

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. ABANDONED OR JUNK VEHICLES.
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CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
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13-101. Health officer. The "health officer" shall be the city, county, or state officer the city council appoints or designates to administer and enforce health and sanitation regulations within the city. (1988 Code, § 8-101)

13-102. 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. (1988 Code, § 8-103)

13-103. 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. (1988 Code, § 8-104)

¹Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.

13-104. 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 recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot.

(5) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel." (1988 Code, § 8-105, as amended by Ord. #518, Feb. 2009)

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. (1988 Code, § 8-106)

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. (1988 Code, § 8-107)

13-107. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The city council 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 city council to enforce this section to serve 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 § 13-107 of the Municipal Code for the City of Dayton, 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 city council 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 Rhea 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 city council 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 city council. 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 city council 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. (as added by Ord. #517, March 2009)

13-108. Violations and penalty. Violations of this chapter 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. (as added by Ord. #517, March 2009)

CHAPTER 2

ABANDONED OR JUNK VEHICLES

SECTION

13-201. Definitions.

13-202. Abandoned or junk vehicles declared public nuisance.

13-203. Removal required.

13-204. Enforcement.

13-205. Exceptions.

13-206. Violations a civil offense.

13-207. Penalty or violations.

13-201. Definitions. For the purposes of the interpretation and application of this chapter, the following words shall have the following meanings:

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

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

3. "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, and to transport persons or property or pull machinery, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earthmoving equipment, and any part of the same. For purposes of this chapter of the Dayton Municipal Code, "vehicle" shall also include watercraft.

4. "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

a. Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and/or wheels.

b. Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

c. Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield or windows.

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

e. Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including but not limited to, starter, generator, or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

f. Interior is a container for metal, glass, paper, rags, or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

g. Lying on the ground (upside down, on its side, or at other extreme angle), sitting on blocks, or suspended in the air by any other method in combination with any of the preceding conditions.

h. General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

i. When applied to watercraft, being wrecked or otherwise incapable of being safely operated in the water. (Ord. #431, Oct. 2002)

13-202. Abandoned or junk vehicles declared a public nuisance.

In enacting this section, the Council for the City of Dayton finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperative motor vehicles on public or private property in the City of Dayton are in the nature of rubbish and unsightly debris and constitutes a nuisance detrimental to the health, safety, and welfare of the community in that, such conditions tend to interfere with the enjoyment of and reduce the value of public and private property and create fire hazards and other safety and health hazards to the citizens of the City of Dayton. (Ord. #431, Oct. 2002)

13-203. Removal required. The accumulation and storage of one or more such motor vehicles in violation of the provisions of this chapter shall constitute rubbish and unsightly debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the City of Dayton, and it shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the property upon which such motor vehicle is located whether owner, tenant, occupant, lessee, lessor, or otherwise, to remove the same to a place of lawful storage or to have the vehicle housed within a building where it will not be visible from the street. (Ord. #431, Oct. 2002)

13-204. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for

violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked or abandoned vehicles on private property. If after such investigation the building inspector finds a junked or abandoned vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

- (1) Request the city judge to issue a summons; or
- (2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101, et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

In addition, pursuant to Tennessee Code Annotated, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. (Ord. #431, Oct. 2002, as replaced by Ord. #518, Jan. 2009)

13-205. Exceptions. 1. It shall be permissible for a person to park, store, keep and maintain a junk or abandoned vehicle on private property under the following conditions:

a. The junk or abandoned vehicle is completely enclosed within a building or suitably covered or screened from view where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulation or ordinances governing the building or property on which or in which such vehicle is enclosed.

b. The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking, or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from other zoning, building, property maintenance and other regulations or ordinances governing businesses engaged in wrecking, junking, or repairing vehicles.

2. No person shall park, store, keep or maintain on private property a junk or an abandoned vehicle for any period of time if it poses an immediate threat to the health and safety of the citizens of the City of Dayton. (Ord. #431, Oct. 2002)

13-206. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk or abandoned vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk or abandoned vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, or maintain on private property a junk or abandoned vehicle. (as added by Ord. #518, Jan. 2009)

13-207. Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of fifty (\$50.00) dollars plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as added by Ord. #518, Jan. 2009)

CHAPTER 3

INTERNATIONAL PROPERTY MAINTENANCE CODE¹

SECTION

13-301. Adopted.

13-302. Repeal of conflicting provisions.

13-303. Enforcement.

13-301. Adopted. The International Property Maintenance Code,² 2012 edition, and all appendixes are hereby adopted by reference as though copied herein fully. (as added by Ord. #472, Sept. 2006, amended by Ord. #548, June 2011, and replaced by Ord. #555, Nov. 2011, and Ord. #579, Feb. 2016)

13-302. Repeal of conflicting provisions. Any matters in said codes which are contrary to existing ordinances of The City of Dayton, Rhea County, Tennessee shall prevail and that to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (as added by Ord. #472, Sept. 2006)

13-303. Enforcement. Within said code, when reference is made to the duties of a certain official named therein, that designed official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (as added by Ord. #472, Sept. 2006)

¹A copy of this code and any amendments thereto is available in the office of the city recorder.

²Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.