

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### **CHAPTER**

1. MISCELLANEOUS.
2. JUNKYARDS.
3. SLUM CLEARANCE.
4. MINIMUM PROPERTY MAINTENANCE REQUIREMENTS.

#### **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.
- 13-108. Food service sanitation ordinance adopted by reference.

**13-101. Health officer.** The "health officer" shall be such city, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1976 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. (1976 Code, § 8-105)

**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 to effectively prevent the breeding of mosquitoes. (1976 Code, § 8-106)

---

<sup>1</sup>Municipal 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's secretary and treasurer or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1976 Code, § 8-107)

**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. (1976 Code, § 8-108)

**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. (1976 Code, § 8-109)

**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 city as provided for in the building code. (1976 Code, § 8-104)

**13-108. Food service sanitation ordinance adopted by reference.**

(1) The definitions; the inspection of food-service establishments; the issuance, suspension, and revocation of permits to operate food-service establishments; the prohibiting of the sale of adulterated or misbranded food or drink; and the enforcement of food service sanitation regulations shall be regulated in accordance with the unabridged form of the 1962 edition of the United States Public Health Service Food Service Sanitation Ordinance and Code,<sup>1</sup> three copies of which are on file in the office of the city's secretary and treasurer provided, that the words "municipality of \_\_\_\_\_" in said unabridged form shall be understood to refer to the City of Smithville, Tennessee; provided further, that in said ordinance all parenthetical phrases referring to grading and subsection H. 2. e. shall be understood to be deleted;

---

<sup>1</sup>This ordinance and the code are contained in Public Health Service Publication No. 934 which is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Price 55 cents.

and provided further, that subsections H. 7. and H. 8. shall be replaced respectively by subsections (2) and (3) below.

(2) Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than fifty dollars (\$50.00). In addition, thereto, such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs constitutes a separate violation.

(3) This ordinance shall be in full force and effect from and after its adoption as provided by law and all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed. (1976 Code, § 8-113)

## CHAPTER 2

### **JUNKYARDS**

#### **SECTION**

13-201. Junkyards.

**13-201. Junkyards.**<sup>1</sup> 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. (1976 Code, § 8-111)

---

<sup>1</sup>State 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

### SLUM CLEARANCE

#### SECTION

- 13-301. Existence of unsafe structures and dwellings.
- 13-302. Appointment of public office.
- 13-303. Powers to public officer.
- 13-304. Procedures.
- 13-305. Complaints or orders; service and filing.
- 13-306. Issuance of order to repair, alter, improve, or demolish structures unfit for human occupation or use.
- 13-307. Owner's non-compliance with order of public officer.
- 13-308. Demolition or removal of structure by public officer.
- 13-309. Costs of repair or demolition assessed against owner.
- 13-310. Ordinance confers supplementary powers.

**13-301. Existence of unsafe structures and dwellings.** After due consideration, the Mayor and Board of Aldermen of the City of Smithville conclude that there exists in this municipality structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of such municipality. Therefore, the City of Smithville hereby acknowledges and accepts the power conferred upon it by the General Assembly in Tennessee Code Annotated, § 13-21-101 *et seq.*, to enact provisions and to exercise its police powers to repair, close or demolish the aforementioned structures in the manner herein provided. (Ord. #289, Aug. 1999)

**13-302. Appointment of public officer.** The mayor and board of aldermen shall appoint a public officer to exercise all the powers prescribed and conferred upon that public officer herein. (Ord. #289, Aug. 1999)

**13-303. Powers of public officer.** (1) The Mayor and Board of Aldermen of the City of Smithville authorize the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers in addition to others herein granted, to:

- (a) Investigate conditions in this municipality in order to determine which structures therein are unfit for human occupation or use;

(b) Administer oaths, affirmations, examine witnesses and receive evidence;

(c) Enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(d) Appoint and fix the duties of such officers, agents and employees as the public officer deems necessary to carry out the purposes of this chapter; and

(e) Delegate any of such public officer's functions and powers under this chapter to such officers and agents as the public officer may designate.

(2) The public officer may determine that a structure is unfit for human occupation or use if the public officer finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of such municipality. Such conditions include, but are not limited to, the following: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (Ord. #289, Aug. 1999)

**13-304. Procedures.** The Mayor and Board of Aldermen of the City of Smithville hereby implement the procedures set forth in this section.

(1) Filing of petition; issuance of complaint; notice of hearing. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the City of Smithville charging that any structure is unfit for human occupation or use, or whenever it appears to the public officer (on the public officer's own motion) that any structure is unfit for human occupation or use, or whenever it appears to the public officer (on the public officer's own motion) that any structure is unfit for occupation or use, the public officer shall, if the public officer's 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 the public officer's designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint.

(2) Right to file answer and to testify at hearing. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.

(3) Rules of evidence no controlling. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. #289, Aug. 1999)

**13-305. Complaints or orders; service and filing.** Complaints or orders issued by a public officer pursuant to this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper published in this municipality. A copy of such complaint or order shall also be filed for record in the register's office of the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (Ord. #289, Aug. 1999)

**13-306. Issuance of order to repair, alter, improve, or demolish structure unfit for human occupation or use.** If, after such notice and hearing, the public officer determines that the structure under consideration is unfit for human occupation or use, the public officer shall state in writing the public officer's findings 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, requiring the owner, within the time specified in the order, to repair, alter or improve such structure to render it fit for human occupation or use or to vacate and close the structure as a place of human occupation or use; or

(2) If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, requiring the owner, within the time specified in the order, to remove or demolish such structure. (Ord. #289, Aug. 1999)

**13-307. Owner's non-compliance with order of public officer.** If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the public officer may cause such structure to be repaired, altered or improved, or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (Ord. #289, Aug. 1999)

**13-308. Demolition or removal of structure by public officer.** If the owner fails to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished. (Ord. #289, Aug. 1999)

**13-309. Costs of repair or demolition assessed against owner.** 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 assessed against the owner of the property, and shall, upon the filing of the notice with the office of the register of deeds of the county in which the property lies, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the City Clerk for the City of Smithville 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. In addition, the City of Smithville may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. This municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #289, Aug. 1999)

**13-310. Ordinance confers supplementary powers.** Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the City of Smithville to enforce any of the provisions of its charter or its 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 any other law. (Ord. #289, Aug. 1999)

## CHAPTER 4

### **MINIMUM PROPERTY MAINTENANCE REQUIREMENTS**

#### **SECTION**

- 13-401. Definitions.
- 13-402. Duty to maintain property.
- 13-403. Enforcement.

**13-401. Definitions.** As used in the interpretation and application of this chapter, the following words shall have the meanings indicated:

(1) "Junk" means discarded, broken or disabled material including, but not limited to, furniture, appliances, tools, machinery, or other items that are not in functioning condition.

(2) "Litter" means discarded waste materials, including, but not limited to, paper wrappings, packaging materials, discarded or used bottles and cans, scrap lumber, and other building materials, broken or discarded furniture, household furnishings, and equipment.

(3) "Owner" means any person owning property in Smithville, Tennessee, as shown on the real property records of DeKalb County or on the current assessment role for taxes, and shall also mean any lessee, tenant, or other person having control or possession of the property.

(4) "Property" means land and any buildings or structures located thereon.

(5) "Trash" means waste food products and other household garbage.  
(as added by Ord. #366, Aug. 2004)

**13-402. Duty to maintain property.** No person owning, leasing, renting, occupying, being in possession or having charge of any property in the city, including vacant lots, shall maintain or allow to be maintained on such property, except as may be permitted by any other city ordinance, any of the following conditions visible from any public street or alley:

(1) Junk, litter and trash;

(2) Outdoor nuisances dangerous to children, including but not limited to abandoned, broken or neglected equipment, machinery, or any appliance with a latching door;

(3) Shopping carts in any front yard, side yard, rear yard or vacant lot of any property;

(4) Dead, decayed, diseased or hazardous trees, or any other vegetation a majority of which (excluding vegetation located in flowerbeds, or trees, or shrubbery or existing hayfields) exceeds twelve (12) inches in height, or which is dangerous to public health, safety and welfare, located in any front yard, side yard, rear yard, or upon any vacant lot;

(5) Graffiti or signs, not in compliance with the city zoning ordinance, on the exterior of any building, fence or other structure in any front yard, side yard or rear yard or vacant lot;

(6) Vehicle parts or other articles of personal property which are discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard or vacant lot;

(7) Utility trailers or unmounted campertops located in any front yard except in the driveway;

(8) Any accumulation of weeds, brambles, berry vines, or other vegetation which is overgrowing any structure or which exceeds an average height of three (3) feet, other than maintained landscaping, or any accumulation of junk, litter, trash, dead organic matter, debris, offal, rat harborages, stagnant water, combustible materials or vegetation, and similar materials or conditions constituting fire, health or safety hazard. (as added by Ord. #366, Aug. 2004)

**13-403. Enforcement.** (1) Notice to property owner. It shall be the duty of the Building Inspector of the City of Smithville, Tennessee, to serve notice upon the property owner of record in violation of § 13-402 above. The property owner shall be notified in writing specifying the nature of the violation, specifying the corrective measures to be taken, and require compliance within not more than 30 days. The notice may be served upon the owner(s) of the premises where the violation is located by:

- (a) Posting notice in plain view on the property in violation, or
- (b) Sending notice by mail.

The date the notice is posted or received by the offender shall serve as the beginning of the specified time period allowing for corrective action.

(2) Failure to take corrective action. Failure by the property owner to take corrective action to bring the property within compliance of § 13-402 above shall constitute a violation of this chapter and be a civil offense. The building inspector and/or any designated person charged with the enforcement of this chapter may then take the following actions:

(a) Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints directly related to land use and public health on private property. If after such investigation, the building official finds violations of this chapter 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. If the offender refuses to sign the agreement to appear, the building inspector may

- (i) Request the city judge to issue a summons, or

(ii) 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, or

(b) If the owner or owners of the premises fails or refuses to comply with the order issued by the building inspector within the time period specified by the letter of notification, as provided herein, such failure or refusal shall be deemed a violation of the provisions of this chapter and said owner or owners shall be subject to the penalties herein provided. The building inspector that is charged with enforcing this code, or the inspector's duly authorized representatives may enter onto such premises and take corrective action specified by the letter of notification so that the nuisance identified by said letter is removed or abated. Upon completion of the corrective action carried out by the City of Smithville as authorized herein, the actual costs of such action, plus a fee of fifteen percent (15%) for administrative costs, shall be due from the owner or owners of said property to the City of Smithville and said costs shall be billed to the owner or owners of said property. If said bill is not paid in full within sixty (60) days after the date of mailing, a ten percent (10%) penalty shall be added and said costs and penalties shall be placed on the tax rolls of the City of Smithville as a lien upon said property and collected in the same manner as other city taxes are collected.

(3) Penalty for violation. Any person violating this chapter shall be subject to a civil penalty of \$50.00 for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.

(4) 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 city charter, the 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 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 provision of the municipal code of ordinances or any other applicable law. (as added by Ord. #366, Aug. 2004)