019-2-4, March 2019 **Ch1\_09-08-20**)

**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 town recorder and dispose of such animal in such manner as the town recorder shall direct. (1989 Code, § 8-105, as replaced by Ord. #2019-2-4, March 2019 **Ch1\_09-08-20**)

**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. (1989 Code, § 8-106, as replaced by Ord. #2019-2-4, March 2019 *Ch1\_09-08-20*)

**13-107. Throwing, dumping or depositing litter.** A person shall not throw, dump, deposit or cause to be thrown, dumped or deposited litter, which includes garbage, refuse, rubbish and all other waste materials, on property owned by another person without the permission of the owner or occupant of such property or on any town street or road, upon town parks or recreation areas, or upon any other town property within the corporate limits, except for property designated for that use. (1989 Code, § 8-107, as replaced by Ord. #2019-2-4, March 2019 *Ch1\_09-08-20*)

**13-108. 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 to cut such vegetation when it has reached a height of over one foot (1'). (as added by Ord. #2019-2-4, March 2019 *Ch1\_09-08-20*)

## CHAPTER 2

### ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES

#### SECTION

- 13-201. Definitions.
- 13-202. Purpose, organization, powers, duties, etc.
- 13-203. Notice to remove.
- 13-204. Responsibility for removal.
- 13-205. Hearing.
- 13-206. Removal of motor vehicle from property.
- 13-207. Notice of removal.
- 13-208. Disposition of vehicles.
- 13-209. Storage of vehicles.
- 13-210. Redemption of impounded vehicle.
- 13-211. Penalty.
- 13-212. Computation of days.

**13-201. Definitions.** For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "Town" is the Town of Livingston.
- (2) "Mayor" is the Mayor of the Town of Livingston.
- (3) "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, buses, motor-bikes, motorcycles, motor scooters, trucks, tractors, riding lawn mowers, go-carts, golf carts, campers and trailers.
- (4) "Junked motor vehicle" is any motor vehicle, as defined by §13-401(3) which does not have one (1) lawfully affixed thereto an unexpired license plate and the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, or constitutes a public nuisance and/or affecting the health and safety of the community as a whole.
- (5) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (6) "Private property" shall mean any real property within the town which is privately owned and which not public property is as defined in this subsection.
- (7) "Public property" shall mean any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

(8) Failure to have lawfully affixed thereto an unexpired license plate as required in the State of Tennessee shall constitute a rebuttable presumption of a junked motor vehicle. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

**13-202. Purpose, organization, powers, duties, etc.** The purpose of the Town of Livingston Property Maintenance Board is to be an advisory body to the Town of Livingston Board of Mayor and Aldermen and to the Livingston Building Official and the Livingston Health Officer on matters involving enforcement of property maintenance regulations in title 13 of the Livingston Municipal Code when said official or officer requests guidance and/or assistance. The board may also provide input on amendments to property maintenance regulations to the governing body. The board will meet on an as needed basis at times and places to be designated by the chairperson or board members with sufficient notice being provided to the public of the time, date and location of each meeting. The board members shall elect a chairperson, arrange for minutes of meetings to be recorded and make such other decisions as shall be necessary for operations of the board. All meetings of the board shall be open to the public and notice shall be provided as required by the Tennessee Public Meetings Act. Upon request of the Livingston Building Official or the Health Officer, the chairperson, or two (2) board members, may call for a meeting to be scheduled with seventy-two (72) hours' notice provided to all board members, all parties interested in matters to be discussed and the public. The board shall provide reports to the Livingston Board of Mayor and Alderman as requested by the mayor and/or board of aldermen. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*, and replaced by Ord. #2020-8-1, Sept. 2020 *Ch1\_09-08-20*)

**13-203. Notice to remove.** (1) In the event the public building official finds any violation, said official will provide notices to the owner or resident of the property upon which the said vehicle is located stating that the condition of the vehicle has caused a violation of this chapter and that unless this violation is corrected within thirty (30) days, procedures will commence to effect the removal of the vehicle and all reasonable costs associated with said removal will be levied against the owner or occupant of the property. Such thirty (30) day notice or one similar thereto shall also be provided to the vehicle owner and any lien holders to extent that their name(s) and address(es) may be reasonably ascertained after the town has first been apprised of such violation. If in the opinion of the fire chief, health officer, mayor or their designees that an emergency exists the vehicle may be removed immediately.

(2) If the thirty (30) day preliminary notice does not accomplish the correction of the violation, the procedure hereinafter set out shall be invoked. A second notice shall be directed to the owner of the vehicle and any lienholder, if known and the owner of the premises where same is located at least ten (10) days before the time for compliance therewith. It shall constitute sufficient

notice if a copy of same is posted in a conspicuous place upon the premises affected and a copy is mailed to such owner(s) and lienholder(s) at their last known address, place of residence or place of business. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*, and replaced by Ord. #2020-8-1, Sept. 2020 *Ch1\_09-08-20*)

**13-204. Responsibility for removal.** Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled, or inoperative vehicle and the owner or occupant of the private property on which the same is located either or all of them shall be responsible for its removal. In the event of removal and disposition by the town, the owner or occupant of the private property where same is located, shall be liable for the expenses incurred. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

**13-205. Hearing.** Within ten (10) days after the mailing or other service of said notice, the persons to whom the notices are directed, or their duly authorized agents, may file a written request for an administrative hearing before the Municipal Judge of the Town of Livingston, or its designee, for the purpose of reviewing the determination made by the town. Persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof; and the town and person(s) to whom the notice(s) have been directed may introduce such witnesses and evidence as either party deems necessary. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

**13-206. Removal of motor vehicle from property.** If the violation described in the notice has not been remedied within ten (10) days of the mailing or service of the second notice, or in the event that a notice requesting a hearing is timely filed, a hearing is had and the existence of the violation is affirmed by an order from the municipal judge, the mayor or his designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for or any person to interfere with, hinder or refuse to allow the town designee to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

**13-207. Notice of removal.** Within seventy-two (72) hours of the removal of such vehicle, the mayor shall order the police department to provide notice to the registered owner or the vehicle, if known, and also to any lien holders of record that said vehicle, or vehicles, has been impounded and stored for violation of this chapter. The notice shall describe the year, make, model and serial number of the motor vehicle; set forth the location of the facility where the motor vehicle is being held; inform the owner and any lienholders of their right to reclaim the motor vehicle within ten (10) days after the date of the notice,



upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody; and state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title and interest in the vehicle and consent to the sale of the abandoned, immobile, or unattended motor vehicle at a public auction. The notice and service of the notice shall comply with the requirements of state law found at Tennessee Code Annotated, § 55-16-105. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

**13-208. Disposition of vehicles.** If after service of the required notice no response is received from the owner or lien holder(s), the mayor shall sell the abandoned motor vehicle at public auction ten (10) days after the date of the notice. The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the mayor and upon presentation of such sales receipt shall be entitled to receive a certificate of title from the Department of Revenue for the State of Tennessee. The proceeds from a sale of an abandoned motor vehicle shall be used for payment of the expenses of the auction, the cost of towing, preserving, and storing the abandoned motor vehicle, and all notice and publication costs, together with any other costs associated with the process. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or any entitled lienholder for period of sixty (60) days and if not claimed, then shall be deposited in the general fund of the town. Should the sale of any vehicle for any reason be invalid, the town's liability shall be limited to the return of the purchase price. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

**13-209. Storage of vehicles.** The town, through its agents, employees and servants, may utilize municipal property for the storage of impounded vehicles, and in such event shall be entitled to storage costs not to exceed ten dollars (\$10.00) per day, or a daily rate charged by a commercial storage facility, for enforcement as set forth herein. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

**13-210. Redemption of impounded vehicle.** The owner of any vehicle seized under the provisions of this chapter may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the Town of Livingston of any and all expenses incurred by the Town of Livingston in connection with the enforcement of this chapter as determined by the mayor or his designee. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

**13-211. Penalty and remedy.** Any person violating any provision of this chapter may be subject to punishment in accordance with the general penalty provisions of this code of ordinances and a fine of up to fifty dollars (\$50.00).

Each act in violation of the provisions hereof and/or each day that an act is allowed to continue in violation of the provisions hereof may be deemed a separate offense and an additional violation. Any fine imposed as a result hereof is intended to be remedial in nature for the purpose of deterrence and to protect the public health, safety and welfare of the residents of Livingston. In addition to imposing fines as noted in this section, the town may pursue other remedies by filing action in any state court with jurisdiction. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

**13-212. Computation of days.** Any reference hereinabove to "days" for purposes of notice and action by the city shall be deemed to be calendar days unless the last day is a Saturday, a Sunday, or a legal holiday, and then it shall also be excluded. (as added by Ord. #2019-4-2, May 2019 *Ch1\_09-08-20*)

## CHAPTER 3

### PROPERTY MAINTENANCE BOARD

#### SECTION

13-301. Creation and membership.

13-302. Purpose, organization, powers, duties, etc.

**13-301. Creation and membership.** There is hereby created the Town of Livingston Property Maintenance Board. The board shall consist of seven (7) members which shall include one (1) member from the Livingston Board of Zoning Appeals, one (1) member from the Livingston Planning Commission, one (1) member from the board of alderman, one (1) member from Envision Livingston, and three (3) members from the community. Members of the board shall be appointed by the mayor with approval by the governing body who shall also have the authority to remove any appointed member at their pleasure. All members of the board shall be residents of the Town of Livingston. Members of the property maintenance board shall serve terms of two (2) years. In the event of a vacancy, the mayor with approval by the governing body shall make an appointment to fill the vacancy until the expiration of the current term. (as added by Ord #2019-2-2, March 2019 *Ch1\_09-08-20*)

**13-302. Purpose, organization, powers, duties, etc.** (1) The purpose of the Town of Livingston Property Maintenance Board is to be an advisory body to the Town of Livingston Board of Mayor and Aldermen and to the Livingston Building Official and the Livingston Health Officer on matters involving enforcement of property maintenance regulations contained in title 13 of the Livingston Municipal Code. The board may also provide input on amendments to property maintenance regulations to the governing body. The board shall meet every thirty (30) days at a time and place to be designated by the board members. At the first meeting of the board, members shall elect a chair, arrange for minutes of meetings to be recorded, set a meeting schedule and make such other decisions as shall be necessary for operations of the board. All meetings of the board shall be open to the public and notice shall be provided as required by the Tennessee Public Meetings Act. Upon request by the Livingston Building Official or the health officer, special called meetings may be called by two (2) members of the board within seventy-two (72) hours' notice provided to all board members, parties interested in matters to be discussed and the public. The board shall provide reports to the Livingston Board of Mayor and Aldermen at least quarterly, or so often as the governing body may request.

(2) **Severability.** If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court, such a decision shall not affect the validity of the remaining portions of this ordinance.

(3) This ordinance shall take effect then (10) days after its passage, approval and recording, the public welfare requiring it. (as added by Ord #2019-2-2, March 2019 *Ch1\_09-08-20*)

## CHAPTER 4

### SLUM CLEARANCE

#### SECTION

- 13-401. Findings of board.
- 13-402. Definitions.
- 13-403. "Public officer" designated; powers.
- 13-404. Initiation of proceedings; hearings.
- 13-405. Orders to owners of unfit structures.
- 13-406. When public officer may repair, etc.
- 13-407. When public officer may remove or demolish.
- 13-408. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-409. Basis for a finding of unfitness.
- 13-410. Service of complaints or orders.
- 13-411. Enjoining enforcement of orders.
- 13-412. Additional powers of public officer.
- 13-413. Powers conferred are supplemental.
- 13-414. Structures unfit for human habitation deemed unlawful.

**13-401. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the town 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 town. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-402. 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) "Municipality" shall mean the Town of Livingston, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(3) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(4) "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, § 13-21-101, et seq.

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

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

(7) "Parties in interest" shall mean all individuals, associations, corporations and others who have interest of record in a dwelling and any who are in possession thereof.

(8) "Structures" shall mean any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-403. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-404. 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 town 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 investigate the charges. If the preliminary investigation discloses a basis for such charges, the public officer will 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 (10) days nor more than thirty (30) days after the service of the complaint; and the owner or 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 same time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearing before the public officer. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*, and replaced by Ord. #2020-8-1, Sept. 2000 *Ch1\_09-08-20*)

**13-405. 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 findings 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. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-406. 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." (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-407. 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. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-408. 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 Overton 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 (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such

sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Overton 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 Town of Livingston to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-409. 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 Town of Livingston; 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. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-410. 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 town. 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 Overton County Tennessee, and such filing shall have the same force and effect as other *lis pendens* notices provided by law. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-411. 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.



The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-412. 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 town in order to determine which structures therein are unfit for human occupation or use;

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

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**13-413. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

**3-414. Structures unfit for human habitation deemed unlawful.** It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town 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 town.

(1) Any occupied structure declared unfit for human occupation or use shall be immediately vacated as ordered by the public officer designated or appointed to exercise the powers prescribed by any ordinance adopted pursuant to the authority of this part.

(2) Any person who violates an order to vacate a structure declared unfit for human occupation or use commits a Class B misdemeanor.

(3) Any owner, manager, or person responsible for a structure declared unfit for human occupation or use who authorizes or facilitates the occupancy of the structure commits a Class B misdemeanor. (as added by Ord. #2019-4-1, May 2019 *Ch1\_09-08-20*)

## CHAPTER 5

### JUNKYARDS

#### SECTION

- 13-501. Definitions.
- 13-502. Junkyard screening.
- 13-503. Screening methods.
- 13-504. Requirements for effective screening.
- 13-505. Maintenance of screens.
- 13-506. Utilization of highway right-of-way.
- 13-507. Non-conforming junkyards.
- 13-508. Permits and fees.
- 13-509. Initiation of proceedings; hearings.
- 13-510. Orders to owners of junkyards.
- 13-511. Service of complaints or orders.
- 13-512. Remediation.
- 13-513. Enjoining enforcement of orders.
- 13-514. Compliance with the Tennessee Code Annotated.

**13-501. 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. 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. Such yards shall be maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

(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 town.

(6) "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, § 13-21-101, et seq. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-502. Junkyard screening.** Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-503. 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 wood 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. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-504. 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 town. 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.

(5) 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 clogs to have access to such junkyards. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-505. 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. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-506. 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. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-507. Non-conforming junkyards.** Those junkyards within the town and lawfully in existence prior to the enactment of this code which do not conform to the provisions of the code shall be considered as "non-conforming." Such junkyards may 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 town.

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

(6) The junkyard must be on property properly zoning for such a use.

(as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-508. Permits and fees.** It shall be unlawful for any junkyard located within the town to operate without a "junkyard control permit" issued by the town.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The town'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 town.

(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. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**3-509. Initiation of proceedings; hearings.** Whenever a petition is filed with the public officer by a resident of the town charging that a junkyard appears in violation of this code, or whenever it appears to the public officer (on his own motion) that a violation is apparent, the public officer shall investigate the charges. If the preliminary investigation discloses a basis for such charges, the public officer will issue and cause to be served upon the owner of and parties in interest of such junkyard 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 give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*, and replaced by Ord. #2020-8-1, Sept. 2020 *Ch1\_09-08-20*)

**13-510. Orders to owners of junkyards.** If, after such notice and hearing as provided for in the preceding section, the public officer determines that the junkyard is in violation of this code, he 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. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-511. 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 town. 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 Overton County Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-512. Remediation.** The owner of the property shall have one hundred twenty (120) days after service of the order to properly remediate the situation and bring the property into compliance with this code. Failure to do so shall cause a citation to be issued and the Livingston Municipal Court may impose a fine of fifty dollars (\$50.00) per day that the property remains in violation, in addition to court costs.

(1) Any person who establishes, operates or maintains a junkyard, or who fails to comply with this code commits a Class C misdemeanor.

(2) Each day's subsequent violation constitutes a separate offense. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-513. 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. The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)

**13-514. Compliance with the Tennessee Code Annotated.** Nothing in this code shall relieve the owner of a junkyard from the obligation to comply with the requirements pursuant to Tennessee Code Annotated, § 54-20-101, et seq. entitled "Junkyard Control Act of 1967." (as added by Ord. #2019-5-1, June 2019 *Ch1\_09-08-20*)