

## TITLE 13

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

#### CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKED AND WRECKED AUTOMOBILES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Open burning regulated.
- 13-108. Violations and penalty.

**13-101. 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. (1975 Code, § 8-104)

**13-102. 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. (1975 Code, § 8-105)

**13-103. Weeds and grass.** Every owner, tenant or occupant 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

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Wastewater treatment: title 18, chapter 2.

with an order by the city administrator to cut such vegetation when it has reached a height of over one (1) foot. (1975 Code, § 8-106)

**13-104. 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 mayor and board of commissioners shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the department or person designated by the mayor and board of commissioners 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 § 13-108 of the Town of Spring City's 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 mayor and board of commissioners 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 Rhea 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 mayor and board of commissioners 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 mayor and board of commissioners. The appeal shall be filed with the town recorder 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 mayor and board of commissioners 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. (Ord. #189, \_\_\_\_\_, as replaced by Ord. #2012-11, Jan. 2013, and Ord. #2013-05, Feb. 2014)

**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 city manager and dispose of such animal in such manner as the city manager shall direct. (1975 Code, § 8-107)

**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. (1975 Code, § 8-108)

**13-107. Open burning regulated.** (1) Permit required. The open burning of any garbage, trash, rubbish, leaves, grass, combustible material by any person, firm or corporation without first having obtained a permit number from the city manager or his designee, is hereby prohibited.

(2) Permit considerations. The city manager or his designee in granting or denying such permission shall take into consideration the atmospheric conditions, the site of the proposed burning in relation to proximate structures, the availability of fire suppression equipment at the site, the attendance of a competent person during the burning, and any other local conditions that might make such a fire hazardous. (Ord. #222, \_\_\_\_\_)

**13-108. Violations and penalty.** Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as replaced by Ord. #2012-11, Jan. 2013, and Ord. #2013-05, Feb. 2014)

## CHAPTER 2

### SLUM CLEARANCE<sup>1</sup>

#### SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of order.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.

**13-201. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of commissioners 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 insanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town and therefore, ordains as follows.

**13-202. Definitions.** (1) "Municipality" shall mean the Town of Spring City, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(2) "Governing body" shall mean the board of commissioners charged with governing the town.

(3) "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.

(4) "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.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

(6) "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.

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

**13-203. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," to be the city manager of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the city manager.

**13-204. 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, 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 court of law or equity shall not be controlling in hearings before the public officer.

**13-205. 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 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, 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.

**13-206. 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."

**13-207. 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.

**13-208. 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 Rhea County, be a lien on the property in favor of the town, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed upon the tax rolls of the town as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Rhea 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 to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

**13-209. 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 Spring City; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness.

**13-210. 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 Rhea County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

**13-211. Enjoining enforcement of order.** 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.

**13-212. 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.

**13-213. 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.

**CHAPTER 3****JUNKED AND WRECKED AUTOMOBILES****SECTION**

- 13-301. Nuisance; definitions; exceptions.
- 13-302. Notice.
- 13-303. Removal.
- 13-304. Title search.
- 13-305. Sale at auction.
- 13-306. Redemption by owner.
- 13-307. Storage and sale of property.
- 13-308. Violation; penalty.

**13-301. Nuisance; definitions; exceptions.** (1) Nuisance. The location or presence of any junked vehicle on a lot, tract, or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the Town of Spring City, Tennessee shall be deemed a public nuisance, and it shall be unlawful for any person or other legal entity to cause, maintain, or permit such public nuisance by wrecking, dismantling, rendering inoperable, abandoning, or discarding a motor vehicle or vehicles on the property of another, or to suffer, permit, or allow the same to be placed, located, maintained, or to exist upon real property belonging to such party.

(2) Definitions. A "junked" motor vehicle is defined as a motor vehicle left on a lot, tract or parcel of land or a public street or roadway or part thereof for an unreasonable period of time and is in any one of the following conditions:

- (a) wrecked
- (b) dismantled
- (c) inoperative
- (d) abandoned
- (e) discarded, or any vehicle without either a workable electrical system or a workable propulsion system. An unreasonable period of time shall be deemed to be thirty (30) calendar days from date of notice to owner of the motor vehicle, notice to owner to be by placing or otherwise posting a notice on the subject motor vehicle to remove it from view of or by the general public.

(3) Exceptions. However, this section shall not apply to the following:

- (a) any junked motor vehicle in a completely enclosed building;
- or
- (b) any junked vehicle in an appropriate storage place or depository maintained in an officially designated place and manner specified by the Town of Spring City. (Ord. #190, \_\_\_\_\_)

**13-302. Notice.** Whenever it shall appear that a violation of the provision of this chapter exists, the city manager or his designee shall give, or cause to be given, a notice to the registered owner of any motor vehicle which is in violation of this chapter, and he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that such motor vehicles violated the provisions of this chapter and directing that such motor vehicle be moved to a place of lawful storage within ten (10) days. Such notice shall be served upon the owners of the vehicle by leaving a copy of such notice on or within the vehicle. Notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located may be served by conspicuously posting a notice upon the premises. In case of publicly-owned property, notice to the owner of the property where the vehicle is found is hereby dispensed with. (Ord. #190, \_\_\_\_)

**13-303. Removal.** If the vehicle is not disposed of after the time provided for in the aforesaid notice, the city manager or his designee shall report the location of such vehicle to the police department. The police department or a wrecker company designed by it shall then remove such vehicle or cause it to be removed to the city garage or to a garage selected by the town for storage. (Ord. #190, \_\_\_\_)

**13-304. Title search.** At the time that an abandoned vehicle is moved to the city garage, the city police department shall be notified immediately of such fact, and the department shall procure the serial number on the vehicle. The police department shall make or cause to be made a title search on the abandoned vehicle, and after the title search has been completed by the department, the results thereof shall be transmitted to the city manager or his designee. (Ord. #190, \_\_\_\_)

**13-305. Sale at auction.** After a title search of the abandoned vehicle has been made by the police department, the city manager or his designee shall give notice by registered mail to the owner of such vehicle that the vehicle will be sold at public auction by the town. The notice shall specify the date, hour, and location of the sale. The city manager or his designee shall determine the date of the sale of the abandoned vehicles and at the time of the sale, the vehicles shall be sold by the town, and he may sell the vehicles individually or as a group. Each car at the sale shall be subject to the tow-in charges and storage charges, which charges shall be determined by the city manager or his designee, and the town shall be permitted to bid at the sale. Title to the abandoned vehicles sold at the aforesaid public auction shall pass to the purchaser at the time of the sale.

The proceeds derived from the sale of vehicles shall be retained by the town. The police department shall report to the city manager or his designee the vehicles sold at the sale and the amount received for the vehicles.

Notice of the sale shall be posted at town hall, the county courthouse, and such other places as the city manager may determine, ten (10) days in advance of the sale. (Ord. #190, \_\_\_\_\_)

**13-306. Redemption by owner.** If, during the time that the vehicle is being held by the town the owner of the vehicle demands the return of such vehicle then the town shall turn the vehicle over to the owner upon payment of the storage and tow-in fees and any other expenses of the town. The police department shall notify the city manager of such redemption by such owner. (Ord. #190, \_\_\_\_\_)

**13-307. Storage or sale of property.** Any and all property found in any abandoned vehicle subject to this chapter shall be stored by the police department and sold at public auction as determined by the city manager or his designee. (Ord. #190, \_\_\_\_\_)

**13-308. Violation; penalty.** Any person, firm, or corporation who shall violate the provision of this chapter shall be guilty of a misdemeanor and said shall be punished in accordance with the general penalty provisions of this municipal code of ordinances. (Ord. #190, \_\_\_\_\_)