

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Contagious disease to be reported to county health officer; quarantine.
- 13-102. Stagnant water.
- 13-103. Overgrown and dirty lots.
- 13-104. Littering.

13-101. Contagious disease to be reported to county health officer; quarantine. Whenever any case of a contagious disease exists or is suspected to exist in any household, it shall be the duty of any attending physician and the head of said household, or any other person in such household possessing knowledge of said facts, to immediately notify the county health officer, who may, if he deems it necessary, quarantine any household wherein a contagious disease exists. (1998 Code, § 13-101)

13-102. Stagnant water. It shall be unlawful for any property owner to allow stagnant water to stand upon any of his real estate within the city. (1998 Code, § 13-102)

13-103. 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,

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-213(12).

Wastewater treatment: title 18, chapter 2.

Charter reference

Authority to prescribe standards of health and sanitation: § 1.04(1).

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 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 § 13-103 of the Bolivar 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 Hardeman 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 administrator within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the 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.

13-104. Littering. It shall be unlawful for any person to place or throw any garbage, trash, waste paper or any other refuse material in or upon any street or other public way or place within the city except in authorized garbage containers.¹ (1998 Code, § 13-104)

13-105. Public expectoration. No person in the city shall expectorate upon any sidewalk or street or upon or within any public building except in receptacles provided for such purposes. (1998 Code, § 13-105)

¹Municipal code reference
Streets and sidewalks: title 16.

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Definitions.
- 13-202. Power and authority of city administrator.
- 13-203. Structures unfit for human occupation or use.
- 13-204. Conditions rendering structure unfit.
- 13-205. Procedure.
- 13-206. Findings of fact and order.
- 13-207. Service for complaints or order.
- 13-208. Condemnation, demolition on failure to comply with order.
- 13-209. Lien against property; action for debt; deposit and deposition of proceeds.
- 13-210. Enjoining enforcement of order.

13-201. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith;

(2) "Governing body" means the Mayor and Council of the City of Bolivar;

(3) "Municipality" means the City of Bolivar;

(4) "Owner" means the holder of title in fee simple and every mortgagee of record;

(5) "Parties in interest" means all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof;

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

(7) "Public authority" means any housing authority or any officer who is in charge of any department or branch of the government of the municipality or state relating to health, fire, building regulations, or other activities concerning structures in the municipality;

(8) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (1998 Code, § 13-201)

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

13-202. Power and authority of city administrator. The city administrator shall be responsible for the enforcement and administration of the provisions of this chapter and is hereby vested with such powers and authority as may be necessary to carry out and effectuate the chapter's purposes and provisions which shall include but not necessarily be limited to the following powers in addition to others herein or elsewhere granted:

(1) To investigate conditions 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 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 the city administrator deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of the city administrator's functions and powers under this chapter to such officers and agents as the city administrator may designate.

(6) To execute and cause to be properly recorded any and all instruments required to enforce the lien granted herein as against any property subject to this chapter. (1998 Code, § 13-202, modified)

13-203. Structures unfit for human occupation or use. All structures in the municipality used for human occupation that are unfit for human occupation and use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such 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 municipality may be repaired, closed or demolished in the manner provided in this chapter. (1998 Code, § 13-203)

13-204. Conditions rendering structure unfit. The city administrator may determine that a structure is unfit for human occupation or use if the city administrator finds that conditions exist in such structure which are dangerous to or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of the municipality. Such conditions may include the following (without limited the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (1998 Code, § 13-204, modified)

13-205. Procedure. (1) Whenever a petition is filed with the city administrator by a public authority or by at least five (5) residents of the municipality charging that any structure is unfit for human occupation or use, or whenever it appears to the city administrator (on the city administrator's on motion) that any structure is unfit for occupation or use, the city administrator shall, if the city administrator's 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 city administrator (or the city administrator's designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint, and that:

(a) The owner or 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

(b) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the city administrator.

(2) An answer to the complaint must be filed prior to the date set for hearing as listed in the complaint. (1998 Code, § 13-205, modified)

13-206. Findings of fact and order. (1) If, after such notice and hearing, the city administrator determines that the structure (or structures) under consideration is unfit for human occupation or use, the city administrator shall state in writing the city administrator's findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(a) If the repair, alteration or improvement of the 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 occupation or use or to vacate and close the structure as a place of human occupation or use; or

(b) If the repair, alteration or improvement of the structure cannot be made at reasonable cost in relation to the value of the structure, requiring the owner, within the time period specified in the order, to remove or demolish such structure.

(2) Any such order shall provide at least sixty (60) days for the owner to comply unless the condition of the property constitutes, in the discretion of the city administrator, an immediate threat to the life and/or health of the residents of the city. In the event the condition of a structure constitutes an immediate threat to the life and/or health of the residents of the city, the city administrator may provide for a shorter time period for compliance. In such a case, the order shall describe the threat so posed. (1998 Code, § 13-206, modified)

13-207. Service of complaints or order. Complaints and orders issued by the city administrator pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the city administrator in the exercise of reasonable diligence, and the city administrator 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 municipality or in the absence of such newspaper, in one (1) printed and published in Hardeman County and circulating in the municipality. 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 Hardeman County, Tennessee, and such filing of the complaint and order shall have the same force and effect as other lis pendens notices provided by law. (1998 Code, § 13-207, modified)

13-208. Condemnation, demolition on failure to comply with order. (1) Condemnation. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the city administrator may cause such structure to be repaired, altered, or improved, or to be vacated and closed. Further, the city administrator may cause to be posted upon the main entrance of any structure 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."

(2) Demolition. If the owner fails to comply with an order to remove or demolish the structure, the city administrator may cause such structure to be removed or demolished. (1998 Code, § 13-208, modified)

13-209. Lien against property; action for debt; deposit and deposition of proceeds. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the city administrator shall be assessed against the owner of the property, and shall, upon the filing of the notice with the office of the register of deeds of Hardeman County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipality tax collector or Hardeman County trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The

municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom the 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 city administrator, the city administrator shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of removal or demolition, and any balance remaining shall be deposited in the chancery court by the city administrator, 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 municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1998 Code, § 13-209, modified)

13-210. Enjoining enforcement of order. (1) Any person affected by an order issued by the city administrator may file a bill in the chancery court for an injunction restraining the city administrator from carrying out the provisions of the order, and the court may, upon the filing of the bill, issue a temporary injunction restraining the city administrator pending the final disposition of the cause; provided, that within sixty (60) days after the posting and service of the order of the city administrator, such person shall file the 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.

(2) The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the city administrator 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 administrator shall be entitled to recover any damages for action taken pursuant to any order of the city administrator, or because of noncompliance by such person with any order of the city administrator. (1998 Code, § 13-210, modified)

CHAPTER 3**ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE
VEHICLES¹****SECTION**

- 13-301. Short title.
- 13-302. Definitions.
- 13-303. Storing, parking or leaving dismantled or other such motor vehicle prohibited, declared nuisance; exceptions.
- 13-304. Notice to remove.
- 13-305. Responsibility for removal.
- 13-306. Notice procedure.
- 13-307. Content of notice.
- 13-308. Request for hearing.
- 13-309. Procedure for hearing.
- 13-310. Removal of motor vehicle from property.
- 13-311. Notice of removal.
- 13-312. Disposition of vehicles.
- 13-313. Contents of public sale notice.
- 13-314. Public sale.
- 13-315. Redemption of impounded vehicles.
- 13-316. Liability of owner or occupant.

13-301. Short title. This chapter shall be known and may be cited as the "abandoned, wrecked, dismantled or inoperative motor vehicle ordinance." (1998 Code, § 13-301)

13-302. Definitions. For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Building inspector/code compliance officer" is the director of traffic of the city.

(2) "City" is the City of Bolivar.

(3) "Junked motor vehicle" is any motor vehicle, as defined below, which does not have lawfully affixed thereto both an unexpired license plate or plates and a current motor vehicle safety inspection certificate, and the

¹Municipal code reference

Motor vehicles and traffic: title 15.

condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.

(4) "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf-carts, campers and trailers.

(5) "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

(6) "Private property" shall mean any real property within the city which is privately owned and which is not public property as defined in this section.

(7) "Public property" shall mean any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility. (1998 Code, § 13-302, modified)

13-303. Storing, parking or leaving dismantled or other such motor vehicle prohibited, declared nuisance; exceptions. No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition whether attended or not, upon any public or private property within the city for a period of time in excess of seventy-two (72) hours. The presence of an abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled vehicle or parts thereof, on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city, or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, or any vehicle retained by the owner for antique collection purposes. (1998 Code, § 13-303)

13-304. Notice to remove. Whenever it comes to the attention of the building inspector/compliance officer that any nuisance as defined in § 13-303 exists in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this chapter. (1998 Code, § 13-304, modified)

13-305. Responsibility for removal. Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled, or

inoperative vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the city, the owner, or occupant of the private property where same is located, shall be liable for the expenses incurred. (1998 Code, § 13-305)

13-306. Notice procedure. The building inspector/compliance officer of the city shall give notice of removal to the owner or occupant of the private property where it is located, at least ten (10) days before the time of compliance. It shall constitute sufficient notice when a copy of same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by registered mail to the owner or occupant of the private property at his last known address. (1998 Code, § 13-306, modified)

13-307. Content of notice. The notice shall contain the request for removal within the time specified in this chapter, and the notice shall advise that upon failure to comply with the notice to remove, the city or its designee shall undertake such removal with the cost of removal to be levied against the owner or occupant of the property. (1998 Code, § 13-307)

13-308. Request for hearing. The persons to whom the notices are directed, or their duly authorized agents may file a written request for hearing before the city council or its designee within the thirty (30) day period of compliance prescribed in § 13-309 for the purpose of defending the charges by the city. (1998 Code, § 13-308)

13-309. Procedure for hearing. The hearing shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least thirty (30) days in advance thereof. At any such hearing the city and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary. (1998 Code, § 13-309)

13-310. Removal of motor vehicle from property. If the violation described in the notice has not been remedied within the thirty-day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the violation is affirmed by the council or its designee, the building inspector/compliance officer or his designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such person or persons to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter. (1998 Code, § 13-310, modified)

13-311. Notice of removal. Within forty-eight (48) hours of the removal of such vehicle, the chief of police shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that said vehicle, or vehicles, has been impounded and stored for violation of this chapter. The notice shall give the location of where the vehicle or vehicles, is stored and the costs incurred by the city for removal. (1998 Code, § 13-311)

13-312. Disposition of vehicles. Upon removing a vehicle under the provisions of § 13-310, the city shall, after ten (10) days, cause it to be appraised. If the vehicle is appraised at seventy-five dollars (\$75.00) or less, the chief of police shall execute an affidavit so attesting and describing the vehicle, including the license plates, if any and stating the location and appraised value of the vehicle. The chief of police, after complying with the above, may summarily dispose of the vehicle and execute a certificate of sale. If the vehicle is appraised at over seventy-five dollars (\$75.00), the chief of police shall give notice of public sale not less than thirty (30) days before the date of the proposed sale. (1998 Code, § 13-312)

13-313. Contents of public sale notice. The notice of sale shall state:

- (1) The sale of abandoned property in the possession of the city.
- (2) A description of the vehicle, including make, model, license number and any other information which will accurately identify the vehicle.
- (3) The terms of sale.
- (4) The date, time and place of the sale. (1998 Code, § 13-313)

13-314. Public sale. The vehicle shall be sold to the highest and the best bidder. At the time of payment of the purchase price, the chief of police shall execute a certificate of sale in duplicate, the original of which to be given to the purchaser, and the copy thereof to be filed with the mayor of the city. Should the sale for any reason be invalid, the city's liability shall be limited to the return of the purchase price. (1998 Code, § 13-314)

13-315. Redemption of impounded vehicles. The owner of any vehicle seized under the provisions of this chapter may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the chief of police of such sum as he may determine and fix for the actual and reasonable expense of removal and any preliminary sale advertising expenses, not to exceed fifty dollars (\$50.00) plus three dollars (\$3.00) per day for storage for each vehicle redeemed. (1998 Code, § 13-315)

13-316. Liability of owner or occupant. Upon the failure of the owner or occupant of property on which abandoned vehicles have been removed by the

city to pay the unrecovered expenses incurred by the city in such removal, a lien shall be placed upon the property for the amount of such expenses. (1998 Code, § 13-316)