

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. ABANDONED MOTOR VEHICLES.
4. OVERGROWN AND UNSIGHTLY LOTS.

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. House trailers.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the city council shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1980 Code, § 8-401)

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. (1980 Code, § 8-405)

13-103. Stagnant water. (1) It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes.

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-212(11).

(2) It shall be unlawful for any person to permit unmounted tires to accumulate water leading to possible breeding places for mosquitoes. (1980 Code, § 8-406, as amended by Ord. #552, Nov. 1997)

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. (1980 Code, § 8-407)

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. (1980 Code, § 8-408)

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. (Ord. #552, Nov. 1997)

13-107. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1980 Code, § 8-404)

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. (Ord. #552, Nov. 1997)

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

ABANDONED MOTOR VEHICLES

SECTION

- 13-301. Definitions.
- 13-302. Violations a civil offense
- 13-303. Exceptions.
- 13-304. Enforcement.
- 13-305. Penalty.

13-301. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "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 wheels;

(b) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but no 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, 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;

(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) Unlicensed vehicle or out of date license plate.

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

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

(4) "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.

(5) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, self, laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same. (Ord. #552, Nov. 1997)

13-302. 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 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 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, maintain on private property a junk vehicle for more than sixty (60) days. (Ord. #552, Nov. 1997)

13-303. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building 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 regulations governing the building 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 any other zoning, building, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city. (Ord. #552, Nov. 1997)

13-304. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the codes enforcement officer is authorized to issue ordinance summons for violations of this chapter on private property. The codes enforcement officer shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the codes enforcement officer finds a junked 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 codes enforcement officer 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. (Ord. #552, Nov. 1997)

13-305. Penalty. Any person violating this chapter shall be subject to a civil penalty of \$500 for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (Ord. #552, Nov. 1997)

CHAPTER 4

OVERGROWN AND UNSIGHTLY LOTS

SECTION

- 13-401. Prohibition.
- 13-402. Designation of public officer or department
- 13-403. Notice to property owner.
- 13-404. Clean-up property owner's expense.
- 13-405. Appeal.
- 13-406. Judicial review.
- 13-407. Supplemental nature of this section.
- 13-408. General requirements.

13-401. 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. (as added by Ord. #06-39, July 2006)

13-402. Designation of public officer or department. The mayor shall designate an appropriate department or person to enforce the provisions of this section. (as added by Ord. #06-39, July 2006)

13-403. Notice to property owner. It shall be the duty of the department or person so designated to enforce this section to serve notice upon the owner of record in violation of § 13-401 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:

(1) A brief statement that the owner is in violation of the City of Portland 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;

(2) The person, office, address, and telephone number of the department or person giving the notice;

(3) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing. (as added by Ord. #06-39, July 2006)

13-404. Clean-up 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 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), the department or person designated by the city administrator to enforce the provisions of this chapter 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 Sumner or Robertson 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. (as added by Ord. #06-39, July 2006)

13-405. Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination of the order to the Mayor of the City of Portland. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to § 13-403 above. The failure to appeal within the time shall, without exception, constitute a waiver of the right to a hearing. (as added by Ord. #06-39, July 2006)

13-406. Judicial review. Any person aggrieved by an order or act of the mayor under 13-405 above may seek judicial review of the order or act. The time period established in 13-404 above shall be stayed during the pendency of judicial review. (as added by Ord. #06-39, July 2006)

14-407. Supplemental nature of this section. The provisions of this chapter 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. #06-39, July 2006)

14-408. General requirements. Weeds and other similar regulated vegetation which has attained the height of twelve (12) inches or more shall be presumed to be detrimental to the public health and therefore a public nuisance. Such vegetation shall be controlled on property as set forth below:

(1) The entire area of any lot, parcel or tract containing two (2) acres or less.

(2) Within twenty-five (25) feet of any street right-of-way, and within twenty-five (25) feet on any building on any lot, parcel, or tract containing more than two (2) acres.

(3) Within twenty-five (25) feet of an adjacent property line at the request of the owner, regardless of acreage.

(4) Two (2) or more contiguous lots shall be treated as one (1) lot by this section.

(a) Nothing in this chapter shall preclude the use of a parcel for agricultural purposes such as gardens, compost piles, orchards, vineyards, silage, or specific domesticated plants, which normally tend to exceed twelve (12) inches. In addition, nothing herein shall preclude the use of a parcel as a natural wooded area or the maintenance of natural screening provided that the health, safety, and welfare not be impaired.

(b) Nothing in this chapter shall prevent the open storage of items of inventory within a fenced area of any commercial or industrial activity such as lumber in a lumberyard, unless otherwise limited; nor shall this section prevent the open storage of building materials on an active construction site. Firewood stacked in an orderly manner shall not be considered a violation of this chapter provided it does not constitute a fire or health hazard.

(c) All enforcement actions with respect to this chapter shall commence upon receipt of a written signed complaint. All complaints should be appropriately documented, including photographic evidence of violation, and reflect the specific nature and location of the complaint. (as added by Ord. #06-39, July 2006)

CLAIM OF LIEN FORM

STATE OF TENNESSEE

COUNTY OF SUMNER

BEFORE ME, the undersigned Notary Public, personally appeared _____ who duly says that (he/she) is the agent of the lienor herein whose address is 100 South Russell, Portland, Tennessee 37148 and that in accordance with the City of Portland Municipal Code Sections _____ through _____, the City of Portland Code Department, exercise the right to attach a lien to the interest in the real property. The City of Portland Public Works Department furnished labor, services or materials consisting of _____ hours mowing on **date:** _____ on the following described real property in Sumner County, State of Tennessee, described as **Book:** _____, **Page** _____ and **owner of tax record** _____, **physical street address** _____, **Sumner County Map** _____, **Parcel** _____ of a total value of dollars (\$ _____) of which there remains **unpaid** \$ _____.

Prepared By:
City of Portland
100 South Russell Street
Portland, Tennessee 37148

Agent:

Prepared By: _____
Signature

On _____ before me _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ My Commission Expires: _____

Affiant _____ Known _____ Unknown

ID Produced _____