

Ordinance Number _____

**AN ORDINANCE TO AMEND THE TOWN'S CODE,
TITLE 13, BY ADDING REGULATIONS
FOR REMOVAL OF VEGETATION AND DEBRIS
FROM OVERGROWN AND DIRTY LOTS**

WHEREAS, Title 13 of the Town of New Tazewell's code book establishes rules regarding property maintenance; and

WHEREAS, *Tennessee Code Annotated*, § 6-54-113 grants municipalities the right to require owners to keep their property free of growth of trees, vines, grass, underbrush or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements that would endanger the health, safety or welfare of other citizens, or encourage the infestation of rats and other harmful animals; and

WHEREAS, the Board of Mayor and Aldermen of the Town of New Tazewell wishes to exercise its rights granted under *Tennessee Code Annotated* § 6-54-113 and to set guidelines for enforcement.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF NEW TAZEWEILL, TENNESSEE that:

SECTION 1. The following is added to the Town of New Tazewell's code of ordinances as section 13-110.

13-110. Overgrown and dirty lots.

- (1) 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.
- (2) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.
- (3) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in

violation of subsection (1) 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, or hand delivered with the deliverer obtaining the owner's signature confirming receipt of the notice. 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:

- (a) A brief statement that the owner is in violation of § 13-110 of the Town of New Tazewell's 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;
 - (b) The person, office, address, and telephone number of the department or person giving the notice;
 - (c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and
 - (d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.
- (4) Clean-up at 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 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 board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The town may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such 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. Upon the filing of the notice with the office of the register of deeds in Claiborne 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.

- (5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.
- (6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the town recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.
- (7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.
- (8) 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 municipal charter, this municipal code of ordinances or other applicable law which permits the town 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.

SECTION 2. The following is added to the Town of New Tazewell's code of ordinances as section 13-111.

13-111. Violations and penalty. Any person violating this ordinance shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this ordinance. Each day the violation of this ordinance continues shall be considered a separate violation.

SECTION 3. Severability. Each section, subsection, paragraph, sentence and clause of this ordinance is declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence or clause shall not affect the validity of any other provision of the ordinance.

SECTION 4. Repealer. All ordinances and parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5. This ordinance shall become effective after final reading and publication of the caption of this ordinance in a newspaper of general circulation in the town.

Signed:

Mayor

Attest:

Recorder

Passed on first reading: _____

Passed on second reading: _____