

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. ABANDONED VEHICLES

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
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- 13-103. Stagnant water.
- 13-104. Overgrown and dirty lots.
- 13-105. Weeds.
- 13-106. Dead animals.
- 13-107. Health and sanitation nuisances.
- 13-108. House trailers.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the governing body shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1972 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. (1972 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

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

without treating it so as effectively to prevent the breeding of mosquitoes. (1972 Code, § 8-106)

13-104. Overgrown and dirty lots. (1) Upon a request by any affected property owner in writing to the board of mayor and aldermen, and upon determination by the board of mayor and aldermen, that any owner of record of real property has created, maintained or permitted to be maintained on such property, the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of debris, trash, litter, garbage, or any combination of the preceding elements, has done, or failed to do any act which encourages the infestation of rodents, or other harmful animals, so as to endanger the health, safety or welfare of the citizens of the town, the recorder shall provide notice to such owner of record to remedy the condition.

(2) The notice shall be sent by certified mail, return receipt requested, or by personal notice, or both, and shall include: a description of the specific property which requires remedial action; the time in which the remedial action shall be accomplished; an estimate of costs if the town performs the remedial action; the right of the owner for a hearing before the board of mayor and aldermen, and the manner or means of requesting a hearing.

(3) Any request for hearing shall be in writing and shall be received by the town within ten (10) days of receipt of the notice by the owner. A hearing shall be scheduled at the next regular meeting of the board of mayor and aldermen, provided such hearing would provide reasonable notice to the owner, reasonable notice being defined as seven (7) calendar days, not counting the first day, but counting the last.

(4) After a hearing, in the event the decision of the board of mayor and aldermen is unfavorable to the owner; or in the event the owner does not request a hearing, the remedial action shall be performed by the owner:

(a) Within thirty (30) days after the decision of the board of mayor and aldermen or;

(b) Within thirty (30) days after the date of notice to the owner, whichever is applicable.

(5) If the owner fails to remedy the condition, the town may cause the condition to be remedied at a cost to be no more than the amount as shown in the notice provided the owner. The town may collect the charges plus collection expenses, including a reasonable attorney's fee, through an action for debt filed in any court of competent jurisdiction. The town may bring one (1) action against one (1) owner; more than one (1) owner, or all the owners of properties; against whom such costs have been assessed, and the fact that all owners may not be joined as parties will not be a defect to the action or the right of lien as is hereafter provided.

(6) In addition, or in the alternative, the town may file a notice of lien in the office of the register of deeds, and the amount of the lien and the costs shall constitute a lien on the property in favor of the town, subordinate only to:

- (a) Liens of the state, county and town for taxes;
- (b) Any lien of the town for special assessments; and
- (c) Any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice.

The lien and costs, including reasonable attorney's fees, shall be collected by the town at the same time and in the same manner as property taxes are collected, and shall be subject to the same penalty and interest as delinquent property taxes.

(7) The board of mayor and aldermen may promulgate any rules and regulations necessary for the administration and enforcement of this chapter.

(8) Any person aggrieved by an order or act hereunder may seek judicial review of the order or act in the Chancery Court of Smith County. The review shall be denovo. All enforcement actions shall be stayed pending orders of the court.

(9) Actual notice to one (1) owner shall be construed as notice to all owners.

(10) The provisions herein are not an exclusive remedy and are supplemental to any other ordinance or applicable law. (Ord. #196, _____)

13-105. 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 town recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1972 Code, § 8-107)

13-106. 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. (1972 Code, § 8-108)

13-107. 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. (1972 Code, § 8-109)

13-108. 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 municipality and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1972 Code, § 8-104)

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. (1972 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

ABANDONED VEHICLES

SECTION

- 13-301. Wrecked vehicles.
- 13-302. Public nuisance.
- 13-303. Procedure for removal.
- 13-304. Notice.
- 13-305. Hearing.
- 13-306. Removal.
- 13-307. Storage of vehicles.
- 13-308. Expenses involved.
- 13-309. Delegation of authority.

13-301. Wrecked vehicles. It shall be unlawful to park, store, or leave any motor or other vehicle in a wrecked, junked, partially dismantled, or abandoned condition, on public or private property in the Town of South Carthage unless it is in connection with a purpose or business enterprise lawfully situated and licensed. (1986 Code, § 9-701)

13-302. Public nuisance. All vehicles within the terms of this chapter are hereby declared to be public nuisances. (1986 Code, § 9-702)

13-303. Procedure for removal. The owner of any such vehicle or the owner of the private property on which the same is located shall be responsible for its removal upon appropriate notice and the opportunity to be heard. Prior to commencing the hearing procedure set out in § 13-304 through § 13-306 of this chapter, notices shall be sent to the owner or resident of the property upon which the said vehicle is located stating the condition of said vehicle has caused a violation of this chapter and that unless this violation is corrected within twenty-four (24) hours, procedures will be commenced to effect the removal of the vehicle. Such twenty-four (24) hour notice, or one similar thereto, shall also be provided the vehicle owner and any lienholders to the extent that their names and addresses may be reasonably ascertained after the town has first been apprised of such violation. If in the opinion of city officials, or the chief of police, an emergency situation exists, the vehicle may be immediately removed. (1986 Code, § 9-703)

13-304. Notice. If the twenty-four (24) hour preliminary notice does not accomplish the correction of the violation, the procedure hereinafter set out shall be invoked. A notice shall be directed to the owner of the vehicle and any

lienholders, if known, and the owner of the premises where same is located at least two (2) days before the time for compliance therewith. It shall be sufficient service of notice if it is posted in a conspicuous place upon the premises affected and a copy is mailed to such owners and lienholders at their last known address, place of residence or place of business. (1986 Code, § 9-704)

13-305. Hearing. Within two (2) days after the mailing or other service of said notice, the person to whom the notices are directed, or their duly authorized agents, may file a written request for a hearing before the board of mayor and aldermen. The hearing shall be held as soon as practicable after the filing of the request therefor and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof. At any such hearing the town and the persons to whom the notices have been directed may introduce such witnesses and evidence as is deemed necessary and proper by the board of mayor and aldermen. (1986 Code, § 9-705)

13-306. Removal. If the violation described in the notice has not been remedied within five (5) days of the mailing or service thereof, or in the event that a notice requesting a hearing is timely filed and the existence of the violation is affirmed by the board of mayor and aldermen after hearing, pursuant to the police power to do all things whatsoever necessary for promoting or maintaining the general welfare of the town or its inhabitants, said vehicle shall be removed and taken into the possession of the town. Any tow trucks or other vehicles used for such removal, other than city vehicles, shall be covered by insurance the form and extent of which shall be approved by the mayor. (1986 Code, § 9-706)

13-307. Storage of vehicles. If the vehicle owner pays the town for all expenses involved in the removal and storage of same within ten (10) days of such removal, and indicates, in writing, that such vehicle will not be taken to a location where it will be in violation of § 13-301 above, possession shall be relinquished to such owner. If possession is not thus relinquished to the owner, the mayor shall sell any such vehicles after publication of notice thereof ten (10) days prior to the sale in a newspaper of general circulation in the town. (1986 Code, § 9-707)

13-308. Expenses involved. All costs and expenses incurred by the town in carrying out the provisions of this chapter shall be and constitute a charge and lien against (1) the owner of the vehicle, (2) the owner of the real property when it is determined that the vehicle belongs to said owner, and

(3) the vehicle until paid with interest to accrue at the rate of six percent (6%) annually. (1986 Code, § 9-708)

13-309. Delegation of authority. The mayor is hereby authorized to designate the agency or department to implement the provisions of this chapter. (1986 Code, § 9-709)