

TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER 1

MISCELLANEOUS

SECTION

13-103. Weeds, bushes, shrubs, etc.

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(1) Grass & Weeds. It shall be unlawful for any owner or tenant of property containing less than five (5) acres to fail to periodically cut the grass, underbrush or other vegetation commonly recognized as weeds on his property. No owner or tenant of real property shall be in violation of this section until such time as the grass or other vegetation commonly recognized as weeds located upon their property reaches a height of one (1) foot or more.

(2) Parcels containing five (5) acres or more: Parcels containing five (5) acres or more land area that fronts a public street or roadway or adjoins a developed area shall be cleared of all weeds, tall grass and other noxious vegetation within fifty (50) feet of the property line adjoining the developed area and within fifty (50) feet of the pavement edge of any street or roadway adjoining the subject parcel to and including the right-of-way to the pavement edge. Excluded here from are natural wooded areas containing trees four (4) inches in diameter or larger on the subject property. The property owner shall be responsible for mowing grass and noxious vegetation on the edge of the trees on the property, including areas along adjoining developed areas or public rights-of-way.

(3) Bushes, shrubs, hedges, and trees. It shall be unlawful for any owner or tenant of real property to fail to periodically cut and trim any bushes, shrubs, hedges or trees surrounding his residence or buildings so as to allow safe ingress and egress into and from such residence or building by any door or window.

(4) Designation of public officer or department. The Codes Enforcement and Inspection Division shall be the primary department designated to enforce the provisions of this section. The Smyrna Police Department is also authorized and empowered to enforce the provisions of this section.

(5) Citation for Violation: If at any time the Codes Enforcement Inspection Division or Police Department determines an owner or tenant of real property is in violation of any provision of this Section, the property owner and/or tenant may be immediately cited to Municipal Court. Any officer or agency issuing a citation under this Part may cite both the owner and tenant, if applicable, of the property found to be in violation. Nothing in this Section shall be construed as requiring advanced notice to any person prior to the issuance of a citation. The Codes Enforcement Inspection Division and Police Department are authorized and empowered to develop any internal policies governing the issuance of citations they may deem necessary.

(6) Penalties for Violation: Any owner or tenant of property found to be in violation of the provisions of this Section shall be fined up to fifty dollars (\$50.00) for each day they are found to be in violation and shall also be ordered to pay the court costs.

(7) Clean-Up at Property Owner's Expense of Conditions Creating A Risk to Public Health, Safety or Welfare. (a) Determination of Risk. If it is determined by the Codes Enforcement Inspection Division that the owner of record of real property has created, maintained or permitted to be maintained on his property the growth or trees, vines, grass or underbrush so as to endanger the health, safety, or welfare of the public, the Codes Enforcement Inspection Division shall be authorized and empowered to enter upon such property and remedy any condition so endangering the health, safety, or welfare of the public. The exercise of the remedies prescribed under this Part by the Town shall be at the property owner's expense and may only take place after the Codes Enforcement and Inspection Division has complied with the notice provisions of this herein. The remedies of this Part may be exercised by the Codes Enforcement Inspection Division in conjunction with or to the exclusion of the issuance of a citation to Municipal Court as prescribed in Part (5).

(b) Notice to Property Owner. Prior to the clean-up of any property at its owner's expense, it shall be the duty of the Codes Enforcement and Inspection Division to serve upon the owner of record and tenant, if applicable, of the property so in violation a notice in plain language directing the owner and tenant 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 posted on the property and if the property owner or tenant, if applicable, is known, then sent by certified United States Mail, return receipt requested and by regular United States Mail addressed to the last known address of the owner of record or tenant. The notice shall state the owner of the property or tenant is entitled to a hearing before the Town Manager and shall, at minimum, contain the following additional information:

(i) A brief statement that the owner and/or tenant is in violation of §13-103 of the Smyrna Municipal Code, 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 clean-up;

(ii) The person, office, address and telephone number of the department or person giving the notice;

(iii) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and

(iv) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing before the Town Manager, or his designee;

(c) Notice when Last Known Address Cannot be Found: If the last known address of a property owner believed to be in violation of the provisions of this Chapter cannot be found, the Codes Enforcement and Inspection Division may personally deliver notice to the property owner or place such notice in a newspaper of general circulation in Rutherford County, Tennessee for a period of two (2) consecutive issues. Such publication shall constitute receipt of notice effective on the date of the second

publication and, in the event of personal service, notice shall be effective immediately upon delivery.

(d) Hearing Before Town Manager: Any property owner receiving notice of a proposed clean-up pursuant to this section shall be entitled to a hearing before the Town Manager, or his designee, if such hearing is requested within ten (10) days of receipt of the notice referenced in Sub-Part (b). Applying for a hearing before the Town Manager shall stay the proposed clean-up until such time as a hearing is held and determination made by the Town Manager, or his designee. The Town Manager may designate an employee of the Town of Smyrna to conduct such a hearing, but in no event may an employee of the Codes Enforcement Inspection Division or Codes Department be designated to hear the matter. If the Town Manager or his designee finds that no violation of this Chapter has occurred or that the property has been brought into compliance with the provisions of this Section, then he shall direct that all further attempts to remedy the condition cease.

(e) Failure to Remedy Condition: If any property owner of record found to be in violation of the provisions of this Section fails to remedy the condition of his property within ten (10) days after receiving notice (or (20) days if the owner is a carrier engaged in the electricity, gas, liquids, steam, sewage, or other materials) and the property owner of record fails to request a hearing before the Town Manager within the time period prescribed in Part (d), the Codes Enforcement Inspection Division shall be authorized and empowered to remedy the unlawful condition at the owner's expense.

(f) Collection of Clean-Up Fees: The Town Attorney, or his designee, shall secure payment of any clean-up costs and authorized administrative fees associated with the Town's exercise of the remedies herein through any means allowable by law including, but not limited to, the placing of a lien against the property at issue. The Town Attorney's Office shall comply with all applicable notice and procedural requirements, if any, prescribed by State and/or Federal law prior to initiating collection procedures under this Part.

(g) Judicial Review: Any person aggrieved by an order or act levied pursuant to this Section may seek judicial review of the same in accordance with applicable law. All attempts to clean-up the property shall be stayed pending final determination of the Town's authority to do so by an appropriate tribunal.

(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 conditions so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of vermin, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1991 Code, § 13-103, modified) (Ord. #17-48, November 2017)