

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

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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 Sparta. (1978 Code, § 8-101)

¹Municipal code references
 Animal control: title 10.
 Littering streets, etc.: § 16-104.

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. (1978 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. (1978 Code, § 8-106)

13-104. Weeds, trash, rubbish and refuse prohibited. It shall be unlawful for any person owning, leasing, occupying, or having control of property in the city to permit or suffer weeds or other vegetation to grow and/or trash, rubbish, and refuse to accumulate on such property to such an extent that a nuisance is created injurious to the health and welfare of the inhabitants of the city. Weeds which have attained a height of twelve inches (12") or more shall be presumed to be a detriment to the public health and a public nuisance. The prohibition set out here in shall specifically include abandoned and non-operable automobiles if they present a health concern or are deemed to be a nuisance. (1978 Code, § 8-107, as replaced by Ord. #13-877, Aug. 2013)

13-105. House trailers.¹ 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 codes enforcement officer, as provided for in the building code. (1978 Code, § 8-104)

13-106. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The city administrator shall designate an appropriate department or person to enforce the provisions of this section.

¹Municipal code reference

Flea markets: title 9, chapter 7.

(3) Notice to property owner. It shall be the duty of the department or person designated by the city administrator to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record, or hand delivered with the deliverer obtaining the owner's signature confirming receipt of the notice. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-110 of the City of Sparta Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

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

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the city administrator to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The town may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such 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. Upon the filing of the notice with the office of the register of deeds in White County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same

manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the city administrator to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the city administrator. The appeal shall be filed with the city administrator within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the city administrator under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1978 Code, § 8-108, as replaced by Ord. #14-880, April 2014)

13-107. Violations and penalty. Any person violating this title shall also be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this title. Each day the violation of this title continues shall be considered a separate violation. (1978 Code, § 8-109, as replaced by Ord. #14-880, April 2014)

13-108. [Deleted.] (1978 Code, § 8-110, as deleted by Ord. #14-880, April 2014)

13-109. [Deleted.] (1978 Code, § 8-111, as deleted by Ord. #14-880, April 2014)

13-110. Throwing dead animals, filth, offal into waterways, ponds. It shall be unlawful to throw or place any dead animal or animals, filth or offal into any river, pond, or watercourse within the municipality. (1978 Code, § 8-112)

13-111. Removal of dead livestock. If any horse, mule, cattle, pig, hog, goat or other livestock dies or is found dead on any street, alley or vacant lot within the municipality, and the owner of such animal is unknown, it shall be the duty of the police to have said dead animal removed beyond the corporate limits at the expense of the municipality. If the owner of such animal is known, it shall the duty of the police to notify him to have the dead animal removed out of the municipality, and if the owner fails, refuses or neglects to forthwith remove such animal it shall be the duty of the police to have it removed at the expense of said owner. (1978 Code, § 8-113)

13-112. 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 of 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. (1978 Code, § 8-114)

13-113. Open burning prohibited. After the effective date of these regulations, no person shall cause, suffer, allow, or permit open burning of any kind except as specifically allowed in this chapter. (1978 Code, § 8-118)

13-114. Exceptions to prohibition - without permission. Open burning, as listed below, may be conducted without permission subject to specified limitations and provided further that no public nuisance is or will be created by such open burning.

Fire used for cooking food, ceremonial or recreation purposes, including barbecues and outdoor fireplaces. This exception does not include commercial food preparation facilities and their operation.

This grant of exemption shall in no way relieve the person responsible for such burning from the consequences or the damages, injuries, or claims

resulting from such burning, or of the responsibility of obtaining any other permit from any other agency. (1978 Code, § 8-119)

13-115. Exceptions to prohibition - with permission. Open burning may be allowed in the Sparta city limits when permission has been obtained from the fire chief or other person that may be designated by the city administrator for the following purposes prior to the initiation of the open burning and provided the proposed burning will not cause any detriment to public health and that no land, air, or water traffic hazard is created.

(1) Open burning may be conducted to clear land of materials grown on that land where that land is being used for residential or agricultural purposes.

(2) Open fires may be set for the training and instruction of public or private fire-fighting personnel.

(3) Comfort heating on construction jobs provided the burning is in suitable metal containers and only untreated wood is burned. This is not to be construed to allow burning of painted or chemically treated wood for comfort heating. (1978 Code, § 8-120)

13-116. Open burning conditions - with permission. The following conditions shall apply for all open burning that is allowed under the provisions of this section with permission having been granted.

(1) All open burning shall be conducted during daylight hours provided that burning may continue until all materials are consumed and further provided, that the burning is properly supervised.

(2) No open burning shall be allowed under adverse meteorological or weather conditions as determined by the fire chief.

(3) It has been determined that there is no other practical or safe method of disposal for materials proposed to be burned.

Permission to burn shall be obtained from the city fire chief or other such person as may be designated by the city administrator. Permission is granted for (1) one day unless otherwise specified.

The granting of permission to conduct and open burn shall in no way relieve the person responsible for such burning from the consequences or the damages, injuries, or claims resulting from such burning, or of the responsibility of obtaining any other permit from any other agency.

None of the exceptions listed in §§ 13-114 or 13-115 are to be construed to allow the open burning of leaves, tires, plastics, synthetics, grass clippings, waste fluids, garbage, treated wood, wire insulation, or construction rubbish including, but not limited to shingles, siding, insulation, asphalt, or coal tar impregnated products, or products of similar composition. (1978 Code, § 8-121)

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. (1978 Code, § 8-116)

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

RODENT CONTROL

SECTION

13-301. Definitions.

13-302. Instruction in methods of extermination; authority to inspect all buildings.

13-303. Certain business buildings to be ratproofed.

13-304. Ratproofing of business buildings upon erection, alteration or repair.

13-305. Duty of owner of business building upon order of codes enforcement officer.

13-306. Duty of occupants of business buildings as to rat control.

13-307. Performance of work by owner or occupant or by municipality at cost.

13-308. Unlawful to remove ratproofing from business buildings.

13-301. Definitions. The following definitions shall apply in the interpretation and the enforcement of this chapter:

(1) "Business building" - The term "business building" shall mean any structure, whether public or private, that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, or sale or storage of goods, wares, merchandise, articles or equipment, including hotels, apartment houses, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain processors, abattoirs, warehouses, workshops and garages, and also all outhouses, sheds, barns, and other structures on premises used for or adapted to business purposes.

(2) "Food and foodstuffs" - The term "food and foodstuffs" is intended to include, besides human food, grain and other feed for animals and fowl.

(3) "Occupant" - The term "occupant" shall mean the individual, partnership, corporation or public agency that has the use of or occupies any business building or a part or fraction thereof, whether the actual owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building or to whom rent is paid shall have the responsibility of an occupant of a building.

(4) "Owner" - The term "owner" shall mean the actual owner of the business buildings, whether individual, partnership, corporation or public agency, and includes also the agent for the buildings, or other person having custody of the buildings, or to whom rent is paid.

(5) "Rat control" - The term "rat control" shall mean the distribution of rat poison or the setting of rat traps or such other methods as may be approved by the codes enforcement officer.

(6) "Rat harborage" - The term "rat harborage" shall mean any condition under which rats may find shelter or protection, and shall include any construction or condition which permits the entrance of rats into any business building.

(7) "Ratproof" - The term "ratproof" applies to a form of ratproofing which will prevent the ingress of rats into business buildings from the exterior. It consists of the closing and keeping closed of all openings in the exterior walls, ground or first floors, basements, roofs, sidewalk gratings, sidewalk openings, foundations, and other places that may be reached and entered by rats by climbing, burrowing or otherwise. (1978 Code, § 8-501)

13-302. Instruction in methods of extermination; authority to inspect all buildings. For the purpose of making effective the control of rats within the municipality, the codes enforcement officer shall carry out an educational program which will include methods of poisoning, trapping and other means for the destruction of rats. The codes enforcement officer is hereby authorized to make inspections of all buildings and premises in the municipality for the purpose of determining the condition as to ratproofing and rat infestation; and all owners and occupants of buildings and premises shall permit such inspection when requested by the codes enforcement officer. (1978 Code, § 8-502)

13-303. Certain business buildings to be ratproofed. For the purpose of preventing murine typhus fever in the municipality, the owners of the following specified business buildings within the corporate limits shall have such buildings made reasonably ratproof and maintained at all times in such condition, in accordance with the provisions of this chapter:

(1) All business buildings in which food or foodstuffs are stored, sold, or served.

(2) All business buildings directly or indirectly connected by exterior walls with a business building or buildings in which food or foodstuffs are stored, sold or served.

(3) All business buildings which the codes enforcement officer, in the use of his discretion, finds to be in such condition as affords harborage for rats. (1978 Code, § 8-503)

13-304. Ratproofing of business buildings upon erection, alteration or repair. All business buildings erected, altered, enlarged, or repaired, and which are included in the classification set forth in § 13-303, shall be made reasonably ratproof and maintained at all times in such condition in accordance with the provisions of this chapter. (1978 Code, § 8-504)

13-305. Duty of owner of business building upon order of codes enforcement officer. Whenever conditions inside or under any business

building within the classification set forth in § 13-303 provide such rat harborage that the codes enforcement officer in his discretion, deems it necessary to the prevention of murine typhus fever that such harborage be eliminated, he shall order, in writing, the owner to have such building made reasonably ratproof and maintained at all times in such condition by installing a cement concrete floor in the basement of such building, or by the taking of such other steps toward the elimination of such harborage as the codes enforcement officer, in his discretion, deems essential. Failure to obey any such order of the codes enforcement officer, within thirty (30) days after service of such order, shall constitute a violation of this code of ordinances. (1978 Code, § 8-505)

13-306. Duty of occupants of business buildings as to rat control.

For the purpose of preventing murine typhus fever in the municipality, the occupants of business buildings in the city coming within the classification set forth in § 13-303 shall at all times comply with the following regulations:

(1) Store, and keep stored, all garbage accumulating in such building or on its premises in metal containers which shall completely confine such garbage pending its removal. Such metal containers shall conform to the type of container required by the municipality for the storage of garbage.

(2) Maintain the building and premises free of the accumulation of trash, debris, rubbish and similar materials which may provide hiding places, nesting places or harborage for rats.

(3) Upon receipt of written order from the codes enforcement officer that such steps are necessary, immediately institute and regularly pursue a system of rat control in such building and on its premises, by the poisoning, or trapping of rats, or such other method as may be approved by the codes enforcement officer, until the building is reasonably free of rats as determined by inspections of the codes enforcement officer. In case subsequent inspections reveal the building to be reinfested with rats, the rat control measures shall be resumed until the codes enforcement officer declares the building reasonably free of rats. Failure to obey any such order of the codes enforcement officer within five (5) days after service of such order, shall constitute a violation of this code of ordinances. (1978 Code, § 8-506)

13-307. Performance of work by owner or occupant or by municipality at cost. The owner of a business building in complying with the provisions of this chapter relative to ratproofing and keeping ratproof such building, and the occupant of a business building in pursuing a system of rat control as required by § 13-303(3)), may do the work himself, or may engage a contractor to do the work, or may have the work performed by the employment of such labor and the purchase of such materials as may be necessary, all to the approval of the codes enforcement officer, or the owner or occupant, if he so desires, may make application to the codes enforcement officer, who thereupon

is hereby authorized to have the necessary ratproofing or the work of rat control done at cost. The cost of ratproofing or rat control performed by the codes enforcement officer shall include the cost of all labor, materials, equipment and supervision necessary to complete the work. Upon completion by the codes enforcement officer of the work applied for, the codes enforcement officer shall submit a bill for the cost of same to the applicant who shall thereupon become liable to the municipality for the full amount of such bill. If bills are not paid within thirty (30) days after billing, the codes enforcement officer shall certify the amount due from the applicant to the municipal attorney, who shall bring suit in the name of the municipality to collect the same. (1978 Code, § 8-507)

13-308. Unlawful to remove ratproofing from business buildings.

It shall be unlawful for the occupant, owner, contractor, plumber or any other person to remove the ratproofing from any business building for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (1978 Code, § 8-508)

CHAPTER 4

TREE MAINTENANCE

SECTION

- 13-401. Purpose.
- 13-402. Authority and power.
- 13-403. Applicability.
- 13-404. Definitions.
- 13-405. Tree planting.
- 13-406. Tree care.
- 13-407. Tree removal.
- 13-408. Voluntary tree replacement program.
- 13-409. Appeal and penalties.
- 13-410. Protection of existing trees.

13-401. Purpose. It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City of Sparta. (as added by Ord. #02-755, Dec. 2002)

13-402. Authority and power. The authority to execute the provisions of this chapter is the responsibility of the Sparta Board of Mayor and Aldermen. The Sparta Board of Mayor and Aldermen may at any time seek advice and guidance of the Sparta Tree Board and especially in regard to the technical aspects of tree maintenance and supervision. (as added by Ord. #02-755, Dec. 2002)

13-403. Applicability. This chapter provides full power and authority over all trees, plants, and shrubs located within street rights-of-way, parks and public places of the city; and to trees, plants, and shrubs located on private property that constitute a hazard or threat to public property as described herein. (as added by Ord. #02-755, Dec. 2002)

13-404. Definitions. (1) "Tree" a woody plant with a single trunk, or multiple trunks capable of growing to a height of 15 feet or more.

(2) "Shrub" a woody plant with a multiple stem capable of growing to a height of up to 15 feet.

(3) "Public tree" a tree growing in an area owned by the community, including parks, public buildings, schools, hospitals, and other areas to which the public has free access.

(4) "Private tree" a tree growing in an area owned by a private individual, business or commercial establishment, company, industry, private institution, or other area not owned by government entities.

- (5) "Street tree" a tree growing within a public right of way along a street, in a median or in a similar area in which the public right of way borders areas owned by private individuals.
- (6) "Utility tree" a tree that will contact any utility structure.
- (7) "Pruning" selective removal and thinning of the upper portions of the tree taking into account the shape and natural structure of the tree.
- (8) "Proper pruning method" selective removal and thinning of the upper portions of the tree using natural target techniques, taking into account the natural structure of the tree.
- (9) "Topping" the arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.
- (10) "Drip line" all points directly underneath the end of the branches.
- (11) "Line clearance" removal of limbs and branches growing within a set distance of electrical distribution lines. (as added by Ord. #02-755, Dec. 2002)

13-405. Tree planting. (1) Tree planting shall be undertaken by the city on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting junction shall be determined by the City of Sparta with recommendations by the tree board.

(2) Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The tree board will provide information about species, planting techniques, and placement guidelines when requested by residents.

(3) The following sections provide a detailed outline of planting requirements.

(a) Grade. Trees to be planted shall be free of insects and diseases, mechanical injuries, and have reasonably straight trunks with a strong leader branch. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.

(b) Spacing. Large tree species capable of achieving more than 45 feet in height shall be spaced at least 40 feet apart. Small tree species capable of achieving up to 45 feet in height shall be spaced at 20-foot intervals. Exceptions may be granted by the tree board when a valid landscape plan is followed, or when greater or lesser spacing are needed to achieve a desired effect.

(c) Planted or natural established seedlings near existing objects. Small tree species may not be established within 8 feet of an imaginary line drawn between utility poles. Large tree species may not be established within 13 feet of an imaginary line drawn between utility poles. For street tree establishment, no tree or shrub may be established closer than 10 feet to a fire hydrant, utility pole, or streetlight.

Establishment of trees and/or shrubs adjacent to roadway intersections including driveways or streets is restricted to provide a safe clear distance to prevent visual impairment or obstructions. When planting between sidewalks and curbs, 6 feet between curb and sidewalk is the minimum distance required for small tree species, and 10 feet for large tree species.

(d) Planting techniques. Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least 3 times the width of the root ball, and no deeper than the root ball. All burlap and twine (or wire) must be removed before filling the holes. Backfill should be a suitable material that will not hinder the growth or establishment of the planted tree. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing on soil walls made by the auger. Trees will be guyed where determined to be necessary. All guy wires shall be regularly checked for girdling and removed within 18 months. (as added by Ord. #02-755, Dec. 2002)

13-406. Tree care. (1) Tree topping of all public trees is prohibited and topping of private trees is strongly discouraged.

(2) Tree maintenance may include pruning, fertilizing, watering, insect and disease control, and other tree care activities. The city shall take responsibility for those maintenance activities needed to keep the public trees reasonably healthy and minimize the hazard risk trees could cause to residents and visitors of the city. Determination of maintenance needs will be made by the City of Sparta with recommendations from the Sparta Tree Board. Tree care may be accomplished by trained city personnel or by contract with qualified commercial tree care companies.

(3) Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The tree board will provide information to residents at their request about all aspects of tree care including the latest techniques and procedures currently being practiced.

(4) Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the required methods. Where practicable, the utility shall undertake a program of replacing removed trees with appropriate replacement tree species or cultivars recommended by the tree board.

(5) All trees growing along streets and sidewalks must be pruned free of limbs to a height of 8 feet for sidewalks and 12 feet for streets.

(6) The standard tree pruning method will branch collar pruning as opposed to stub or flush cuts. Large limbs and branches will be pre-cut (using the 3-cut method) to prevent excessive peeling of the bark, followed by cutting the remaining stub.

(7) Grade changes and trenching within the crown spread and trenching within the crown spread of public trees should be conducted in such a way as to minimize root system damage. Owners of private trees are encouraged to consult the tree board before proceeding with these activities. (as added by Ord. #02-755, Dec. 2002)

13-407. Tree removal. (1) Dead, diseased, and dying trees that pose a safety or health risk to residents, utility lines, service lines or to other trees shall be removed in a timely manner. This section will apply to both public and private trees. If it is determined by the appropriate department or person as designated by the governing body of a municipality that a particular diseased or dying tree poses a safety risk to the public so as to endanger the health, safety or welfare of other citizens, the appropriate department or person shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:

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

(b) The person, office, 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.

(2) If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice and has not requested a hearing, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds of the county in which the property lies, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These 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 falls 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. 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 such 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.

(3) A person aggrieved by a determination made pursuant to the provisions of this chapter shall have the right to request a hearing. A written request for a hearing with the city administrator shall be made within ten (10) days following the receipt of the notice issued pursuant to this section. Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing. Any person aggrieved by an order or act of the City of Sparta under the provisions of this subsection may seek judicial review of the order or act. The time period established in (2) hereinabove shall be stayed during the pendency of a hearing.

(4) Tree removal to ground level is considered part of the tree removal process (0 to 6 inches from the soil is considered ground level).

(5) Sprout control following tree removal will be accomplished by mechanical or chemical means. Any chemical used in sprout control shall be registered and used according to the manufacturers' specifications. (as added by Ord. #02-755, Dec. 2002)

13-408. Voluntary tree replacement program. Any trees that qualify to be classified as a hazard or power line tree according to the definitions contained in this chapter may be removed by the City of Sparta with permission of the property owner. As an incentive for property owners to participate in the voluntary replacement program, after the qualifying trees are removed, the city shall provide for removal of the remaining stumps with the area of the removal to be filled in a suitable manner. Removed trees shall be replaced at property owners' request through the tree replacement program at the electric department. Replacement trees shall be of good quality, with reasonably straight, single trunks. They shall be at least 2" in caliper and between 4'-6' in height of a variety approved by the Sparta Tree Board. Trees shall be replaced from late November until late March, pending weather conditions. The utilities manager is authorized to develop administrative policies and procedures for the implementation of the voluntary tree replacement program in conformance the guidelines contained herein. (as added by Ord. #02-755, Dec. 2002)

13-409. Appeal and penalties. (1) Any person dissatisfied with the application of the provisions of this chapter shall have the right to a hearing with the City Administrator of the City of Sparta in accordance with the provisions of § 13-407.

(2) Any violator of this chapter shall be deemed guilty of a misdemeanor, and according to the laws of the State of Tennessee shall be fined a maximum of \$50.00. Each subsequent day that any violation continues unabated shall constitute a separate offense.

(3) Any violator of this chapter will be subject to cost incurred by the city in correcting the chapter violation through appropriate maintenance or removal process. (as added by Ord. #02-755, Dec. 2002)

13-410. Protection of existing trees. As it pertains to commercial and residential development, the city maintains that it is in the best interest of all concerned to save as many existing trees as practical. (as added by Ord. #02-755, Dec. 2002)

CHAPTER 5

SLUM CLEARANCE

SECTION

- 13-501. Findings of board.
- 13-502. Definitions.
- 13-503. "Public officer" designated; powers.
- 13-504. Initiation of proceedings; hearings.
- 13-505. Orders to owners of unfit structures.
- 13-506. When public officer may repair, etc.
- 13-507. When public officer may remove or demolish.
- 13-508. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-509. Basis for a finding of unfitness.
- 13-510. Service of complaints or orders.
- 13-511. Enjoining enforcement of orders.
- 13-512. Additional powers of public officer.
- 13-513. Powers conferred are supplemental.
- 13-514. Structures unfit for human habitation deemed unlawful.

13-501. 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 city structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (as added by Ord. #13-872, April 2013)

13-502. 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) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(3) "Municipality" shall mean the City of Sparta, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

(8) "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.

(9) "Structure" means 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. #13-872, April 2013)

13-503. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the code enforcement officer of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the code enforcement officer. (as added by Ord. #13-872, April 2013)

13-504. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #13-872, April 2013)

13-505. 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 occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding

fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation 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. #13-872, April 2013)

13-506. 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 occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #13-872, April 2013)

13-507. 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. #13-872, April 2013)

13-508. 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 White 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 city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure

is removed or demolished by the 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 White 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 to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Sparta to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #13-872, April 2013)

13-509. 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 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 or users of such structure, the occupants or users of neighboring structures or other residents of the City of Sparta. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (as added by Ord. #13-872, April 2013)

13-510. 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 persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on 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 White County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #13-872, April 2013)

13-511. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill 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 bill 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. #13-872, April 2013)

13-512. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

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

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

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

(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. #13-872, April 2013)

13-513. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #13-872, April 2013)

13-514. Structures unfit for human habitation or use deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. Violations of this section shall subject the offender to the penalties under Tennessee Code Annotated, § 13-21-103. (as added by Ord. #13-872, April 2013)