

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. ACCUMULATION OF REFUSE, WEEDS, JUNK, ETC.
2. ABANDONED, JUNKED, OR WRECKED VEHICLES.
3. REMOVAL OR REPAIR OF BUILDINGS UNFIT FOR HUMAN OCCUPANCY OR USE.

CHAPTER 1

ACCUMULATION OF REFUSE, WEEDS, JUNK, ETC.

SECTION

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13-101. Declaration of nuisance. The obnoxious and offensive collection and accumulation of refuse, weeds, junk, trash, or garbage on any private property or vacant lot in the City of Elizabethton, Tennessee, is hereby declared to be a public nuisance, the health, welfare, and safety of the citizens of Elizabethton, Tennessee, requiring the same. (1982 Code, § 10-301)

13-102. Owner or person in possession responsible. It shall be unlawful for any person, firm, or association to permit, suffer, or allow any obnoxious or offensive accumulation of any substance of refuse, weeds, junk, trash, or garbage upon any private property or vacant lots within the City of Elizabethton, Tennessee, and in this connection, the owner or person in possession of any such parcel of private property or vacant lot, wherein, whereon, or whereat such accumulation is allowed or suffered shall be deemed to be guilty of a violation of this chapter. (1982 Code, § 10-302)

¹Municipal code references
 Animal control: title 10.
 Littering streets, etc.: § 16-106.

13-103. "Refuse, weeds, junk, trash, or garbage" defined. As used in this chapter, the words refuse, weeds, junk, trash, or garbage shall individually, jointly, and collectively, mean any waste resulting from the handling, preparation, cooking, and consumption of food, and waste from the handling, storage, and use of produce foods, any combustible trash, paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding, metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral wastes, rubbish, leaves, cinders, lumber, scraps, shavings, residue from fires, cloth products, and any and all other organic and inorganic materials which have weight or occupy space, which shall include grass over six inches (6") high. (1982 Code, § 10-303)

13-104. "Accumulate or accumulation" defined. As used in this chapter, the words accumulate or accumulation shall mean any amount of the material referred to in the section next above, consisting of more than ten (10) pounds in weight, or one (1) cubic yard in volume. (1982 Code, § 10-304)

13-105. When accumulation is obnoxious. The accumulation of the material aforesaid, in the manner and means aforesaid, shall be considered obnoxious and offensive when the same, viewed by an ordinary person in the exercise of common sense, when viewing the same without prejudice, and in the exercise of judgement and reason, can be said to be unsightly and unnecessary by said viewing person. (1982 Code, § 10-305)

13-106. Notice prerequisite to prosecution. Before any prosecution shall be commenced under this chapter, the owner of the property involved, or the person in possession thereof, shall be given notice of the violation and pending prosecution and shall be allowed five (5) days after such notice within which to abate the nuisance and remove from said property the accumulated material. (1982 Code, § 10-306)

13-107. Failure to abate nuisance after notice. If said property or material is not removed, and if said nuisance is not abated by said owner, or person in possession, after notice as above provided for within five (5) days, then such owner or person in possession shall be deemed to be guilty of a violation of the provisions of this chapter. (1982 Code, § 10-307)

CHAPTER 2

ABANDONED, JUNKED, OR WRECKED VEHICLES

SECTION

- 13-201. Definitions.
- 13-202. Declared a public nuisance.
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- 13-204. Notice to remove.
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- 13-208. Removal and storage.
- 13-209. Title search by police department
- 13-210. Sale at public auction.
- 13-211. Return of vehicle to owner.
- 13-212. Storage and sale of valuable property found in abandoned vehicles.
- 13-213. Disposition of funds.

13-201. Definitions. For the purpose of this chapter, the following words and terms shall have the designated meaning unless it is clear from the text that a different meaning is intended:

(1) "Abandoned vehicle" shall mean any motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control and/or any vehicle which is wrecked or partially dismantled or inoperable for a period of ten (10) days. There shall be a presumption that the last registered owner thereof has abandoned such vehicle, regardless of whether the physical possession of said vehicle remains in the technical custody or control of such owner, if it has remained inoperable or partially dismantled, or if the owner has relinquished dominion or control of said vehicle for ten (10) days.

(2) "Manager" shall mean the city manager of the city or his duly authorized representative.

(3) "Police department" shall mean the police department of the City of Elizabethton, Tennessee.

(4) "Property" shall mean any real property within the city which is not an improved street or highway.

(5) "City" shall mean the City of Elizabethton, Tennessee.

(6) "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, or slides and transport persons or property or pulls machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies, and wagons. (1982 Code, § 9-701)

13-202. Declared a public nuisance. The accumulation and storage of abandoned, wrecked, junked, partially dismantled, or inoperable motor vehicles on public and private property is hereby found to create an unsightly condition upon said property tending to reduce the value thereof, to invite plundering, to create fire hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. Such accumulation and storage of vehicles is further found to promote urban blight and deterioration in the community; to violate the zoning regulations of the city in many instances, particularly where such vehicles are maintained in the required yard areas of residential property; and that such wrecked, junked, abandoned, or partially dismantled or inoperable motor vehicles are in the nature of rubbish, litter, and unsightly debris in violation of health and sanitation laws. Therefore, the accumulation and storage of such vehicles on public and private property, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in this code. (1982 Code, § 9-702)

13-203. Storage on public or private property prohibited. No person shall park, store, or leave or permit the parking, storing, or leaving of any motor vehicle which is in a rusted, wrecked, junked, partially dismantled, inoperable, or abandoned condition upon any property within the city for a period in excess of ten (10) days unless such vehicle is completely enclosed within a building or unless such vehicle is so stored or parked on said property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law when such parking or storing of vehicles is necessary to the operation of the business or commercial enterprise. (1982 Code, § 9-703)

13-204. Notice to remove. Whenever it shall appear that a violation of the provisions of this chapter exists, the manager shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this chapter, and he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that said motor vehicle violates the provisions of this chapter and directing that said motor vehicle be moved to a place of lawful storage within ten (10) days. Such notice shall be served upon the owner of the vehicle by leaving a copy of said notice on or within the vehicle. Notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located may be served by conspicuously posting said notice upon the premises. In the case of publicly-owned property, notice to the owner of the property where the vehicle is found is hereby dispensed with. (1982 Code, § 9-704)

13-205. Failure to remove declared misdemeanor. The owner of any abandoned vehicle who fails, neglects, or refuses to remove the said vehicle or

to house such vehicle and abate such nuisance in accordance with the notice given pursuant to the provisions of § 13-204 shall be guilty of a misdemeanor. (1982 Code, § 9-705)

13-206. Abatement and removal by city. If the said vehicle is not disposed of after the time provided for in the aforesaid notice, the manager shall report the location of said vehicle to the police department. The police department or a wrecker company designated by it shall then remove said vehicle or cause it to be removed to the city police garage, city storage complex or wrecker lot. At the time that the vehicle is removed by the police department or the said wrecker company, a tow-in ticket shall be completed by the person towing said vehicle to said city police garage, city storage complex or wrecker lot in the presence of the manager, or his agent, in triplicate. (1982 Code, § 9-706, as amended by Ord. #42-1, Jan. 2006)

13-207. Tow-in ticket. The tow-in ticket as hereinabove provided for shall be in the following form:

VEHICLE REMOVED TO CITY GARAGE
CITY STORAGE COMPLEX OR WRECKER LOT

Ticket No. _____

Make of Car _____ Type _____ Motor No. _____

Serial No. _____ License No. _____ State _____

Where found _____ Date _____

Time _____

Parts of Car Damaged or Missing _____

Keys in Car _____ Switch Locked _____ Switch Unlocked _____

Trunk Locked _____ Doors Locked _____ Radio in Car _____

Spare Tire and Wheel _____ Jack _____ Was Car Driven In _____

By: _____ Personal Property in Car _____

Remarks _____

Owner _____

Address _____ City & State _____

Signature of Tow-Man _____

Signature of City Manager or his representative _____

(1982 Code, § 9-707, as amended by Ord. #42-1, Jan. 2006)

13-208. Removal and storage. (1) Abandoned vehicles shall be transported from the property where they are found to the city police garage, city storage complex or the wrecker lot only during the daylight hours.

(2) The abandoned vehicle shall not be double decked on the city police garage or city storage complex until the title search provided for in § 13-209 has been completed by the police department. (1982 Code, § 9-708, as amended by Ord. #42-1, Jan. 2006)

13-209. Title search by police department. At the time that an abandoned vehicle is moved to the city garage, the Elizabethton police department shall be notified immediately of such fact, and the said department shall procure the serial number on the vehicle. The police department shall make, or cause to be made, a title search on the abandoned vehicle, and after the title search has been completed by the said department, the results thereof shall be transmitted to the manager. (1982 Code, § 9-709)

13-210. Sale at public auction. After a title search of the abandoned vehicle has been made by the police department, the manager shall give notice by registered mail to the owner of said vehicle that the vehicle will be sold at public auction by the city. The said notice shall specify the date, hour, and location of sale. The manager shall determine the date of the sale of the abandoned vehicles, and at the time of the sale, the vehicles shall be sold by the city and he may sell the vehicles individually or as a group. Each car at the sale shall be subject to the tow-in charges and storage charges, which charges shall be determined by the manager, and the city shall be permitted to bid at the sale. Title to the abandoned vehicles sold at the aforesaid public auction shall pass to the purchaser at the time of the sale. The proceeds derived from the sale of the vehicles shall be retained by the city. The police department shall report to the manager the vehicles sold at the sale and the amount received for the vehicles.

Notice of the sale shall be posted at the municipal building, the Carter County Courthouse, and such other places as the manager may determine, ten (10) days in advance of the sale. (1982 Code, § 9-710)

13-211. Return of vehicle to owner. If during the time that the vehicle is being held by the city, the owner of the vehicle demands the return of said vehicle, then the city shall turn the said vehicle over to the owner upon the payment of the storage and tow-in fees by the owner. The police department shall notify the manager of such redemption by said owner. (1982 Code, § 9-711)

13-212. Storage and sale of valuable property found in abandoned vehicles. Any valuable property found in any abandoned vehicle subject to this chapter shall be stored by the Elizabethton police department and sold at public auction as determined by the manager. (1982 Code, § 9-712)

13-213. Disposition of funds. All funds coming into the hands of the city from the sale of vehicles or property under this chapter shall be applied first to the expenses incurred in the removal and sale of the vehicles and property and the remainder shall be deposited in the general fund of the city. (1982 Code, § 9-713)

CHAPTER 3

REMOVAL OR REPAIR OF BUILDINGS UNFIT FOR HUMAN OCCUPANCY OR USE¹

SECTION

- 13-301. Definitions.
- 13-302. Structures unfit for human occupancy or use--power to demolish.
- 13-303. Designation of city manager to enforce power to demolish.
- 13-304. Powers of city manager.
- 13-305. Conditions rendering structure unfit for human occupation or use.
- 13-306. Enforcement procedures.
- 13-307. Service of complaints or orders.
- 13-308. Enjoining enforcement of order.

13-301. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith;

(2) "Owner" means the holder of the title in fee simple and every mortgage of record;

(3) "Parties in interest" means all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof;

(4) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited;

(5) "Public authority" means any housing authority or any officer who is in charge of any department or branch of the government of the municipality or state relating to health, fire building regulations, or other activities concerning structures in the municipality;

(6) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by ordinance adopted hereunder to exercise the power prescribed by such ordinances and by this chapter;

(7) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (Ord. #35-3, April 1999)

¹State law reference

Tennessee Code Annotated, title 13, chapter 12.

13-302. Structures unfit for human occupancy or use—power to demolish. In accordance with the provisions of Tennessee Code Annotated, § 13-21-102 the City Council of Elizabethton finds that there exists in this city 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 this city. The City Council of Elizabethton hereby determines and declares that the city shall exercise its police powers to repair, close or demolish the aforementioned structure in the manner herein provided. (Ord. #35-3, April 1999)

13-303. Designation of city manager to enforce power to demolish. In accordance with the provisions of Tennessee Code Annotated, § 13-21-103 (1) the city manager of the city shall be designated and appointed to exercise the powers prescribed by this chapter. The city manager shall insure compliance with the provisions of Tennessee Code Annotated, § 13-21-108 regarding budgetary requirements of the enforcement of this chapter. (Ord. #35-3, April 1999)

13-304. Powers of city manager. In accordance with the provisions of Tennessee Code Annotated, § 13-21-107 the city manager is authorized 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:

- (1) Investigate conditions in the city in order to determine which structures therein are unfit for human occupation or use.
- (2) Administer oaths, affirmations, examine witnesses and receive evidence.
- (3) 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.
- (4) Appoint and fix the duties of such officers, agents and employees, as the city manager deems necessary to carry out the purposes of this chapter.
- (5) Delegate any of the city manager's functions and powers under this chapter to such officers and agents as the city manager may designate. (Ord. #35-3, April 1999)

13-305. Conditions rendering structure unfit for human occupation or use. The city manager may determine that a structure is unfit for human occupation or use if the city manager 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 this city. Such conditions may include the following (without

limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. The city manager may also use the criteria for unsafe buildings as set out in the Standard Unsafe Building Abatement Code, 1985 edition, adopted and referred to in title 12, chapter 7, of this code, to assist him in determining when a structure is unfit for human occupation or use. (Ord. #35-3, April 1999)

13-306. Enforcement procedures. (1) Whenever a petition is filed with the city manager by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupation or use, or whenever it appears to the city manager (on the city manager's own motion) that any structure is unfit for occupation or use, the city manager shall, if the city manager'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 city manager (or the city manager'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, that:

(a) 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; and

(b) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the city manager.

(2) If, after such notice and hearing, the city manager determines that the structure under consideration is unfit for human occupation or use, the city manager shall state in writing the city manager's findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order to either repair or remove the structure.

(a) If the costs of the repair, alteration or improvement of the structure will less than fifty percent of the value of the structure, the order shall require the owner, within the time specified in the order, to either repair or remove the structure.

(b) If the costs of the repair, alteration or improvement of the structure will be fifty percent or more of the value of the structure, the order shall require the owner, within the time specified in the order, to remove or demolish such structure.

(c) The city manager shall determine the value of the structure in question existing on the land. The value of the land itself shall not be considered. If the structure can be made to conform to habitable standards as set out herein by an expenditure of less than fifty percent of the value of the building, the order shall conform to the provisions of paragraph (2)(a). If an expenditure of fifty percent or more of the value

of the building will be necessary to make the structure properly habitable the order shall conform to the provisions paragraph (2)(b).

(3) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the city manager may cause such structure to be repaired, altered or improved, or to be vacated and closed; that the city manager 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."

(4) If the owner fails to comply with an order to remove or demolish the structure, the city manager may cause such structure to be removed or demolished.

(5) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the city manager 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 city, second only to liens of the state, county and city for taxes, any lien of the city 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 municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected.

(6) 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 may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city 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 city manager, the city manager 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 city manager, 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 to decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #35-3, April 1999)

13-307. Service of complaints or orders. Complaints or orders issued by the city manager 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 city manager in the exercise of reasonable diligence, and the city manager 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 printed and published in the city, or in the absence of such newspaper, in one printed and published in the county and circulating in the city in which the structures are located. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. 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. #35-3, April 1999)

13-308. Enjoining enforcement of order. (1) Any person affected by an order issued by the city manager may file a bill in the chancery court for an injunction restraining the city manager from carrying out the provisions of the order, and the court may, upon the filing of such bill, issue a temporary injunction restraining the city manager pending the final disposition of the cause; provided, that within sixty (60) days after the posting and service of the order of the city manager, such person shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

(2) The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the city manager as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies, and no person affected by an order of the city manager shall be entitled to recover any damages for action taken pursuant to any order of the city manager, or because of noncompliance by such person with any order of the city manager. (Ord. #35-3, April 1999)