

**TITLE 13**

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

**CHAPTER**

1. MISCELLANEOUS.
2. JUNK CONTROL.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Dismantling or storing old vehicles, etc.
- 13-108. Suit authorized to collect costs.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the city manager shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1995 Code, § 13-101)

**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. (1995 Code, § 13-102)

**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. (1995 Code, § 13-103)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-212(10).

**13-104. Dirty lots.** (1) Declaration of nuisance. The existence within the corporate limits of the City of Tusculum of lots and parcels of land overgrown with trees, vines, weeds, and other underbrush or burdened with accumulations of debris, trash, litter, garbage or refuse or any combination of preceding elements are hereby declared to be a nuisance.

(2) Permitting accumulations of trees, vines, grass, underbrush, debris, trash, litter, garbage, etc., unlawful. (a) It shall be unlawful for any person owning, leasing, occupying or having control of property in the city to permit or suffer trees, vines, grass, underbrush, or any other vegetation to grow and/or debris, trash, litter, garbage, or refuse to accumulate on such property, to such extent that such a nuisance is created injurious to the health, safety and welfare of the inhabitants of the city or to encourage the infestation of rates or other harmful animals. Trees, vines, grass, underbrush and/or other vegetation which have attained a height of twelve inches (12") or more shall be presumed to be detrimental to the public health and a public nuisance, which presumption may be rebutted by competent evidence.

(b) It shall also be unlawful for any owner, occupant, lessee or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, with the city to suffer or permit trees, vines, grass, weeds or any plant that is not cultivated to grow in rank profusion or otherwise, in, along, upon or across the sidewalk or street adjacent to same in the area between the property line and the curb line, or within the area ten feet (10') beyond the property line, to a height greater than twelve inches (12") on an average.

(3) Raking, piling of weeds and rubbish placement. In complying with section provisions, it shall be unlawful for any person owning, leasing, occupying or having control of property in the city to rake up, cut up or pile up said vines, grass, underbrush, or other vegetation, dead or broken tree limbs, dead trees or debris, trash, litter, garbage or rubbish into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct the flow of water drainage.

(4) Removal; notice. Upon failure of any owner of property within the corporate limits of the city to cut or have cut such growth of trees, vines, grass, underbrush, and other obnoxious vegetation, or to have removed such accumulations of debris, trash, litter, garbage or refuse as described in (2) above, it shall be the duty of the city housing inspector (inspector), or such other persons as are designated by the mayor, to serve a notice on the owner, lessee, occupant or person having control of such property, ordering said person or persons to cut or have cut such obnoxious vegetation, trees, vines, grass or underbrush and/or remove or have removed such accumulations of debris, trash, litter, garbage and refuse within ten (10) days of the service of such notice; provided, however, that if the person who is the owner of record of the property

is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials, then the notice required hereunder shall allow such owner of record twenty (20) days, excluding Saturday, Sunday and legal holidays, to comply with the removal of any such weeds, trees, vines, grass, underbrush, debris, trash, litter, garbage and refuse on said property. Such notice may be served:

- (a) By personally delivering the same upon the owner, lessee, occupant, or person having control of such property;
- (b) By mailing same to the last known address of such owner, lessee, occupant, or person having control of such property by certified United States mail; or,
- (c) By posting the same on the property on which conditional conditions exist.

Service of notice by any of the above methods shall be due notice within the meaning of this section, provided, however, that no owner out of possession shall be liable to the penalty imposed by § 13-104(7), or such notice mailed to him by certified mail as aforesaid.

The notice required hereunder shall state that the owner, lessee, occupant or other person having control of such property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:

- (i) A brief statement of this law which shall contain the consequences of failing to remedy the noted condition;
- (ii) The person, office, address and telephone number of the department or person giving notice;
- (iii) A cost estimate for remedying the noted condition which shall be in conformity with the standards of cost in the community; and
- (iv) A place wherein the notified party may return a copy of the notice, indicating the desire for hearing.

Failure to make the request within this time shall without exception constitute a waiver of the right of a hearing.

(5) Appeal. Any owner, lessee, occupant, or person having control of such property aggrieved by the determination and order of an inspector may appeal therefrom to the Board of Health and Sanitation Enforcement consisting of five (5) persons designated by the mayor for two (2) year terms within ten (10) days from the date of service of the notice; provided, however, that if the owner of record of any such aggrieved property is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials, such appeal may be taken within twenty (20) days from the date of the service of the notice. Such appeal shall be taken by filing with the board a notice of appeal stating in brief and concise form the grounds therefor. The board shall hear and determine such appeal as promptly as practicable but within ten (10) calendar days of the filing

of the appeal, except upon written application for an extension of time by the appellant, who shall recite reasons satisfactory to the board before such extension may be granted. The board shall have the power to affirm, reverse or modify the order of the inspector. The board's decision, together with the reasons therefor, shall be in writing and maintained as a public record. An owner, lessee, occupant or person having control of property who fails, refuses, or neglects to comply with the order of the inspector, if and as modified by the board shall be in violation of the provisions of this section. Appeal from the decision of the board shall be as provided by law in cases of certiorari.

(6) Noncompliance; abatement at owner's expense; nonpayment. If the owner or such other person described in § 13-104 herein shall fail to remedy such conditions within the time prescribed therein, unless an appeal is made, the inspector shall certify such failure to the city recorder who shall take such action as is necessary to remedy the conditions and abate the nuisance. If City of Tusculum employees and equipment are used in abating the nuisance, the city recorder shall determine the reasonable cost of the required inspections, recorded examinations, notifications, complaint response, and movement of employees and equipment to and from the site in establishing a base to which additional charges for equipment and employee operating time shall be added to establish the total cost to be billed to the owner. Upon failure of the owner to remit to the City of Tusculum the amount of such charge within sixty (60) days from the date of such notice, a ten (10%) percent penalty shall be added, and the total amount of the bill and the penalty shall constitute a lien upon the property for which the expenditure is made.

The city recorder shall either:

(a) Place the cost upon the tax rolls as a lien upon the affected property, which cost shall then be collected in the same manner as the city's taxes are collected; or

(b) Note the lien in favor of the city and against the affected property by filing a lien against the property in the Register's Office for Greene County, Tennessee, in the same manner as other liens are required to be filed.

The lien granted hereby may be enforced by suit in the Chancery Court of Greene County, Tennessee, as are other tax liens of the city.

The option granted under subsection (a) hereof shall not apply to any parcel of property upon which an "owner-occupied" residence is located.

The provisions of this section are not exclusive but are cumulative and in addition to the penalties and requirements of all other enumerated sections of title 13, it being the intent of the board of commissioners that the penalty provisions of any other enumerated section of title 13 shall be in addition to the burden placed upon the owner of the property set out in the provisions of this section.

(7) Penalties. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not less than twenty-five dollars (\$25.00) or more than fifty dollars (\$50.00) and each day's violation shall constitute a separate offense. (1995 Code, § 13-104)

**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. (1995 Code, § 13-105)

**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. (1995 Code, § 13-106)

**13-107. Dismantling or storing old vehicles, etc.** It shall be unlawful for any person, firm, or corporation to use property located in the residential districts for the purpose of dismantling and/or storing unlicensed vehicles, refrigerators, stoves, or any other junk and allowing the same to remain or accumulate on said property. (1995 Code, § 13-107)

**13-108. Suit authorized to collect costs.** Pursuant to Tennessee Code Annotated, § 6-54-113, the City of Tusculum may collect the costs assessed against an owner who has failed to abate a nuisance as described in § 13-104 by filing an action for debt in any court of competent jurisdiction. (1995 Code, § 13-108)

## CHAPTER 2

### JUNK CONTROL

#### SECTION

- 13-201. Short title.
- 13-202. Definitions.
- 13-203. General provisions.
- 13-204. Penalties.

**13-201. Short title.** This chapter shall be known as the "Junk Control Ordinance of the City of Tusculum, Tennessee." (1995 Code, § 13-201)

**13-202. Definitions.** For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this chapter:

(1) "Junk." For the purpose of this chapter, the term "junk" shall mean any motor vehicle, machinery, appliance, product, or merchandise with parts missing, or scrap metal, or other scrap materials that are damaged, deteriorated, or that are in a condition which prevents their use for the purpose for which they were intended. This definition specifically includes motor vehicles not movable under their own power, and that cannot be made so movable by minor repairs such as inflating a tire or installing fuel or battery.

(2) "Junk dealer." Any person, in any way acquiring, buying, selling, exchanging, trading, or dealing in scrap iron, brass, second hand metals, or parts of any sort.

(3) "Junk yard." Any open or uncovered land on which dilapidated automobiles, rags, old papers, boxes, barrels or other used articles defined as "junk" herein, are assembled for purposes of trade. (1995 Code, § 13-202)

**13-203. General provisions.** It shall be unlawful and a violation of this chapter for any person, firm, or corporation to keep or store "junk" as defined in § 13-202, in the City of Tusculum, unless such junk is located and stored in such a manner as to not be visible from adjacent property, including public streets. In no event shall it be lawful for any person, firm, or corporation to allow junk, as defined in this chapter, to accumulate on any property not properly prepared as a junk yard. Nothing contained in this section shall be construed to prevent persons, firms, or corporations which repair motor vehicles, appliances, etc., from accumulating unserviceable articles left with them in the normal course of their business, provided, however, such unserviceable articles shall not be visible from adjoining property. (1995 Code, § 13-203)

**13-204. Penalties.** Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less

than two dollars (\$2.00), nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (1995 Code, § 13-204)