

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKED MOTOR VEHICLES.
3. DUST CONTROL.
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CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
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- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
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13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1991 Code, § 13-101)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1991 Code, § 13-102)

13-103. Weeds and grass. Every owner, tenant or occupant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order of the city manager to cut such vegetation when it has reached a height of over one foot (1'). (1991 Code, § 13-103)

¹Municipal code references

Building and related codes: title 12.

Refuse storage and collection: title 17.

13-104. Overgrown and dirty lots.¹ (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 or the accumulation 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 responsible for enforcement. The provisions of this section shall be enforced by the building official for the City of Clinton.

(3) Notice to property owner. It shall be the duty of the building official to serve notice upon the owner of record in violation of this section to remedy the condition immediately. The notice shall state in plain language that the owner of record must 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 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 this section and that the property of such owner may be cleaned up by the city 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;

(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. (a) 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

¹Municipal code reference

Section 13-103 applies to cases where the city wishes to prosecute the offender in city court. Section 13-104 can be used when the city seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up, but not to prosecute the owner in city court.

communications, electricity, gas, liquids, steam, sewage, or other materials), then the building official may immediately cause the condition to be remedied or removed at a cost that shall be in conformity with reasonable standards prevailing in the city, and the cost shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Anderson County, the costs shall 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 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 delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(b) The provisions of subsection (a) above, shall apply to all real property, including owner-occupied residential property. However, in the case of owner-occupied residential property, the building official shall 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 the cost for which the lien attached are collectable as provided herein.

(5) Action for debt. In the addition to the other remedies provided herein, the city may collect the cost assessed against the property owner or owners 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 owners of the properties against whom such cost 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.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the building official may appeal the determination and order to the city council. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued by the building official. 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 city council under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of the 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 grass, weeds, underbrush and/or the elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1991 Code, § 13-104)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city recorder and dispose of such animal in such manner as the city recorder shall direct. (1991 Code, § 13-105)

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. (1991 Code, § 13-106)

13-107. Violations and penalty. It shall be unlawful for any person to violate any provision of this chapter. Violations shall be punished in accordance with the general penalty provisions of this municipal code of ordinances, except violations of § 13-104, which shall be disposed of in accordance with the procedure and remedy therein described. (1991 Code, § 13-107)

CHAPTER 2

JUNKED MOTOR VEHICLES

SECTION

13-201. Definitions.

13-202. Presence of junked motor vehicles a public nuisance.

13-203. Order to remove junked motor vehicles.

13-204. Removal by city of junked motor vehicles.

13-201. Definitions. A motor vehicle, for all purposes hereunder, is defined as any vehicle which is self-propelled and any device in, upon or by which any person or property is or may be transported or drawn from one (1) location to another, except devices moved only by human power or used exclusively upon stationary rails or tracks. A junked motor vehicle is any motor vehicle the condition of which is any one (1) or more of the following:

- (1) Wrecked;
- (2) Dismantled;
- (3) Inoperative;
- (4) Abandoned;
- (5) Discarded. (1991 Code, § 13-201)

13-202. Presence of junked motor vehicles a public nuisance. The location or presence of any junked motor vehicle on a lot, tract, or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the City of Clinton, Tennessee, shall be deemed a public nuisance, and it shall be unlawful for any person or other legal entity to cause, maintain, or permit such public nuisance by wrecking, dismantling, rendering inoperable, abandoning, or discarding a motor vehicle or vehicles on the property of another, or to suffer, permit, or allow the same to be placed, located, maintained, or to exist upon real property belonging to such party. However, this section shall not apply to the following:

- (1) Any junked motor vehicle in a completely enclosed building.
- (2) Any junked motor vehicle in an appropriate storage place or depository maintained in an officially designated place and manner by the City of Clinton. (1991 Code, § 13-202)

13-203. Order to remove junked motor vehicles. Whenever any junked motor vehicle is found within the City of Clinton in violation of this chapter, the city manager or his duly authorized representative shall cause the owner or occupant of the premises on which such vehicle is located to be served with an order to remove such vehicle within ten (10) days after service of such order. It shall be unlawful for the owner or occupant of the premises to fail,

neglect, or refuse to obey such order within ten (10) days after service of same. (1991 Code, § 13-203)

13-204. Removal by city of junked motor vehicles. If the premises on which a junked motor vehicle is located contrary to this chapter are unoccupied and the owner or agent thereof cannot be found, or by permission of the owner of the premises, the city manager or his duly authorized representative shall abate such public nuisance by entering upon the property and impounding and taking into custody the motor vehicle in question, and disposing of same in accordance with and as authorized by Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. Such impoundment and disposition shall not relieve any person or party from liability for penalty upon conviction for violating other provisions of this municipal code, but is in addition to any other penalty. (1991 Code, § 13-204)

CHAPTER 3

DUST CONTROL

SECTION

13-301. Findings.

13-302. Definitions.

13-303. Discharge of fugitive dust unlawful.

13-304. Initial determination, notice, and abatement.

13-305. Failure to abate; abatement by city.

13-301. Findings. The city council hereby finds that fugitive dust and the dispersal on the public right-of-way of dust, sawdust, mud, dirt, coal and crushed rock resulting from the industrial or commercial use of real property constitutes a hazard to the public health, causes the depreciation of real estate values, reduces tax receipts by impairing the tax base, causes blight, imposes costs for additional public services and maintenance of public rights of way, creates traffic hazards and is otherwise a public nuisance. (1991 Code, § 13-301)

13-302. Definitions. The following words and phrases, which shall apply in the interpretation of this chapter, are defined as follows:

(1) "All-weather surface" is that base treatment or surface material which in the opinion of the city council upon competent evidence thereof, will prevent the entrainment of fugitive dust from the source.

(2) "Fugitive dust" shall mean solid particulate matter emitted from any source other than a stack or chimney and created by natural forces, construction work, mechanical processes or movements of motor vehicles.

(3) "Particulate matter" shall mean any material, except unadulterated water, that exists in an finely divided form as a liquid or solid.

(4) "Source" shall mean that real property which is the point of entrainment of fugitive dust. (1991 Code, § 13-302)

13-303. Discharge of fugitive dust unlawful. It shall be unlawful for any person owning, leasing, occupying or having charge of any premises in the City of Clinton to conduct any enterprise on such premises in such manner which in the determination of the codes enforcement officer is directly resulting in fugitive dust, sawdust, mud, dirt, coal, crushed rock or other similar material being discharged, carried or entrained from the property to the extent that any of the following conditions result:

- (1) Injury, detriment or nuisance or annoyance to the public;
- (2) Danger to the comfort, repose, health or safety of the public;
- (3) Injury or damage to business or property;
- (4) Hazardous conditions on the public right-of-way;
- (5) Blight or the impairment of property values;

- (6) Increased costs for the maintenance of the public right-of-way; or
- (7) Any condition set forth in § 13-301. (1991 Code, § 13-303)

13-304. Initial determination, notice, and abatement. Whenever the codes enforcement officer has inspected or caused to be inspected any premises and has found and determined there is reasonable cause to believe that such premises are in violation of § 13-303, he shall give written notice to the owner of record of the premises, containing:

- (a) The street address and such other description as is required to identify the source;
- (b) A statement describing the conditions believed to be in existence in violation of § 13-303;
- (c) A statement of the action required to be taken to abate the conditions; and
- (d) A request to the owner to, within ten (10) days, meet with or communicate with the codes enforcement officer, or his designee, to discuss abatement.

The above notice shall be sent certified mail to the owner of record. (1991 Code, § 13-304)

13-305. Failure to abate; abatement by city. In the event the owner shall fail, neglect or refuse to abate the conditions in violation of § 13-303 within thirty (30) days of written notice, the city council may direct the abatement of the conditions on the subject property by the city manager or his designee. Such abatement may be effected by city employees or by private contract, and the city manager and his designees are expressly authorized to enter upon the property for such purposes. The cost of such abatement may be assessed against the owner and/or the property involved. (1991 Code, § 13-305)

CHAPTER 4

SLUM CLEARANCE

SECTION

- 13-401. Findings of board.
- 13-402. Definitions.
- 13-403. Public officer designated; powers.
- 13-404. Initiation of proceedings; hearings.
- 13-405. Orders to owners of unfit structures.
- 13-406. When public officer may repair, etc.
- 13-407. When public officer may remove or demolish.
- 13-408. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-409. Basis for a finding of unfitness.
- 13-410. Service of complaints or orders.
- 13-411. Enjoining enforcement of orders.
- 13-412. Additional powers of public officer.
- 13-413. Powers conferred are supplemental.
- 13-414. Structures unfit for human habitation deemed unlawful.

13-401. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (1991 Code, § 13-401)

13-402. 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 city council, charged with governing the city.

(3) "Municipality" means the City of Clinton, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality 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.

(9) "Structure" means an dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (1991 Code, § 13-402)

13-403. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the code enforcement officer of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the code enforcement officer. (1991 Code, § 13-403)

13-404. 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 occupation 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 charge in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (1991 Code, § 13-404)

13-405. 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 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 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. (1991 Code, § 13-405)

13-406. When public officer may repair, etc. If the owner fails to comply with an order to repair alter or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (1991 Code, § 13-406)

13-407. 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 or demolished. (1991 Code, § 13-407)

13-408. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, 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 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 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. 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 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 Anderson 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 of Clinton to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1991 Code, § 13-408)

13-409. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Clinton. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (1991 Code, § 13-409)

13-410. Service of complaints or orders. Complaints or orders issued by a public officer pursuant to an ordinance adopted under this part 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 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 municipality, or in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the structures are located. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Anderson County Register's Office, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (1991 Code, § 13-410)

13-411. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill

in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (1991 Code, § 13-411)

13-412. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1991 Code, § 13-412)

13-413. 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. (1991 Code, § 13-413)

13-414. 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 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 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. Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day

a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 13-414)