

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. JUNKED AND INOPERABLE MOTOR VEHICLES.
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CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Overgrown and dirty lots.
- 13-108. Violations and penalty.

13-101. Health officer.² The "health officer" shall be such officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1970 Code, § 8-501)

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. (1970 Code, § 8-504)

13-103. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his

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

²Charter reference: § 22.

property without treating it so as to effectively prevent the breeding of mosquitoes. (1970 Code, § 8-505)

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. (1970 Code, § 8-506)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1970 Code, § 8-507)

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. (1970 Code, § 8-508)

13-107. Overgrown and dirty lots. (1) It is unlawful for owners of record of real property situated within or partially within the corporate limits of the municipality to create or maintain or permit to be created or maintained on such property a growth of trees, vines, grass and underbrush or an accumulation of debris, trash, litter or household garbage, which reasonably endangers the health, safety or welfare of the occupants of the property, occupants of properties in proximity thereto or to the public at large where such conditions encourage the infestation of rats, snakes and other harmful animals and vermin, emits noxious odors or stenches, and causes pollution, fire hazards or any other form of an offensive environmental condition.

(2) **Designation of enforcement officer.** The board of mayor and aldermen of the municipality (the "board") shall designate an appropriate person to enforce the provisions of this section (the "enforcement officer").

(3) **Notice to property owner.** It is the duty of the enforcement officer to inspect properties; and serve notices on owners of record of properties found to be in violation of subsection (1). Such notices shall be in plain language through a compliance order directing property owners take remedial action to eliminate prohibited conditions within ten (10) days, excluding Saturdays, Sundays and legal holidays. Compliance orders shall be sent by certified United States Mail addressed to owners as contained in the property assessment records of the Assessor of Property of Humphreys County, Tennessee or be

personally served on the owners of record by the enforcement officer. Compliance orders shall state that owners of the properties are entitled to a hearing before the board if they disagree with the compliance order. Compliance orders shall contain not less than the following additional information:

(a) A concise statement of the basis of alleged violations; the designated remedial action that must be taken by owners at the expense of the owners and that by failure to do so the municipality will cause the same to be done with the cost thereof becoming a lien against the property to secure payment of such costs ;

(b) Give the address and telephone number of the enforcement officer;

(c) State a cost estimate to remedy the violating conditions if performed by the municipality; and

(d) The place where owners may request an appeal by a formal administrative hearing before the board.

(4) Clean-up at property owner's expense. If property owners fail or refuse to remedy the conditions within the ten (10) days after receiving the compliance order, the enforcement officer shall immediately cause the conditions to be remedied by the municipality at the cost to the property owners. The municipality may collect such cost by action for debt filed in any court of competent jurisdiction . Such actions may be brought against more than one (1) owner. Multiple owners of different properties that are in violation may be joined in one (1) action which shall not be considered as a misjoinder of parties. A notice of lien shall be filed with the Register of Deeds of Humphreys County, Tennessee stating the actual costs the of clean-up incurred by the municipality. Such liens shall be second only in priority to liens for state, county and municipal taxes, liens of the municipality for special assessments, and all valid liens, rights or interests in such property duly recorded in the register's office prior to the filing of such cost of clean-up lien. The actual costs incurred shall be entered on the tax rolls of the municipality as a lien in addition to statutory liens for delinquent ad valorem property taxes to be collected. If an owner fails to pay the costs of the clean-up work when so added, the same are to be collected at the same time and in the same manner as delinquent real property ad valorem taxes are collected and will be subject to the same penalties and interest as in the case for such delinquent taxes.

(5) Appeal. An owner aggrieved by a compliance order of the enforcement officer may appeal the determination and the compliance order to the board. The appeal shall be filed with the recorder within ten (10) days following receipt of the compliance order issued pursuant to subsection (3). Failure to appeal within such time, with out exception, constitutes a waiver of the right to such administrative hearing.

(6) Judicial review. Persons aggrieved by the decision on the compliance order made by the board under subsection (5) may seek judicial review of the decision as provided by law. The remedial period established in

subsection (4) may be stayed during the pendency of any judicial review by agreement with the board or on an application and order of the court to which judicial review is sought conditioned that a bond is made in favor of the municipality in the penal amount of the clean-up costs incurred and court costs as may be assessed to assure payment thereof as adjudged by the court.

(7) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision contained in the municipal charter, municipal code or other applicable law which permits the municipality to proceed against owners of property for mandatory cleanup where there exists unlawful growth of trees, vines, grass, weeds, underbrush, accumulation of debris, trash, litter or garbage or any combination thereof as prohibited by subsection (1). (as added by Ord. #311, March 2020 *Ch5_6-9-20*)

13-108. Violations and penalty. In lieu of an administrative remedy for violations of every provision of this chapter the municipality may prosecute violators in the municipal court who on conviction thereof shall be subject to penalties as provided under the general penalty provisions of the municipal code. Each day of violation that continues shall constitute a separate offense. Citations for one (1) or more days of violations occurring shall be issued to violators to appear at the next session of the municipal court to answer the charges of such violations. Failure to appear with out reasonable cause will be deemed an admission of the violations charged and for which a fine and costs shall be rendered for each day of a violation charged. On failure to pay any judgment of fine and cost so rendered an execution shall issue by the court for collection thereof by writ of execution and garnishment summons as appropriate. (as added by Ord. #311, March 2020 *Ch5_6-9-20*)

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

13-201. Junkyards.

13-201. Junkyards.³ 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) All such junkyards within one thousand (1,000) feet of any right-of-way within the municipality shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the right-of-way.

(4) 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. (1970 Code, § 8-509)

³State 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

JUNKED AND INOPERABLE MOTOR VEHICLES

SECTION

13-301. Junked and inoperable motor vehicles.

13-301. Junked and inoperable motor vehicles. (1) It is unlawful for any person owning or possessing real property to willfully allow, permit or maintain an inoperable or junked motor vehicle on such property for a period longer than ten (10) consecutive days unless the premises are zoned and classified for lawful use as a junk yard or a garage for the repair of motor vehicles and such owner or possessor thereof then holds a validly issued business tax license from the municipality for such purpose.

(2) No citation or summons shall issue charging a violation hereof until the owner or person in possession of the real property is given written notice of the violation. If such condition is not abated within sixty (60) days thereafter a complaint may be filed with the municipal court requesting issuance of a citation or summons to the offender to appear and answer therefor. If the municipal court finds probable cause to believe an offense is occurring a citation or summons shall issue and be served on the offender.

(3) A person guilty of violating this regulation shall on conviction be fined fifty dollars (\$50.00) and shall pay the costs of the proceeding as otherwise provided. Each day of continued violation after each summons or citation issues is a separate violation and subjects the offender to assessment of a separate fine for each day of continued violation.

(4) Fines and costs levied and assessed against the owner of real property shall be a lien against such real property which the municipality may enforce by suit and attachment in the name of the municipality.

(5) The owner and the possessor of the real property may be jointly charged with violation hereof.

(6) There shall be a rebuttable presumption that a motor vehicle:

(a) Without an engine or other mechanical or electrical part necessary for its ordinary operation as a motor vehicle; or

(b) Without tires and wheels; or

(c) Mounted on a jack or blocks; or

(d) Unlicensed or unregistered is a junked or inoperable motor vehicle. (as added by Ord. #236, May 2005)

CHAPTER 4

SLUM CLEARANCE

SECTION

- 13-401. Title of regulations.
- 13-402. Definitions.
- 13-403. Public officer.
- 13-404. Initiation of proceedings; hearings.
- 13-405. Orders to owners of unfit structures.
- 13-406. When public officer may repair or demolish.
- 13-407. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-408. Nuisances.
- 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 supplemental.
- 13-414. Structures unfit for human habitation or use deemed unlawful.

13-401. Title of regulations. These regulations will be known as the "City of McEwen, Tennessee Slum Clearance Ordinance 2017" (hereinafter referred to as the "ordinance"). (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-402. Definitions. Capitalized words and terms as used herein unless the context otherwise requires or is otherwise indicated will have these meanings:

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

(2) "Governing body" means the Board of Mayor and Aldermen of the City of McEwen, Tennessee.

(3) "Municipality" means the City of McEwen, Tennessee and the territorial areas within its existing corporate limits and all areas that may be annexed thereto from time to time.

(4) "Owner or owners," jointly and severally, means holder of title to a structure and/or title in fee simple to the real property whereon a structure is situated and every mortgagee of record holding a lien on the structure and on the real property where the structure is situated.

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

(6) "Place of public accommodation" means a building or business house in which goods are supplied or services performed or where trade by the

general public is solicited.

(7) "Public authority" means an officer in charge of a department or branch of the government of the municipality or of the State of Tennessee relating to health, fire, building regulations, or other activities concerning a structure located in the municipality.

(8) "Public officer" means the person or persons authorized by the Municipality to exercise the powers prescribed by Tennessee Code Annotated, §§ 13-21-101 et seq.

(9) "Structure" means a dwelling, a place of public accommodation or a vacant building of any description intended for use as a dwelling or place of public accommodation. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-403. Public officer. A person designated and appointed by the governing body, permanently or occasionally, as a building inspector and codes official is designated a public officer with authority to exercise powers prescribed for a public officer by the ordinance and which powers will be supplemental to all others powers and authority held by a building inspector and codes official under other provisions of law. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-404. Initiation of proceedings; hearings. Whenever a petition is filed with a public officer by a public authority or by at least five (5) residents of the municipality charging that a structure is unfit for human occupancy or use or whenever it appears to a public officer that a structure is unfit for human occupation or use, the public officer will make a preliminary investigation to determine if there is a reasonable basis to support such charges. If a reasonable basis is found the public officer will issue and serve on the owner and on parties in interest a complaint stating the charges and specifications in that respect and accompanied by notice that a hearing will be held before the governing body at a time and place fixed, not less than ten (10) days nor more than sixty (60) days after service of the complaint and notice. The owner and parties in interest will be notified that they may file an answer to the complaint and appear in person or otherwise and may give testimony at the time and place fixed in the notice. Rules of evidence prevailing in courts of law or equity will not be controlling at hearings before the governing body. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-405. Orders to owners of unfit structures. After such notice and hearing if the governing body finds that a structure under consideration is unfit for human occupation or use the findings thereof will be reduced to writing setting forth the facts relied on to support such determination and the same along with an order will issue and be served on the owner and parties in interest requiring the owner:

(1) To repair, alter or improve the structure within a time specified not to exceed sixty (60) days if the governing body finds such work can be done at

a reasonable cost that will not exceed fifty percent (50%) of the fair market value of the property on which the structure is situated or at the option of the owner to vacate and close the structure for further human occupation or use; or

(2) T

o remove or demolish the structure within a time specified not to exceed sixty (60) days if the governing body finds that the reasonable cost to repair, alter or improve the structure will exceed fifty percent (50%) of the value of the property on which the structure is situated. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-406. When public officer may repair or demolish. If an owner refuses to comply or violates an order to repair, alter, improve, vacate or close a structure the governing body through its employees and agents may enter on the property and cause the structure to be repaired, altered, improved or demolished as the terms of the order require. The public officer will post on the main entrance of the structure a placard with these 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." (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-407. Lien for expenses; sale of salvaged materials; other powers not limited. The cost of repairs, alterations, improvements, closing, removing or demolishing a structure incurred by the municipality will be assessed against the owners of the real property where the structure is situated. The public officer will prepare and file with the Register of Deeds of Humphreys County, Tennessee, a notice thereof and from the time of filing of the notice it will be a lien on the real property in favor of the municipality. Those costs will be collected by the recorder no later than the same time as property taxes are collected. If owners fail to pay those costs when due the same may collected in the same manner as delinquent property taxes are collected and such costs will be subject to the same penalties and interest as applicable to delinquent property taxes. In addition, the municipality may collect the costs assessed against owners through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action against multiple owners for the costs assessed against each owner and such will not be considered a misjoinder of parties. If a structure is removed or demolished by the municipality the resulting materials of such structure will be sold and net proceeds credited against the cost of the removal or demolition. If a balance remains owing after payment of court costs and the costs owing to the municipality the same will be deposited in the Chancery Court of Humphreys County, Tennessee and owners and parties in interest will be interplead for the rights thereto to be determined by the court. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-408. Nuisances. Nothing in the ordinance is to 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 or other proceedings as provided by law. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-409. Basis for a finding of unfitness. The governing body may determine that a structure is unfit for human occupation or use if conditions are found to exist that show such structure is dangerous or injurious to the health and safety of the occupants or users of such structure, to occupants or users of neighboring buildings or premises or to other residents of the municipality. Such conditions may include, but are not limited to, defects increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defect; and uncleanliness. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-410. Service of complaints or orders. Complaints, notices and orders issued by the public officer or by the governing body will be served in person or by certified mail. If the whereabouts of persons are unknown and cannot be ascertained by exercising reasonable diligence, the public officer will make an affidavit to that effect and will then serve such complaint, notice and orders on those unable to be located by three (3) weekly publications in a newspaper published in Humphreys County, Tennessee. In addition, a copy of the complaint, notice and orders will be posted in a conspicuous place on or about the premises affected by the complaint, notice or orders. A copy of the complaint, notice and orders will also be filed for record in the Register's Office of Humphreys County, Tennessee. Such public filing will have the same force and effect as lis pendens notices as provided by law. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-411. Enjoining enforcement of orders. A person aggrieved by an order issued by the public officer or governing body may file a complaint in the Chancery Court for Humphreys County, Tennessee to enjoin the municipality from carrying out an order. The court may issue a temporary order or injunction restraining or enjoining the municipality pending a final disposition of the case; provided, however, a suit seeking such relief must be filed within sixty (60) days after the posting and service of the aggrieved order by the public officer. The remedy provided is the exclusive remedy. No person affected by such order may recover damages for actions taken under such order by the municipality nor because of non-compliance by the grievant with the order. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-412. Additional powers of public officer. To carry out and effectuate the purposes and provisions of this ordinance the public officer and

the governing body may exercise the following powers which are not to be deemed exclusive, but are in addition to all other powers granted to the municipality by law:

- (1) To cause to be investigated conditions of a structure to determine if the same appears prima facie to be unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter on premises in person or by agents and employees to examine or investigate; provided such entry is made in such manner as will cause the least possible inconvenience to persons in possession and can be done in compliance with legal requirements for gaining entry; and
- (4) To appoint and fix the duties of such officers, agents and employees as the municipality deems necessary to carry out the purposes of this ordinance and to delegate any functions and powers to such agents and employees so designated. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-413. Powers conferred supplemental. This ordinance will not be construed to abrogate nor impair the exercise of powers of the municipality regarding the enforcement of its charter or any other ordinance or regulation of the municipality nor prevent punishment of an offender found guilty of violations thereof. The powers hereby conferred are in addition and supplemental to those powers conferred by the charter and other laws, ordinances and regulations of the State of Tennessee and of the municipality. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)

13-414. Structures unfit for human habitation or use deemed unlawful. It is unlawful for owners to create, maintain, use or allow to be created, maintained or used for occupancy for human habitation a structure unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lacking ventilation, light or sanitary facilities, or due to other conditions which render the structure unsafe or unsanitary, or dangerous or detrimental to the health and safety, or otherwise inimical to the welfare of the residents of the municipality. On conviction by the municipal court for violations thereof owners will be assessed a penalty of fifty dollars (\$50.00) and the court costs provided for each offense committed. Each day that a violation continues will constitute a separate offense. (as added by Ord. #299, March 2017 *Ch5_6-9-20*)