

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
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3. WEEDS, JUNK CARS, ETC.
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CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
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- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. House trailers.
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13-101. Health officer. The "health officer" shall be such city, county, or state officer as the mayor shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1995 Code, § 13-101)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1995 Code, § 13-102)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1995 Code, § 13-103)

¹Municipal code references
 Animal control: title 10.
 Littering streets, etc.: § 16-107.
 Refuse disposal: § 17-108.

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, 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, 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 city council shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It is the duty of the department or person designated by the mayor and city council 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. 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 § 13-104 of the City of McKenzie 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 City of McKenzie; 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 city council 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 city may collect the costs assessed against the owner through an action for debt filed in any court of

competent jurisdiction. The City of McKenzie 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 Carroll 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 city council 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 city council. The appeal shall be filed with the city 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 city council under subsection (4) above may seek judicial review of the order or act in the Chancery Court of Carroll County, at Huntingdon, Tennessee. 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 city 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. #428, July 2008)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1995 Code, § 13-105)

13-106. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1995 Code, § 13-106)

13-107. Unsanitary, unsafe, or dangerous premises. The chief of police, the fire chief, and the health officer of the City of McKenzie shall constitute a board of inspection with the authority and duty, upon complaint in writing by any reliable citizen of the City of McKenzie, or whenever a majority of the board deems it necessary, to inspect any or all buildings or premises within the City of McKenzie to determine whether or not they are unsanitary, unsafe, or dangerous to the health, morals, or safety of the inhabitants of the City of McKenzie or to adjoining property. When a majority of the board of inspection shall find any building, structure, or premises to be in an unsanitary, unsafe, or dangerous condition, it shall be the duty of the board to make a written report to the city council of such findings. The board shall also issue an order that such building, structure, or premises shall be made safe and secure or be placed in a sanitary condition or removed.

Such order shall be served upon and shall forthwith be complied with by the owner or occupant of such premises or building, unless appealed within twenty-four (24) hours to the city council. The city council shall within ten (10) days review such order and file its decision thereon, and unless the order is revoked or modified it shall remain in full force and be obeyed by such owner or occupant.

Any owner or occupant failing to comply with such order within ten (10) days after the service of the order, shall be guilty of a misdemeanor and shall forfeit and pay to the City of McKenzie a penalty under the general penalty clause for this code.

The imposition of a penalty for the violation of this section shall not excuse the violation, or permit it to continue and each day thereafter that such violation is permitted to exist shall constitute a separate offense. All persons assisting, aiding, or abetting in any violation of this section shall be guilty of the same offense.

The application of the above penalty shall not be held to prevent the forced removal of the building or structure ordered removed, repaired, or made sanitary. (1995 Code, § 13-107)

CHAPTER 2

SLUM CLEARANCE¹

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 salvaged materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Limitation of liability.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Reports and obligations of public officer.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council finds that there exists in the city 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 city and, therefore, ordains as follows. (1995 Code, § 13-201)

13-202. Definitions. (1) "Governing body" shall mean the city council charged with governing the city.

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

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

(4) "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.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(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 city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(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.

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation or use and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1995 Code, § 13-202)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the city building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the city building inspector. (1995 Code, § 13-203)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer 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 (of his own knowing) that any structure is unfit for human occupancy 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 hearings before the public officer. (1995 Code, § 13-204)

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. (1995 Code, § 13-205)

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 remove 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 removed; 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." (1995 Code, § 13-206)

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. (1995 Code, § 13-207)

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 removal, or demolition by the public officer shall be a lien against the real property upon which such costs were incurred. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the costs of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Carroll County, Tennessee, by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to entitled thereto by final order or decree of such court, provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the City of McKenzie, Tennessee, to define and declare the nuisances and to cause their removal or abatement by summary proceedings or as otherwise may be provided by the charter or ordinances of the city. The net costs to the city after all credits are allowed shall be noted on the city property tax roll and be collected and receipted simultaneously with the real property tax payment. (1995 Code, § 13-208)

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 City of McKenzie, Tennessee; 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. (1995 Code, § 13-209)

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 of general circulation in the city. 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 Carroll County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1995 Code, § 13-210)

13-211. Limitation of liability. The public officer shall not be liable for any good faith action taken pursuant to this chapter. Any suit for restraining order or injunctive relief shall be brought against the city and process served upon each council person and the mayor. (1995 Code, § 13-211)

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 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;
- (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. (1995 Code, § 13-212)

13-213. 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. (1995 Code, § 13-213)

13-214. Reports and obligations of public officer. All actions of the public officer taken pursuant to this chapter shall be reported to the City Council of McKenzie, Tennessee, in regular session and any expenditure of funds by the public officer to be used for repair, alterations, improvements or demolition of such structure subject of this chapter shall be approved by the mayor and council prior to such expenditure. (1995 Code, § 13-214)

CHAPTER 3

WEEDS, JUNK CARS, ETC.

SECTION

- 13-301. Unlawful to allow weeds, junk cars, abandoned appliances and other debris to accumulate on the premises.
- 13-302. Definitions.
- 13-303. Notice to clean up premises to owner.
- 13-304. Clean up the premises by the city.
- 13-305. Collection of costs incurred by city.
- 13-306. Administration.
- 13-307. Attorney's fee for collecting costs.

13-301. Unlawful to allow weeds, junk cars, abandoned appliances and other debris to accumulate on the premises. The owners of all lots or property within the corporate limits of the City of McKenzie are hereby required to cut, trim, or remove all weeds, grass, tree branches and offensive or hazardous materials from the site. It shall be unlawful for any person to allow junk cars, abandoned appliances and other debris to accumulate on property under his control.

This chapter shall be enforceable when it is determined by the building inspector/code enforcement officer, that a nuisance or a health hazard exists. (1995 Code, § 13-301)

13-302. Definitions. The purpose of this section is to eliminate ambiguity by providing full definition of certain words which are used in this chapter.

(1) "Abandoned appliances" - Any manufactured appliance(s) not functional and not presently used for its manufactured purpose.

(2) "Grass" - Any of numerous plants of the family Graminea measured to be eight (8) or more inches in height measuring from the base of the plant at ground - surface level.

(3) "Junk car" - Any automobile or any motor vehicle manufactured for transportation which is incapable of being self-propelled upon the public streets or which does not meet the requirements for operation upon the public streets including current licenses and registration also, if the vehicle is not functional within sixty (60) days of the notice and registered within sixty (60) days is considered a junk car.

(4) "Offensive or hazardous materials" - Any tangible or intangible material which is disagreeable to the senses, and/or a material which may be dangerous to the environment or the people.

(5) "Weeds" - Any of various usually common or abundantly growing plants measured to be a minimal of eight (8) or more inches in height,

measuring from the base of the plant at ground - surface level. (1995 Code, § 13-302, modified)

13-303. Notice to clean up premises to owner. Upon the failure of any owner to cut, trim, and remove all weeds, grass, tree branches, and offensive or hazardous materials and/or junk cars, abandoned appliances, and other debris as noted in the first section of this chapter, it shall be the duty of the building inspector/code enforcement officer, to serve a notice mailed by certified mail to the last known address of the person or persons having control over the offending premises, or such notice may be served personally to the owner of the property or may be posted on the property on which the violation exists. Service of notice shall consist of any of the above methods and shall state:

You are hereby notified that the premises under your control, being (property description) have been found to be in an unsanitary, unhealthy and unattractive condition.

You are directed by the City of McKenzie, Tennessee to remove all accumulation of _____ (weeds, grass, tree branches, offensive or hazardous materials to include junk cars, abandoned appliances and other debris) from the premises within the next five (5) days at your own expense.

Should you fail to act upon this directive within the above described time the city shall take appropriate action. (1995 Code, § 13-303)

13-304. Clean up the premises by the city. The owners of all lots or property in violation may request that the City of McKenzie, Tennessee clean up the premises with the property owner reimbursing the city of the costs incurred by the city for such cutting, cleaning or removal of his, her or their property, and all such costs and payment methods shall be set by the city.

Upon the failure of any owner of lots or property to cut/remove or to cause to be cut/removed all violations specified in this chapter upon the property described in the sections above, within five (5) days thereof, the street department, acting through the direction of public works and at his direction, is authorized and directed to cut/remove or have cut/removed, trimmed, clipped, or cleared all such violations as specified in this chapter and a statement of the cost thereof shall be prepared by the office of the director of public works and filed with the city clerk for collection. Pursuant to the authority conferred by the General Assembly of Tennessee, a tax lien may be declared on such property for all costs and expenses, of cutting, clearing, or removing incurred by the street department if costs incurred are not reimbursed to the city by the property owner after submission of statement of costs. (1995 Code, § 13-304)

13-305. Collection of costs incurred by city. Upon receipt of such statement of costs, the city clerk shall bill the owner, by certified mail, in a manner similar to that followed in mailing monthly utility bills, for the amount of the costs incurred by the city for such cutting or clearing of his property and all such bills or charges shall bear interest at the rate of one and one-half percent (1.5%) per month, during that period of time commencing thirty (30) days after the date of mailing such bills or statements of charges and ending on the date of payment. At the same time unpaid real estate taxes are certified or turned over to the city attorney for collection, the city clerk may also certify or turn over to him for collection all unpaid and uncollected bills or charges for the cutting, trimming, or removal of the accumulated debris specified in this chapter, and the city attorney shall file suite or take such other steps as may be necessary to enforce the lien for same on such property. (1995 Code, § 13-305, modified)

13-306. Administration. The city building inspector shall be responsible for the administration and enforcement of this chapter. (1995 Code, § 13-306)

13-307. Attorney's fee for collecting costs. All uncollected sums for the cutting, trimming, and removal of the accumulated debris, as specified in this chapter, for each year, including interest and all costs incurred by the city for remedying the specified violation, after notice to the property owner as herein provided, are hereby declared to be a special tax to be collected as other general taxes levied by the city, including real estate taxes and special assessments. When placed in the hands of the city attorney for collection, fifteen percent (15%) of the unpaid charges for such costs incurred by the city, shall be added to the principal and interest for the attorney's services in making such collections and retained by him. (1995 Code, § 13-307)

CHAPTER 4

DEMOLITION BY NEGLECT

SECTION

- 13-401. Minimum maintenance requirements to prevent demolition by neglect.
- 13-402. Characteristics of deterioration.
- 13-403. Implementation of minimum maintenance requirements.
- 13-404. Initiating citation process.
- 13-405. Citation hearing/ public meeting.
- 13-406. Enforcement.
- 13-407. Unreasonable economic hardship.
- 13-408. Penalties.

13-401. Minimum maintenance requirements to prevent demolition by neglect. Any designated landmark within the McKenzie City limits; or any building or structure within the historic zone must be kept in good repair and must be maintained at minimum maintenance requirements that will prevent one (1) or more of the characteristics of deterioration set forth in § 13-402 of this chapter. The presence of one (1) or more of these characteristics, which left unrepaired could lead to deterioration of the building's structural frame or architectural integrity, shall constitute a failure to meet minimum maintenance requirements and is thus determined to be by demolition by neglect. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-402. Characteristics of deterioration. Demolition by neglect is determined to be deterioration of a building(s) and/ or surrounding environment, and the failure to meet minimum maintenance requirements characterized by one or more of the following:

- (1) Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property;
- (2) Foundations that are deteriorated or inadequate;
- (3) Floor supports that are defective or deteriorated or floor supports insufficient to carry imposed loads with safety;
- (4) Members of walls, or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
- (5) Members of walls, or other vertical supports that are insufficient to carry imposed loads with safety;
- (6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration;
- (7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;

- (8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration;
- (9) Important defining architectural features that are substantially deteriorated;
- (10) Those buildings with the peeling of external paint, rotting, holes, and other forms of decay;
- (11) Unsafe electrical and / or mechanical conditions;
- (12) Exterior plaster or mortar that is deteriorated or crumbling;
- (13) Those buildings with a lack of maintenance of the surrounding environment that is associated with the defining historical character of the structures; i.e. fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
- (14) Broken and or boarded windows and doors;
- (15) Any fault, defect, or condition in the building which renders the same structurally unsafe, not properly water tight, or likely to lead to the deterioration characteristics listed above. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-403. Implementation of minimum maintenance standards.

- (1) Identification of the failure to meet minimum maintenance requirements in a building as listed in § 13-402 above may be made by a member of the historic zoning commission and or design review commission, hereby further referred to as "the commission," commission staff, or the building inspector/codes enforcement officer. This initial identification may be made by routine inspection of the district or neighborhood or by referral from someone in the area.
- (2) Information related to initial identification of demolition by neglect is presented to the historic zoning commission. Upon determination of the commission that the landmark or the building within the historic zone may not meet minimum maintenance requirements, the commission may request upon majority vote, that the building inspector/codes enforcement officer inspect the structure. The chair of the commission shall send a letter by certified mail to inform the property owner of the action by the commission, the impending inspection by the building inspector/codes enforcement officer, and the opportunity he or she will have at next meeting to address the commission about the preliminary identification of demolition by neglect and the inspection report.
- (3) The building inspector/codes enforcement officer or his or her designee will present the inspection findings at the next commission meeting. The report shall detail any defects which constitute, in the inspectors opinion, a failure to meet the minimum maintenance requirements.
- (4) If the determination is made by the building inspector that the structure does not meet the minimum maintenance requirements, the commission, upon a majority vote, may initiate the citation process as specified in § 13-404. At this time, the commission must prepare an application for a

certificate of appropriateness specifying corrective work that is required according to the commission's standards and design guidelines, and indicating the time schedule that will be necessary to complete the minimum maintenance improvements. The time schedule mandated by the commission will be a minimum of thirty (30) calendar days unless the building inspector/codes enforcement officer determines that the failure to immediately meet minimum maintenance requirements creates an imminent threat to the safety of the public or the property. (as added by Ord. #513, May 2018 **Ch1_02-11-21**)

13-404. Initiating citation process. (1) A citation is formal notification to the property owner that the commission has determined that the demolition by neglect is occurring on the property because minimum maintenance requirements have not been met; and notification of the owner that correction of the defects must be undertaken.

(2) After action by the commission authorizing the citation process, the building inspector/codes enforcement officer will attempt to notify the property owner(s) of the determination of demolition by neglect by the commission. The notification shall state the reasons why the structure is found to be in violation of the minimum maintenance requirements. In addition, the notification shall include a copy of the application for a certificate of appropriateness listing the work required according to the commission's standards and guidelines. The notification shall be in writing and shall be delivered by certified mail, registered mail, or such other method that shows the receipt of the notification by the owner. Notice of the date, time, and location of a citation hearing/public meeting in which the owner may address the commission concerning said violations will also be provided.

(3) If after two (2) attempts, the owner fails to receive the notification regarding the determination of demolition by neglect, the building inspector/codes enforcement officer will post the building / property with a notice of violation. Posting will be in a conspicuous, protected place on the property. The posted notice will include the fact that the building is in violation of minimum maintenance standards and the date, time, and location of the citation public hearing meeting held on the violations by the commission.

(4) The owner(s) of the building/ property determined to be in violation of the minimum maintenance standards shall be notified of said violations as specified in §§ 13-404(2) or(3) above a minimum of ten (10) business days in advance of the meeting on the issue held by the commission.

(5) After receiving notification of the determination of demolition by neglect, the owner(s) may initiate corrective action before the citation public hearing is held. Before work is begun however, the owner(s) must complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit. (as added by Ord. #513, May 2018 **Ch1_02-11-21**)

13-405. Citation public hearing meeting. (1) If by the designated citation public hearing meeting, the owner(s) of the property has not completed corrective work specified in the notification of violation and the application for a certificate of appropriateness, the commission will restate the violations of the minimum maintenance requirements related to the property. The owner(s) will then be provided with the opportunity to address the concerns of the commission, to provide evidence, and to show cause why a citation should not be issued regarding the alleged violations.

(2) After reviewing the violations of the minimum maintenance requirements and providing the opportunity for the owner(s) to address the concerns; the commission may consider a motion to recognize the condition of the building/ property and the owner(s) failure to correct defects. Upon a majority vote of the commission, the building inspector may be authorized to issue a citation to the owner(s) for failure to comply with the minimum maintenance requirements of this ordinance. This citation will include the following requirements:

(a) A list of minimum maintenance requirements still in violation.

(b) Any remaining or amended requirements detailed in the application for a certificate of appropriateness initially issued through § 13-403(4) above.

(c) A written schedule of the time allotted to correct the violations.

(d) A statement detailing the requirement to complete and return within ten (10) days the application for a certificate of appropriateness, and to obtain a certificate of appropriateness, and a building permit.

(3) The determination of the commission related to the citation and certificate of appropriateness as specified in § 13-405(2) above shall on the date it is authorized be a final administrative decision subject only to the application process for unreasonable economic hardship as specified in § 13-407 and appealable only to the appropriate state court. Any appeal of the commission's decision to the state court must be made within thirty (30) calendar days. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-406. Enforcement. If any owner has not complied with the commission's requirement to complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit within ten (10) business days; or if the owner(s) does not adhere to the allotted schedule for the corrections to take place as approved or amended by the commission in the certificate of appropriateness; or if the owner(s) has not complied with the requirements specified from the commission's standards and guidelines detailed in the certificate of appropriateness, then any or all of the following may apply:

(1) The owner(s) may be required to attend the next meeting of the commission to explain to the commission's satisfaction why the corrections to the owner(s) cited building/property have not been made and to show cause why the commission should not initiate additional enforcement action. Upon review of any information provided regarding delays in the correction of the demolition by neglect, the commission may defer the matter in order to provide the owner(s) with more time either to correct the deficiencies, make a proposal for repairs, or perhaps sell the property.

(2) The commission, upon majority vote, may request the board of mayor and council to direct the city attorney to take the appropriate legal action, either civil or criminal, against the owner(s).

(3) Charges may be brought against the owner(s) in the municipal court of the city for the violation(s) of this chapter.

(4) The commission, upon majority vote, may request the board of mayor and council to cause such property to be repaired by the city at the city's expense at such time funds are available, or to cause such property to be repaired by a designated agent of the city. If repairs are initiated through action by the board of mayor and council, the board will instruct the city attorney to file the necessary affidavits with the courts and / or the register of deeds which shall establish a lien and privilege against the cited property for the benefit of the city or the agent of the city to the extent of the amount of money spent for said repairs plus interest accrued at bank prime rates in effect beginning at the completion of said repairs and continuing until the lien is satisfied.

(5) In final recourse and to preserve the property from irreversible damage or loss, violations of the minimum maintenance requirements shall make a property subject to the city's right of eminent domain. The commission may, upon majority vote, request the board of mayor and council to exercise its power of eminent domain if it is determined that no alternate course of action is feasible. The board may work with any agent to develop a plan for the purchase and the repair of the cited building. Upon the obtaining of ownership to any party or agent that enters into and consummates an agreement with the board of mayor and council to make the necessary building repairs and maintenance corrections in an agreed upon period of time. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-407. Unreasonable economic hardship. (1) Unreasonable economic hardship can be considered when enforcement of regulations in the chapter deprives the owner(s) of the entire reasonable economic value of the property. Enforcement of a minimum maintenance requirement may create unreasonable economic hardship only if all of the following apply:

- (a) There is no reasonable return possible on the property as it is;
- (b) There is no profitable use to which, the property could be adapted;

(c) The sale or rental of the property is impractical or it is not feasible for the owner(s) to dispose of the property as is at a reasonable price.

(2) An owner(s) that feels he or she fits the criteria established for unreasonable economic hardship may file an application for a certificate of economic hardship. Applications will be accepted by the commission after the commission votes to authorize the building inspector/ codes enforcement officer to issue a citation for violations and the notification has been received by the owner(s).

(3) The owner(s) of property cited for demolition by neglect must inform the commission in writing of his or her intent to file an application for a certificate of economic hardship within ten (10) business days of the date of the citation was issued.

(4) The owner(s) of the cited property must file within ten (10) business days of the date of the citation was issued, a completed application for a certificate of economic hardship. The completed application must be filed with the commission and must be submitted with the following information:

- (a) A copy with the current recorded deed.
- (b) The amount paid for the property and purchase date.
- (c) The current assessed value.
- (d) Past and current use of property.
- (e) Current market value of the property preferably determined by a recent appraisal(s) or if not through county tax records.
- (f) Ownership structure of property (partnership, corporation, joint venture, not for profit, sole proprietorship, etc.)
- (g) Mortgage history of the property including any current mortgage principal balance and interest rate, and any other financing secured by the property including a detail of principal and interest.
- (h) Equity in current use and in previous alternative uses.
- (i) Tax bracket of ownership, and federal income tax returns for previous two (2) calendar or fiscal years.
- (j) Past and current income, expense, and net worth statements for a two (2) calendar or fiscal year period. If the property is income producing, annual gross income from the property and the itemized operating and maintenance expenses for the previous two (2) calendar or fiscal years. In addition the depreciation deduction and annual cash flow before and after debt services, if any, during the same period.
- (k) Past capital expenditures during ownership of the current owner(s).
- (l) Estimate of the cost of the proposed construction, alteration, demolition, or removal related to the corrective measures detailed in the citation issued by the historic zoning commission.
- (m) A detailed description of what alternative legal adaptive uses have been considered by the owners(s).

(n) A detailed description of what efforts have been made by the owner(s) to sell the property, including any listing of the property for sale or rent, price asked, and offers received, if any.

(o) A detailed description of what efforts have been made by the owner(s) to obtain financial assistance, tax credits, transfer of density, etc. that might generate funding for needed improvements.

(5) The commission shall schedule and hold a public hearing on the owner(s) application for a certificate of economic hardship within fifteen (15) calendar days from receipt of the application. Notice of the date, time, and place of the hearing shall be provided to the owner(s) a minimum of fifteen (15) calendar days in advance of the meeting.

(6) The commission may require at the hearing that the applicant furnish additional information relevant to the application including but not limited to the solicitation of expert testimony.

(7) The commission may request, receive, and consider studies and economic analysis related to the property in question from other agencies and sources including private organizations and individuals.

(8) In evaluating the owner's information provided in the application for a certificate of economic hardship, if commission determines that the owner(s) present return is not reasonable, the commission must consider whether there are other uses currently allowed for the structure that would provide a reasonable return and whether such a return could be obtained through an investment in the rehabilitation of the property.

(9) The commission shall review all the evidence and information required of the applicant for a certificate of economic hardship, and make a determination within thirty (30) calendar days following the conclusion of the hearing.

(10) Written notice of the determination will be provided to the applicant along with the reasons justifying the decision by the commission.

(11) If the commission grants a certificate of economic hardship, the commission must detail options it has considered that would bring the property up to minimum maintenance requirements and why each option is not deemed feasible. In granting a certificate of economic hardship, the commission may determine that some corrections may be feasible while others cannot be implemented due to economic hardship. Under such circumstances, the commission must authorize the building inspector/ codes enforcement officer to issue a building permit for any activity that is deemed feasible under the conditions detailed in the certificate of economic hardship.

(12) In granting a certificate of economic hardship, the commission may also detail any feasible plan to relieve any aspect of the economic hardship. The plan may include, but is not limited to, tax relief, loans and grant available from any source public or private, building code modifications, etc. The commission may recommend that the planning commission consider recommending changes to the zoning. The commission may also request the board of mayor and council

to consider relaxation of the provisions of this chapter sufficient to allow reasonable beneficial use of or return from the property. If no alternative cause of action has been deemed feasible, the commission may request the board to consider acquisition through the eminent domain.

(13) If the commission denies a certificate of hardship, the commission must detail in writing the economic and financial options that in the judgment of the commission will allow the improvements to be made to the property as required in the citation issued as specified in section 13-405(2) above.

(14) If a certificate of economic hardship is denied by the commission, the commission will revise, to the extent necessary, the designated schedule for completion of the corrective measures detailed in the citation taking into account any agreed upon need for additional time due to time lost during consideration of the certificate application. The commission will notify the owner(s) in writing of any schedule amendments with the notification of the denial of the certificate within fifteen (15) calendar days.

(15) The determination by the commission of an application for a certificate of economic hardship, either approving or disapproving, shall on the date it is issued be a final administrative decision appealable only to the appropriate state court. Any appeal of the commission's decision to state court must be made within fifteen (15) calendar days. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-408. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

CHAPTER 5

JUNKED MOTOR VEHICLES

SECTION

13-401. Definitions

13-402. Violations civil offense.

13-403. Exceptions.

13-401. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

Person shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

Private property shall include all property that is not public property, regardless of how the property is zoned or used.

Traveled portion of any public street or highway shall mean the width of the street from curb to curb, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

Vehicle shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

Junk vehicle shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one of combination of any of the following ways that either makes the vehicles immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(a) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(b) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(c) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumpers, windshield, or windows.

(d) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(e) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including,

but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(f) Interior is a container for metal, glass, paper, rags, or other cloth, wood, auto parts, machinery, waste or discarded materials, in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(g) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(h) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle. (as added by Ord. #514, May 2018 *Ch1_02-11-21*)

13-402. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle. (as added by Ord. #514, May 2018 *Ch1_02-11-21*)

13-403. Exceptions. It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions: The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance and or slum clearance code. (as added by Ord. #514, May 2018 *Ch1_02-11-21*)