

TITLE 13**PROPERTY MAINTENANCE REGULATIONS¹****CHAPTER**

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3. AUTOMOBILE GRAVEYARDS.
4. JUNKED MOTOR VEHICLES.
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CHAPTER 1**MISCELLANEOUS****SECTION**

- 13-101. Smoke, soot, cinders, etc.
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13-103. Weeds.
13-104. Dead animals.
13-105. Overgrown and dirty lots.
13-106. Health and sanitation nuisances.

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. (1977 Code, § 8-105)

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. (1977 Code, § 8-106)

13-103. Weeds. Every owner or tenant 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 by the city

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

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

recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1977 Code, § 8-107)

13-104. 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. (1977 Code, § 8-108)

13-105. 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 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) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen 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 § 13-105 of the Copperhill 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;

¹Municipal code reference

Section 13-105 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.

(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.

(5) 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 mayor and aldermen 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 cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Polk 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 cost 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.

(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 mayor and aldermen. 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 mayor and aldermen 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 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.

13-106. 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. (1977 Code, § 8-109)

CHAPTER 2**JUNKYARDS****SECTION**

13-201. Junkyards.

13-201. Junkyards.¹ All junkyards within the corporate limits 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. (1977 Code, § 8-111)

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 3

AUTOMOBILE GRAVEYARDS

SECTION

13-301. Definition.

13-302. Permit for graveyard operation required.

13-303. Regulation of automobile graveyards.

13-304. Violations.

13-301. Definition. For the purpose of this chapter "automobile graveyard" means any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, or which it would not be economically practical to make operative, are placed, located or found. (1977 Code, § 8-501)

13-302. Permit for graveyard operation required. No person shall own or maintain any "automobile graveyard" within the city until he shall receive a permit so to do from the city recorder. The city recorder shall issue such a permit to any applicant whose premises comply with the requirements of this and all other applicable ordinances of the city. Any permit so issued may be revoked by the city recorder for failure to comply with any requirement of this chapter.

However, charges shall be preferred in writing by the recorder and served upon the permittee and he shall be given the right to be heard as to why his license should not be revoked.

Any person aggrieved by the city recorder's action relative to the issuance or revocation of an "automobile graveyard" permit may appeal to the city governing body which shall hold a hearing and decide whether or not the city recorder's action was reasonable. Based upon its findings at such hearing the city governing body shall affirm or reverse the city recorder's action. (1977 Code, § 8-502)

13-303. Regulation of automobile graveyards. All "automobile graveyards" within the city shall be operated and maintained subject to the following regulations:

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

(2) All such "automobile graveyards" shall be enclosed within a close fitting plank or metal solid fence touching the ground on the bottom and being not less than six (6) feet in height, such fence to be so built that it will be

impossible for stray cats and/or stray dogs to have access to such "automobile graveyards."

(3) Such "automobile graveyards" 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. (1977 Code, § 8-503)

13-304. Violations. Any person owning or maintaining an "automobile graveyard" in violation of any provision of this chapter shall be punishable by fine in accordance with the general penalty clause in this code. (1977 Code, § 8-504)

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

13-401. Definitions.

13-402. Junked vehicles on private property -- nuisance.

13-403. Notice to abate nuisance.

13-404. Violation.

13-401. 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 shall include the future; words used in the plural number include the singular number; and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Junked motor vehicle." Any motor vehicle which does not have lawfully affixed thereto an unexpired license plate or plates, and the condition of which is one or more of the following:

- (a) Wrecked.
- (b) Dismantled.
- (c) Partially dismantled.
- (d) Inoperative.
- (e) Abandoned.
- (f) Discarded.

(2) "Person." Any individual, firm, partnership, association, corporation, company or organization of any kind. (1977 Code, § 8-601)

13-402. Junked vehicles on private property -- nuisance. The presence of any junked motor vehicle on any private lot, tract or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the City of Copperhill, shall be deemed a public nuisance; and it shall be unlawful for any person to cause or maintain such a public nuisance by wrecking, dismantling, partially dismantling, rendering inoperable, abandoning or discarding any motor vehicle on the real property of another or to suffer, permit or allow any junked motor vehicle to be parked, left or maintained on his own real property, provided that this section shall not apply with regard to:

- (1) Any junked motor vehicle in an enclosed building;
- (2) Any junked motor vehicle in an appropriate storage place or depository maintained at a location officially designated and in a manner approved by the City of Copperhill. (1977 Code, § 8-602)

13-403. Notice to abate nuisance. Whenever any such public nuisance exists on occupied premises within the city in violation of this chapter the chief

of police or his duly authorized agent shall order the owner of the premises, if in possession thereof, or the occupant of the premises, whereon such public nuisance exists, to abate or remove the same. Such order shall:

- (1) Be in writing;
- (2) Specify the public nuisance and its location;
- (3) Specify the corrective measures required;
- (4) Provide for compliance within ten (10) days from service thereof.

Such order shall be served upon the owner of the premises or the occupant by serving him personally or by sending said order by certified mail, return receipt requested, to the address of the premises. If the owner or occupant of the premises fails or refuses to comply with the order of the chief of police or his duly authorized agent within the ten (10) day period after service thereof, as provided herein, the chief of police or his duly authorized agent shall take possession of said junked motor vehicle and remove it from the premises. The chief of police or his duly authorized agent shall thereafter dispose of said junked motor vehicle in such manner as the board of mayor and aldermen may provide. However, if the owner or occupant of said premises so desires, he may, within said ten (10) day period after service of notice to abate the nuisance, request of the clerk of the corporation court of the City of Copperhill, either in person or in writing and without the requirement of bond, that a date and a time be set when he may appear before the judge of the corporation court for a trial to determine whether or not he is in violation of this chapter. (1977 Code, § 8-603)

13-404. Violation. Any person in violation of any provision of this chapter shall upon conviction be punished in accordance with the general penalty clause in this code. (1977 Code, § 8-604)

CHAPTER 5

SLUM CLEARANCE¹

SECTION

- 13-501. Findings of board.
- 13-502. Definitions.
- 13-503. "Public officer" designated; powers.
- 13-504. Initiation of proceedings; hearings.
- 13-505. Orders to owners of unfit structures.
- 13-506. When public officer may repair, etc.
- 13-507. When public officer may remove or demolish.
- 13-508. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-509. Basis for a finding of unfitness.
- 13-510. Service of complaints or orders.
- 13-511. Enjoining enforcement of orders.
- 13-512. Additional powers of public officer.
- 13-513. Powers conferred are supplemental.

13-501. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen 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. (Ord. #12, July 1987)

13-502. Definitions. (1) "Municipality" shall mean the City of Copperhill, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(3) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(4) "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

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

(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) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (Ord. #12, July 1987)

13-503. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the fire marshal of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the fire marshal. (Ord. #12, July 1987)

13-504. 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 occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. #12, July 1987)

13-505. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render

it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #12, July 1987)

13-506. 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, 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 occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (Ord. #12, July 1987)

13-507. 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. (Ord. #12, July 1987)

13-508. 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 shall be a lien against the real property upon which such costs were incurred. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Polk County, Tennessee, by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to 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 Copperhill to define and declare nuisances and to cause their removal or abatement, by summary proceedings or as otherwise may be provided by the charter or ordinances of the city. (Ord. #12, July 1987)

13-509. 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 Copperhill; such conditions may include the

following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. (Ord. #12, July 1987)

13-510. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Polk County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #12, July 1987)

13-511. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit 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 suit 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. (Ord. #12, July 1987)

13-512. 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. (Ord. #12, July 1987)

13-513. 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. (Ord. #12, July 1987)

CHAPTER 6

ABANDONED MOTOR VEHICLES

SECTION

13-601. Abandoned vehicles/hulks on public property or abandoned vehicle on either public or private property: procedure for abatement.

13-602. Monetary penalties.

13-601. Abandoned vehicles/hulks on public property or abandoned vehicles on either public or private property: procedure for abatement. The following procedures are hereby established for the abatement and removal of abandoned vehicle hulks on public property and for the abatement and removal of abandoned vehicles on either public or private property:

(1) The leaving of an abandoned motor vehicle hulk upon public property or upon the property of another without the consent of the owner of such property for a period of twenty-four (24) hours or longer shall constitute a public nuisance subject to abatement, removal and monetary penalties unless its owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance.

(2) A law enforcement official discovering an apparently abandoned vehicle or abandoned vehicle hulk shall attach to the vehicle a readily visible notification sticker. The sticker shall contain the following information:

(a) The date and time the sticker was attached;

(b) The identity of the officer;

(c) A statement that if the vehicle is not removed within twenty-four (24) hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense; and

(d) The address and telephone number where additional information may be obtained.

(3) If the vehicle has current registration plates, the officer shall check the records to learn the identity of the last owner of record. The officer or his department shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.

(4) If the vehicle or hulk is not removed within twenty-four (24) hours from the time the notification sticker is attached, the law enforcement officer may take custody of the vehicle or hulk and provide for the vehicle or hulk's removal to a place of safety. For the purpose of this section, a place of safety includes the business location of a registered disposer.

(5) When a vehicle or hulk is impounded pursuant to this chapter, the City of Copperhill Police Department shall, within twenty-four (24) hours after the impoundment, mail notification of the impoundment to the last registered owner of the vehicle as shown on the records of the Department of Licensing or

as otherwise reasonably ascertainable. The notification shall contain a certificate of mailing and shall inform the registered owner of the impoundment, redemption procedures, and opportunity for a hearing to contest the basis for the impoundment. The notice need not be mailed if the vehicle is redeemed prior to the mailing of the notice or if the registered owner and the legal owner are not reasonably ascertainable.

(6) Upon impoundment of a vehicle pursuant to this section, the law enforcement officer shall also provide the registered disposer with the name and address of the last registered owner and legal owner of the vehicle as may be shown by the records of the department or as otherwise reasonably ascertainable.

(7) The notification provided for in this section shall inform the registered owner that any hearing request shall be directed to the Copperhill Municipal Court and shall be accompanied by a form to be utilized for the purpose of requesting a hearing. Any request for a hearing pursuant to this section shall be made in writing on the form provided for that purpose and must be received by the court within ten (10) days of the date of notification provided for in this section was mailed. If the hearing request is not received by the court within the ten-day period, the right to a hearing is waived and the registered owner shall be liable for any towing, storage or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment and any infractions alleged. (Ord. #93-6, Nov. 1993)

13-602. Monetary penalties. Any person allowing a public nuisance in violation of this chapter shall be subject to the maximum monetary penalty prescribed for said infraction in an amount not to exceed fifty dollars (\$50.00) for each offense in addition to costs of removal, storage and disposition of any vehicle, vehicle hulk or part thereof. Each day that a public nuisance is allowed to continue in violation of this chapter, shall be considered a separate offense. (Ord. #93-6, Nov. 1993)