

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS.
3. SLUM CLEARANCE.
4. JUNKYARDS.
5. ABANDONED MOTOR VEHICLES ON PRIVATE PROPERTY.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Water pollution.
- 13-104. Slaughter houses.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Assessments for making private property safe and/or sanitary.
- 13-108. Air pollution control regulations.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes 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. (1972 Code, § 8-1206, as renumbered by Ord #917, April 2004)

13-102. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property. (1972 Code, § 8-1207, as renumbered by Ord #917, April 2004)

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-213(11).

Wastewater treatment: title 18, chapter 1.

13-103. Water pollution. It shall be unlawful to pollute the water of any stream within the city or its police jurisdiction. (1972 Code, § 8-1208, as renumbered by Ord #917, April 2004)

13-104. Slaughter houses. It shall be unlawful to erect, maintain or operate any slaughter house within the corporate limits. (1972 Code, § 8-1209, as renumbered by Ord #917, April 2004)

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. (1972 Code, § 8-1210, as renumbered by Ord #917, April 2004)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1972 Code, § 8-1211, as renumbered by Ord #917, April 2004)

13-107. Assessments for making private property safe and/or sanitary. When property owners or occupants, after reasonable notice from the city manager, refuse or fail to remove from sidewalks all accumulations of snow, ice, and earth or other nuisances or hazards to the public health and welfare; or fail to cut and remove obnoxious weeds; or fail to remove rubbish; or fail to clean and render sanitary or remove or abolish any closet or privy, the city manager may have such work performed and may thereupon assess the reasonable costs thereof against the abutting property. (1972 Code, § 8-1212, as renumbered by Ord #917, April 2004)

13-108. Air pollution control regulations. It shall be unlawful and a violation of this section for any person to violate within the corporate limits any provision of the Tennessee Air Pollution Control Regulations as adopted by the Tennessee Air Pollution Control Board. Three (3) copies of these regulations are on file in the office of the city manager and are available for the use and inspection of the public. (1972 Code, § 8-1214, as renumbered by Ord #917, April 2004)

CHAPTER 2

REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS

SECTION

13-201. Overgrown and dirty lots.

13-202--13-205. [Deleted.]

13-201. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

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

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of commissioners to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by 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 § 13-201 of the City of Athens 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; 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 board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The 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 register of deeds in 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 board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. 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 board of commissioners under subsection (4) above may seek judicial review of

the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the 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. (1972 Code, § 8-601, as replaced by Ord. #984, March 2010)

13-202. [Deleted.] (1972 Code, § 8-602, as deleted by Ord. #984, March 2010)

13-203. [Deleted.] (1972 Code, § 8-603, as deleted by Ord. #984, March 2010)

13-204. [Deleted.] (1972 Code, § 8-604, as deleted by Ord. #984, March 2010)

13-205. [Deleted.] (1972 Code, § 8-605, as deleted by Ord. #984, March 2010)

CHAPTER 3

SLUM CLEARANCE

SECTION

- 13-301. Title.
- 13-302. Definitions.
- 13-303. Existence of structures unfit for human habitation.
- 13-304. City manager designated to act.
- 13-305. Institution of action and notification by city manager.
- 13-306. Determination of and further notice by city manager.
- 13-307. Failure of owner to comply to vacate and repair.
- 13-308. Failure of owner to remove or demolish.
- 13-309. Creation of lien and payment into court.
- 13-310. Conditions rendering structure unfit for human habitation.
- 13-311. Service of complaints or orders.
- 13-312. Enjoining enforcement of order.
- 13-313. Powers given the city manager.

13-301. Title. This chapter shall be known and may be cited as the City of Athens "Slum Clearance Ordinance." (1972 Code, § 4-801)

13-302. Definitions. The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter, unless a different meaning clearly appears from the context:

- (1) "Municipality" shall mean the City of Athens, Tennessee.
- (2) "Governing body" shall mean the Athens City Council.
- (3) "Public officer" shall mean the city manager or his designated agent who is authorized by this chapter to exercise the powers prescribed by this chapter.
- (4) "Public authority" shall mean any officer who is in charge of any department or branch of government of the municipality or state relating to health, fire, building regulations, or other activities concerning structures in the municipality.
- (5) "Owner" shall mean the holder of the 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 structure and any who are in possession thereof.
- (7) "Structure" shall mean any building or structure or part thereof, used and occupied for human habitation or by the public in general or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1972 Code, § 4-802)

13-303. Existence of structures unfit for human habitation. There exists in the City of Athens structures which are unfit for human habitation, 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 structures unsafe or unsanitary or dangerous or detrimental to the welfare of the residents of the City of Athens. (1972 Code, § 4-803)

13-304. City manager designated to act. The city manager is designated as the public officer of the City of Athens who is to exercise the powers herein prescribed. (1972 Code, § 4-804)

13-305. Institution of action and notification by city manager. Whenever a petition is tiled with the city manager by a public authority or by at least five (5) residents of the City of Athens charging that any structure is unfit for human habitation, or use in general, or whenever it appears to the city manager (on his own motion) that any structure is unfit for human habitation or use, the city manager shall, if after making a preliminary investigation, such investigation discloses a basis for such charges, issue and cause to be served upon the owner of the 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 city manager (or his designated agent) at a time and place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that the owners and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the city manager or his designated agent. As contained herein, "public authority" shall mean any officer who is in charge of any department or branch of the government of the City of Athens or the State of Tennessee relating to health, fire, building regulations, or other activities concerning structures in the City of Athens. (1972 Code, § 4-805)

13-306. Determination of and further notice by city manager. If, after such notice and hearing as above prescribed, the city manager determines that the structure under consideration is unfit for human habitation, or public use, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration, or improvement of the said structure can be made at a reasonable cost in relation to the value of the structure requiring the owner within the time specified in the order to repair, alter, or improve such structure to render it fit for human habitation or public use or if not adequately repaired, altered or improved within the time specified in the order to vacate and close the structure as a human habitation; or

(2) If the repair, alteration or improvement of the said structure cannot be made at a reasonable cost in relation to the value of the structure requiring the owner within the time specified in the order to remove or demolish such structure. Rebuilding in violation of existing zoning ordinances will not be permitted.

The city manager shall determine the value of the structure in question existing on the land and the value of the land, it self, not to be considered, and if the structure can be made to conform to such standards as will make it properly habitable by an expenditure of not more than fifty percent (50%) of said value, the order referred to in the preceding paragraph shall contain the first alternative. If an expenditure of more than fifty percent (50%) of the value just referred to would be necessary to make the structure properly habitable, the order in the preceding paragraph shall contain the second alternative. (1972 Code, § 4-806)

13-307. Failure of owner to comply to vacate and repair. If the owner fails to comply with the order under part (1) of § 13-306, the city manager may cause such structure to be repaired, altered or improved or be vacated and closed; and in such event the city manager may cause to be posted on the main entrance of any structure so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." (1972 Code, § 4-807)

13-308. Failure of owner to remove or demolish. If the owner fails to comply with an order as set forth in part (2) of § 13-306, the city manager may cause such structure to be removed or demolished. (1972 Code, § 4-808)

13-309. Creation of lien and payment into court. The amount of the cost of such repairs, alterations or improvements or vacating and closing or removal or demolition by the city manager shall be a lien against the real property on which such cost was incurred. If the structure is removed or demolished by the city manager, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the chancery court by the city manager, 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, provided however, that nothing in this section shall be construed to impair or limit in any way the power of the City of Athens to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (1972 Code, § 4-809)

13-310. Conditions rendering structure unfit for human habitation. In addition to the other standards set forth in this chapter, the city manager or his authorized agent may determine that a structure is unfit for human habitation

or public use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structures, the occupants of neighboring dwellings or other residents of the city; such conditions may include the following (but without limiting the generality of the foregoing): Defects in increasing the hazards of fire, accident or other calamities, lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. (1972 Code, § 4-810)

13-311. Service of complaints or orders. Complaints or orders issued by the city manager pursuant to the requirements of this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the city manager in the exercise of reasonable diligence and the said city manager or his authorized agent shall make 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. 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 the county in which the structure is located and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (1972 Code, § 4-811)

13-312. Enjoining enforcement of order. Any person affected by an order issued by the city manager or his authorized agent may file a bill in the chancery court for an injunction restraining the said manager from carrying out the provisions of the order and the court may, upon the filing of such bill, issue a temporary injunction restraining the said manager pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting, and service of the order of the city manager, such persons shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

The court shall hear and determine the issue raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the finding of the city manager as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the city manager shall be entitled to recover any damages for action taken pursuant to any order of the city manager, or because of non-compliance by such person with any order of the city manager. (1972 Code, § 4-812)

13-313. Powers given the city manager. The city manager is authorized to exercise such powers as may be necessary or convenient to carry out and

effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

(1) To investigate or have investigated the structure conditions in the city in order to determine which structures therein are unfit for human habitation.

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

(3) To enter upon premises for the purposes of making examinations provided that such entries 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.

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1972 Code, § 4-813)

CHAPTER 4

JUNKYARDS

SECTION

13-401. Junkyards.

13-401. Junkyards.¹ All junkyards within the City of Athens, Tennessee, shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1972 Code, § 8-1213)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 5

ABANDONED MOTOR VEHICLES ON PRIVATE PROPERTY

SECTION

- 13-501. Declaration of purpose of chapter.
- 13-502. Storage on private property restricted.
- 13-503. Removal required.
- 13-504. Notice to remove.
- 13-505. Refusal to remove.
- 13-506. Removal by city.
- 13-507. Entry to remove; removal by owner.

13-501. Declaration of purpose of chapter. In enacting this chapter, the council finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicles, on private property, which motor vehicles are in the nature of rubbish and unsightly debris, violates, in many instances, the zoning regulations of the city and constitutes a nuisance detrimental to the health, safety, and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property; invite plundering, create fire hazards and other safety and health hazards to minors as well as adults, interfere with the comfort and well being of the public and create, extend, and aggravate urban blight, and that the public health, safety, and general welfare require that such conditions be regulated, abated, and prohibited. (1972 Code, § 8-701)

13-502. Storage on private property restricted. It shall be unlawful to park, store, or leave, or to permit the parking or storing of any licensed or unlicensed motor vehicle of any kind, for a period in excess of 72 hours, when such vehicle is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the city unless the same is completely enclosed within a building or unless it is in connection with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise. (1972 Code, § 8-702)

13-503. Removal required. The accumulation and storage of one or more such motor vehicles in violation of the provisions of this chapter shall constitute rubbish and debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the city. It shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the private property upon which such motor vehicle is located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to

a place of lawful storage, or to have the motor vehicle housed within a building where it will not be visible from the street. (1972 Code, § 8-703)

13-504. Notice to remove. Whenever there is reasonable grounds to believe that a violation of the provisions of this chapter exists, the chief of police shall give, or cause to be given, written notice to the registered owner of any motor vehicle which is in violation of this chapter, or shall give such notice to the owner or person in lawful possession or control of the private property upon which such motor vehicle is located, or shall give such notice to both the registered owner and to the owner or person in lawful possession or control of such private property that said motor vehicle violates the provisions of this chapter, and demand that said motor vehicle be removed to a place of lawful storage within 72 hours, or that within 72 hours, the same be housed in a building where it will not be visible from the street. Service of such notice shall be by mail duly posted. (1972 Code, § 8-704)

13-505. Refusal to remove. Any person who fails, neglects, or refuses to remove the abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle or house the same and abate said nuisance in accordance with the notice as provided herein, shall be in violation of the provisions of this chapter and shall be guilty of a misdemeanor. (1972 Code, § 8-705)

13-506. Removal by city. In addition to and not in lieu of any other procedure prescribed in this chapter or in this code for removal of abandoned motor vehicles from private property, if the registered owner of any motor vehicle which is in violation of this chapter or the owner or person in lawful possession or control of the private property upon which the same is located shall fail, neglect, or refuse to remove or house such abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle in accordance with the notice given pursuant to the provisions of this chapter, the chief of police may remove and dispose of such motor vehicle in the manner provided for by Tennessee Code Annotated, title 55, chapter 16, particularly §§ 55-16-104, 55-16-105, and 55-16-106. He may thereafter maintain an action in the name of the city, in the appropriate court, against any person or persons upon whom notice was served as required by this chapter to recover the costs of removing and disposing of such motor vehicle in the event the proceeds of any sale thereof shall be insufficient to recover such costs. (1972 Code, § 8-706)

13-507. Entry to remove; removal by owner. The chief of police, any regularly employed and salaried officer of the police department of the city, contracting agents of the "City of Athens, and employees of such contracting agents, and authorized officers, employees, and agents of the City of Athens, and each of them, are hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this chapter. It shall be unlawful for

any person to interfere with, hinder, or refuse to allow them to enter upon private property for such purpose and to remove any motor vehicle in accordance with the provisions of this chapter. Any person to whom notice was given pursuant to this chapter shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense at any time prior to the arrival of the chief of police or his authorized representatives for the purpose of removal. (1972 Code, § 8-707)