

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

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CHAPTER 1

GENERAL

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13-101. Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities for maintenance of structures, equipment, and exterior property. (1981 Code, § 8-901, as replaced by Ord. #2017-14, Sept. 2017)

13-102. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary, and safe condition that part of the dwelling unit or premises

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-211(9).

which they occupy and control. (1981 Code, § 8-902, as replaced by Ord. #2017-14, Sept. 2017)

13-103. Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety. (1981 Code, § 8-903, as replaced by Ord. #2017-14, Sept. 2017)

13-104. Enforcement. The city manager shall designate an appropriate department or person to enforce all the provisions of title 13. (1981 Code, § 8-904, as replaced by Ord. #2017-14, Sept. 2017)

13-105. Conflict with title 12 chapter 1. The intent of the enactment of this title is not to conflict with title 12 chapter 1 in particular provisions and regulations, and in the case of a conflict title 12 chapter 1 shall supersede any provision or regulation herein. (1981 Code, § 8-905, modified, as replaced by Ord. #2011-7, May 2012, and Ord. #2017-14, Sept. 2014)

13-106. Deleted. (1981 Code, § 8-906, as amended by Ord. #2003-28, Dec. 2003, replaced by Ord. #2011-7, May 2012, and deleted by Ord. #2017-14, Sept. 2017)

CHAPTER 2

EXTERIOR PROPERTY AREA

SECTION

- 13-201. Sanitation.
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- 13-207. Rodent harborage.
- 13-208. Exhaust vents.
- 13-209. Accessory structures.
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13-201. Sanitation. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property, which such occupant occupies or controls, in a clean and sanitary condition. (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

13-202. Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulations of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs. (as replaced by Ord. #2017-14, Sept. 2017)

13-203. Pollution of waters. No deleterious or poisonous substance shall be thrown or be caused, permitted, or allowed to run or be washed into any waters, either private or public, in quantities injurious to fish life, or which could be injurious to the propagation of fish. (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

13-204. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on any of his property located within the corporate limits. (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

13-205. Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, drive aprons, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

13-206. Overgrown and dirty lots. (1) Prohibition. It shall be unlawful for any owner of record of real property to create, maintain, or permit to be created or maintained on such property the growth of trees, vines, grass, underbrush, flowers, plants or any landscaping material 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 insects, reptiles, rats and other harmful animals. For purposes of this prohibition, grass of any kind (including monkey or mondo grass) that exceeds six inches (6") in height on any property, whether residential or commercial, shall be deemed to violate this section.

(2) Notice to property owner. It shall be the duty of the department or person designated by the city manager to enforce this section to serve notice upon the occupant and owner of record in violation of subsection (1) above, a written notice in plain language to remedy the condition within ten (10) days. The notice shall be sent by certified United States mail, addressed to the last known address of the owner of record, and/or hand delivered to the occupant. The notice shall state that the owner of the property is entitled to a hearing before the city's director of economic development and planning and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of §13-206 of the Millington Municipal Code, which has been enacted under the authority of the board of mayor and aldermen, and that if the owner does not clean up the property within the time allotted, the property of such owner may be cleaned up by the city or its agent at the expense of the owner and a lien placed against the property to secure the cost of the clean-up.

(b) Such notice shall also state that in addition to the placing of a lien, the city may also cite the offender to city court as set out in subsection (7) below.

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

(3) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition or to request a hearing before the director of economic development and planning within ten (10) days after receiving the notice, the department or person designated 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 in the City of Millington, 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 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 Shelby County Trustee, the costs shall be a lien on the property in favor of the city, second only to liens of the state, county, and municipality for taxes, any lien of the city 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 city 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.

(4) Appeal/hearing. The owner of record who is aggrieved by the determination and order of the codes enforcement officer or other person designated to enforce this section may appeal the determination and order to the director of economic development and planning. The appeal shall be filed with director of economic development and planning within ten (10) days of the notice issued pursuant to subsection (2) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(5) Judicial review. Any person aggrieved by an order or act of the enforcement officer or the director of economic development and planning may seek judicial review of the order or act. The time period established in subsection (2) above shall be stayed during the pendency of judicial review. However, where safety and health conditions are prevalent; actions shall be taken to correct these conditions immediately.

(6) Supplemental nature of this section. The provisions of this §13-206 are in addition and supplemental to, and not in substitution for, any other provision in the city's charter, the Millington Municipal Code (including property management codes adopted by the city), 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.

(7) Violations/penalty. In addition to the liability for costs of remedy or removal of any condition described in this §13-206, any property owner who violates this section may be cited to city court, and shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this section. Each day the violation continues after delivery of written notice to the property owner in accordance with this section shall be considered a separate violation.

(8) One annual notice of violation. One (1) notification of violation will be sent per calendar year. If the property owner allows continued violations as described in §13-206(1) to occur, the city will take action to remedy the violation and the costs will be appropriated as outlined in §13-206(3). (as replaced by Ord. #1998-18, Jan. 1999, and Ord. #2017-14, Sept. 2017)

13-207. Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes, which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation. (as added by Ord. #2017-14, Sept. 2017)

13-208. Exhaust vents. Pipe, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant. (as added by Ord. #2017-14, Sept. 2017)

13-209. Accessory structures. All accessory structures, including detached garages, fences, and walls, shall be maintained structurally sound, clean, and in good repair. (as added by Ord. #2017-14, Sept. 2017)

13-210. Swimming pools. Swimming pools shall be maintained in a clean, safe and sanitary condition, and meet all codes for swimming pools per MMC §12-1801. (as added by Ord. #2017-14, Sept. 2017)

13-211. Defacement of property. No person shall willfully or wantonly damage, mutilate, or deface any exterior surface of any structure on any private or public property by placing thereon any marking, carving, or graffiti. It shall be the responsibility of the property owner to restore said surface to an approved state of maintenance and repair. (as added by Ord. #2017-14, Sept. 2017)

CHAPTER 3**EXTERIOR STRUCTURE****SECTION**

- 13-301. General.
- 13-302. Protective treatment.
- 13-303. Premises identification.
- 13-304. Structural members.
- 13-305. Foundation walls.
- 13-306. Exterior walls.
- 13-307. Roofs and drainage.
- 13-308. Decorative features.
- 13-309. Overhang extensions.
- 13-310. Stairways, decks, porches, and balconies.
- 13-311. Chimneys and towers.
- 13-312. Handrails and guards.
- 13-313. Window, skylight, and door frames.
- 13-314. Doors.
- 13-315.--13-318. Deleted.

13-301. General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-302. Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-303. Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall be a minimum of four

inches (4") high and one-half inch (1/2") wide, and contrast with their background. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-304. Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-305. Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-306. Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-307. Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-308. Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-309. Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-310. Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and

capable of supporting the imposed loads. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-311. Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment. (as added by Ord. #2010-09, May 2010, and Ord. #2017-14, Sept. 2017)

13-312. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-313. Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-314. Doors. All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. All means of egress doors shall readily open from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code. (as added by Ord. #2010-09, May 2010, and replaced by Ord. #2017-14, Sept. 2017)

13-315.--13-318. Deleted. (as deleted by Ord. #2017-14, Sept. 2017)

CHAPTER 4

RUBBISH AND GARBAGE

SECTION

13-401. Accumulation of rubbish or garbage.

13-402. Disposal of rubbish or garbage.

13-403. Containers.

13-401. Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage. This includes discarded items, auto parts, appliances, furniture, building materials, tires, paper, cardboard, plastics, dead limbs, and branches. (as added by Ord. #2017-14, Sept. 2014)

13-402. Disposal of rubbish or garbage. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish and garbage in an approved garbage container per MMC §17-106. (as added by Ord. #2017-14, Sept. 2014)

13-403. Containers. The operator or resident of each establishment producing garbage shall provide, and at all times cause to be utilized, approved leak-proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal. (as added by Ord. #2017-14, Sept. 2014)

CHAPTER 5

PARKING AND STORAGE OF VEHICLES

SECTION

13-501. Parking, storage, leaving inoperable vehicles.

13-502. Parking and storage of recreational vehicles.

13-503. Parking on approved surfaces.

13-504. Commercial vehicles and equipment.

13-505. Conflict with title 15 chapter 6.

13-501. Parking, storage, leaving inoperable vehicles. No person shall park, store, or leave or permit the parking, storing, or leaving of any vehicles which is in a rusted, wrecked, junked, or partially dismantled, inoperable, has one (1) or more flat or missing tires, unlicensed, or abandoned condition upon any property within the city for a period in excess of forty-eight (48) hours unless such a vehicle is completely enclosed within a building, or unless such vehicle is so stored or parking on such property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law when such parking or storing of vehicles is necessary to the operation of the business or commercial enterprise. (as added by Ord. #2017-14, Sept. 2014)

13-502. Parking and storage of recreational vehicles. No person shall park or store or permit the parking or storing of more than one (1) boat and boat trailer, and no more than one (1) camping trailer or recreational vehicle per dwelling unit. No part of such parking or storage area shall be located in a front yard. Such boat and camping trailer or recreational vehicle shall not be used for living, sleeping or housekeeping purposes. It shall be unlawful for any person to park or store any motorized vehicle or equipment, such as, but not limited to campers, trailers, boats, or other recreational type equipment on any residential street in the city. (as added by Ord. #2017-14, Sept. 2014)

13-503. Parking on approved surfaces. All vehicles shall be parked or stored on asphalt, concrete, or other hard surface dustless materials as approved by the city, or completely enclosed within a building. (as added by Ord. #2017-14, Sept. 2014)

13-504. Commercial vehicles and equipment. Commercial trucks exceeding eight thousand (8,000) pounds or a truck tractor shall not be permitted to park, stand, or be stored on any residential property or a residential street. (as added by Ord. #2017-14, Sept. 2014)

13-505. Conflict with title 15 chapter 6. The intent of the enactment of this chapter is not to conflict with provisions of title 15 chapter 6 and in the case of a conflict title 15 chapter 6 shall supersede any provision or regulation herein. (as added by Ord. #2017-14, Sept. 2014)

CHAPTER 6

JUNK VEHICLE REGULATIONS

SECTION

13-601. Junk vehicles declared a public nuisance.

13-602. Definitions.

13-603. Violations a civil offense.

13-604. Exceptions.

13-605. Enforcement.

13-606. Penalty for violations.

13-601. Junk vehicles declared a public nuisance. The accumulation and storage of junk vehicles on public and private property is hereby found to create an unsightly condition upon the property tending to reduce the value thereof, to invite plundering, to create fire and safety hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. The accumulation and storage of junk vehicles on public and private property is further found to promote urban blight and deterioration in the city and to violate the zoning regulations of the city. Such junk vehicles are in the nature of rubbish, litter, and unsightly debris in violation of health and sanitation laws. Therefore, the accumulation and storage of junk vehicles on public and private property, except as expressly hereinafter permitted, i.e. junk yards, is hereby declared to constitute a public nuisance. (as added by Ord. #2017-14, Sept. 2014)

13-602. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

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

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

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street which vehicles ordinarily use for travel.

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

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one (1), or in a combination of any two (2) or more, of the following ways, that either makes the vehicle 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:

(i) Flat tire, missing tire, missing wheel, or missing or partially or totally disassembled tire and wheel;

(ii) 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;

(iii) 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;

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

(v) 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;

(vi) 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;

(vii) Vehicle is 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; or

(viii) General environment in which the vehicle sits, including but not limited to vegetation that has grown up around, in or through the vehicle, collection of pools of water in the vehicle, or accumulation of other garbage or debris around the vehicle. (as added by Ord. #2017-14, Sept. 2014)

13-603. 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 abandon the vehicle; or

(2) To park or in 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 abandon the vehicle. (as added by Ord. #2017-14, Sept. 2014)

13-604. Exceptions. It shall be permissible for a person to park, store, keep and maintain a junk vehicle on private property under the following conditions:

(1) 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 or other regulations governing the building in which such vehicle is enclosed or the property on which such building is located.

(2) The junk vehicle is parked or stored on property lawfully zoned for a business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, property maintenance and other regulations governing businesses engaged in wrecking, junking or repairing vehicles or the property on which any such business is located. (as added by Ord. #2017-14, Sept. 2014)

13-605. Enforcement. (1) This chapter may be enforced in accordance with Tennessee Code Annotated (hereinafter referred to as "T.C.A." § 7-63-101 et seq.) as follows:

(a) If the violation of this chapter occurs in the presence of a law enforcement officer or a member of the fire department or building department who is designated as a special police officer of the city, or if such officer makes a personal investigation of the place of violation and has reasonable and probable grounds to believe that the owner or occupant of property involved in a violation has violated this chapter, such officer shall issue to the offender a citation in lieu of arrest. Said citation shall contain a statement of the time and place the offender is to appear in court and a waiver of the issuance and service of a warrant, all as provided by T.C.A. §§ 7-63-101 and 7-63-102.

(b) If the offender refuses to sign the agreement to appear in court and to waive the issuance and service of a warrant, then the officer shall place the offender under arrest, take the offender before the proper authority, procure a warrant and serve the same upon the offender and book the offender as in other cases of violations.

(c) If the offender signs the agreement and waiver and then fails to appear for trial at the time and place designated, the court shall issue warrants and otherwise proceed in accordance with T.C.A. § 7-63-105.

(2) This chapter may also be enforced in accordance with T.C.A. § 7-63-201 et seq. as follows:

(a) If the city has made a designation of a municipal enforcement officer in accordance with said section, such officer may, upon witnessing a violation of this chapter, issue an ordinance summons to the offender. The ordinance summons shall show the offense charged and the time and place when the offender must appear in court.

(b) The ordinance summons shall be treated as a citation in lieu of arrest as described above and as provided for in T.C.A. §§ 7-63-102 and 7-63-103.

(c) If the offender refuses to sign the ordinance summons agreement to appear in court, the officer may have a summons issued by the clerk of the court, or may seek the assistance of a police officer to witness the violation. The police officer who witnesses the violation may issue a citation in lieu of arrest or make arrest for failure to sign the citation in lieu of arrest, as described above and as provided in T.C.A. § 7-63-104.

(d) Failure of the offender to appear for trial after signing the ordinance summons agreement shall cause the court having jurisdiction thereof to issue a warrant against the offender, as described above and as provided for in T.C.A. § 7-63-105. (as added by Ord. #2017-14, Sept. 2014)

13-606. Penalty for violations. Any person determined to be in violation of this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as added by Ord. #2017-14, Sept. 2014)

CHAPTER 7

BETTER PROPERTY ORDINANCE

SECTION

- 13-701. Findings of board.
- 13-702. Definitions.
- 13-703. "Public officer" designated; powers.
- 13-704. Initiation of proceedings; hearing.
- 13-705. Orders to owners of unfit structures.
- 13-706. When public officer may repair, etc.
- 13-707. When public officer may remove or demolish.
- 13-708. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-709. Basis for a finding of unfitness.
- 13-710. Service of complaints or orders.
- 13-711. Enjoining enforcement of orders/exclusive remedy.
- 13-712. Additional powers of public officers.
- 13-713. Appeal to better property board.
- 13-714. Powers conferred are supplemental.
- 13-715. Structures unfit for human habitation deemed unlawful.
- 13-716. Renting unfit or dangerous property declared unlawful.
- 13-717. Severability.
- 13-718. Violations/penalty.

13-701. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exist or may in the future exist in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, accumulation of debris, 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. #2017-14, Sept. 2014)

13-702. Definitions. (1) "Better property board," for purposes of this chapter 7 shall mean the Board of Zoning Appeals of the City of Millington.

(2) "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.

(3) "Governing body" shall mean the board of mayor and aldermen of the city.

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

(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) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which trade of the general public is solicited.

(8) "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 the State of Tennessee relating to health, fire, building regulations, or other activities concerning structures located within the city.

(9) "Public officer" means any officer or officers of the city, or the executive director or other chief executive officer of any commission or authority established by the city or jointly with any other municipality, who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(10) "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. #2017-14, Sept. 2014)

13-703. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," who shall be any one of the following: the director of planning and economic development, the city engineer or the building official of the city, or such other person as may be appointed by the city manager, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the director of economic development and planning, the building official and codes enforcement officer. (as added by Ord. #2017-14, Sept. 2014)

13-704. 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. 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. 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. #2017-14, Sept. 2014)

13-705. 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 and removal of accumulated debris 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 and remove accumulated debris 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. #2017-14, Sept. 2014)

13-706. 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, or to remove accumulated debris, the public officer may cause accumulated debris to be removed, or 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. #2017-14, Sept. 2014)

13-707. 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. #2017-14, Sept. 2014)

13-708. Lien for expenses; sale of salvaged materials; other powers not limited. (1) The amount of the cost of such removal of debris, repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed

against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the city, second only to liens of the state, county and city for taxes, any lien of the city 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 as set forth in Tennessee Code Annotated, §§ 67-5-2010 and 67-5-2410.

(2) 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 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, the public officer 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 Shelby 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 to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #2017-14, Sept. 2014)

13-709. Basis for a finding of unfitness. The public officer defined herein shall have the power to, and may determine that a structure is 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 which render such structure unsafe or unsanitary or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the city. (as added by Ord. #2017-14, Sept. 2014)

13-710. 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 certified 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. (as added by Ord. #2017-14, Sept. 2014)

13-711. Enjoining enforcement of orders/exclusive remedy. (1) Any person affected by an order issued by the public officer or the better property board served pursuant to this chapter may file suit in Shelby County Chancery Court for an injunction restraining the public officer or better property board 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 such suit must be filed in chancery court within sixty (60) days after the posting and service of the order of the public officer or the better property board. If no suit is filed in chancery court by such time, the public officer or better property board shall be entitled to alter, repair, improve, remove, vacate or demolish the structure as provided in the order.

(2) The remedy provided herein shall be the exclusive remedy, and no person affected by an order of the public officer or the better property board shall be entitled to recover any damages for action taken pursuant to any order of the public officer or better property board, or because of noncompliance by such person with any such order. (as added by Ord. #2017-14, Sept. 2014)

13-712. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall still have the following powers in addition to those otherwise granted therein:

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #2017-14, Sept. 2014)

13-713. Appeal to better property board. (1) Any owner or party in interest who receives an order from the public officer as described in §13-705 shall have the right to appeal the public officer's order to the better property board, provided a notice of appeal is delivered to the public officer within ten (10) days after the date of service of the order. The better property board shall notify the public officer, the owner and the parties in interest of the date, time

and place of the hearing before the better property board, which hearing shall be held within twenty (20) days of the date of the notice. At such hearing, the public officer, the owner and each party in interest shall have the right to appear in person or otherwise, give testimony and present evidence. The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings, but the better property board must be satisfied by the clear preponderance of creditable evidence as to the facts.

(2) If after the hearing of the appeal the better property board upholds the order of the public officer, it shall state in writing its determination to that effect and its findings of fact in support of such determination and shall caused to be served upon the owner and parties in interest the following:

(a) An order requiring the owner within the time specified in the order to repair, alter, clear debris from or otherwise improve the property to render it fit or safe, or to temporarily vacate the property and close any buildings thereon during the repair, alteration or improvement process; or

(b) An order requiring the owner within the time specified in the order to permanently vacate the property and remove or demolish any buildings thereon if the repair, alteration or improvement of such property cannot be made at a reasonable cost (fifty percent (50%) or more of the value) in relation to the value of the property.

(3) If the owner or other parties in interest fail to comply with an order of the better property board within the time stated in the order, the provisions of §§13-706, 13-707 and 13-708 shall apply.

(4) If any owner fails to appeal to the better property board within the time provided in this §13-713, the order of the public officer shall be final, subject to the owner's rights under §13-711. (as added by Ord. #2017-14, Sept. 2014)

13-714. 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. #2017-14, Sept. 2014)

13-715. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the 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 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. #2017-14, Sept. 2014)

13-716. Renting unfit or dangerous property declared unlawful.

It shall be unlawful for any owner or any party in interest of real property to rent or offer for rent any real property that is unfit or dangerous due to dilapidation, defects that increase hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or due to other conditions that render such property unsafe, unsanitary or dangerous and detrimental to the health, safety or morals or otherwise inimical to the welfare of residents of the city. (as added by Ord. #2017-14, Sept. 2014)

13-717. Severability. The provisions of this chapter are declared to be severable. If any provision of this chapter should be declared by a court of competent jurisdiction to be invalid or unenforceable, the portions of this chapter not so declared shall continue in full force and effect. (as added by Ord. #2017-14, Sept. 2014)

13-718. Violations/penalty. Violation of this chapter shall subject the offender to a penalty of fifty dollars (\$50.00), which shall be in addition to any costs for which the offender is liable under this chapter. Each day that a violation exists after the date of service by the public officer of an order described in §13-705 shall constitute a separate offense, provided that such order is either not appealed to, or is upheld on appeal by, the better property board. (as added by Ord. #2017-14, Sept. 2014)