

TITLE 13: PROPERTY MAINTENANCE REGULATIONS

Chapter

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CHAPTER 1: MISCELLANEOUS

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Cross-reference:

Animal control, see Title 10

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§ 13-101 SMOKE, SOOT, CINDERS, AND THE LIKE.

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.

(2007 Code, § 13-101) Penalty, see § 13-110

§ 13-102 STAGNANT WATER.

It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his or her property without treating it so as effectively to prevent the breeding of mosquitoes. It shall be unlawful for any person knowingly to allow any swimming pool, spa, or hot tub to be in an unclean or unsanitary condition or to be in a condition of disrepair, if such swimming pool, spa, or hot tub contains water, so as to be detrimental to or to endanger the health, comfort, and safety of the public or to encourage the infestation of mosquitos or other insects.

(2007 Code, § 13-102) Penalty, see § 13-110

§ 13-103 WEEDS, BUSHES, SHRUBS, AND THE LIKE.

(1) *Grass and weeds.* It shall be unlawful for any owner or tenant of property containing less than five acres to fail to periodically cut the grass, underbrush or other vegetation commonly recognized as weeds on his or her 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 foot or more.

(2) *Parcels containing five acres or more.* Parcels containing five 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 50 feet of the property line adjoining the developed area and within 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 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 or her 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 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 the municipal court. Any officer or agency issuing a citation under this division 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 \$50 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 or her 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 division 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 division (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 days (or 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 this section, 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 or her 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 the county for a period of two 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 or her designee, if such hearing is requested within ten days of receipt of the notice referenced in division (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 or her designee. The Town

Manager may designate an employee of the town 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 or her 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 or she 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 or her property within ten 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 division (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 or her 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.

(2007 Code, § 13-103) (Ord. 17-48, passed 11-14-2017)

Editor's note:

This section was modified in the 2017 update

§ 13-104 OVERGROWN AND DIRTY LOTS.

(1) *Prohibition.* Pursuant to the authority granted to municipalities under T.C.A. § 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) *Limitation on application.* The provisions of division (5) below shall not apply to any parcel of property upon which an owner-occupied residence is located. The provisions of division (6) below shall apply to any parcel of property upon which an owner-occupied residence is located.

(3) *Designation of public officer or department.* The Town Manager shall designate an appropriate department or person to enforce the provisions of this section.

(4) *Notice to property owner.* It shall be the duty of the department or person designated by the Town Manager to enforce this section to serve notice upon the owner of record in violation of division (1) above, a notice in plain language to remedy the condition within ten days (or 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. 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 § 13-104 of the town's municipal code, which has been enacted under the authority of T.C.A. § 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 before the Town Manager or his or her designee.

(5) *Clean-up at property owner's expense.*

(a) If the property owner of record fails or refuses to remedy the condition within ten days after receiving the notice (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 Town Council 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 cost thereof shall be assessed against the owner of the property.

(b) Failure to make a request for a hearing within the aforementioned notice period shall, without exception, constitute a waiver of the right to a hearing. Upon the filing of the notice with the office of the register of deeds in Rutherford 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.

(c) These cost 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.

(d) 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 or in the alternative, the codes enforcement and inspection division may cite the property owner and/or tenant to municipal court for violation of the ordinance provisions.

(6) *Remedying condition.*

(a) When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten days after receiving the notice (20 days if the owner is a carrier engaged in the transportation of property), the department or person designated by the Town Council 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.

(b) Failure to make a request for a hearing within the aforementioned notice period shall, without exception, constitute a waiver of the right to a hearing. The provisions in division (5) above 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 \$500 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 division (5) above for these charges. In addition to or in the alternative, the codes enforcement and inspection division may cite the property owner and/or tenant to municipal court for violation of the ordinance provisions.

(7) *Judicial review; appeal.* Any person aggrieved by an order or act of the town under the provisions of this chapter may seek judicial review of the order or the act. The time period established in divisions (5) or (6) 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.

(2007 Code, § 13-104) Penalty, see § 13-110

Editor's note:

Section 13-103 applies to cases where the town wishes to prosecute the offender in town court. This section can be used when the town seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in town court.

§ 13-105 OPEN STORAGE.

It shall be unlawful for the owner or occupant of a building, structure, or property to utilize the premises of such property for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish, or similar items.

(2007 Code, § 13-105) Penalty, see § 13-110

§ 13-106 CONTRACTORS TO KEEP CONSTRUCTION SITES CLEAN.

It shall be unlawful for the owner, agent, or contractor in charge of any construction or demolition site to cause, maintain, permit, or allow to be caused, maintained, or permitted the accumulation of any litter on the site before, during, or after completion of the construction or demolition project.

(2007 Code, § 13-106) Penalty, see § 13-110

§ 13-107 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 Town Clerk and dispose of such animal in such manner as the codes enforcement and inspection division shall direct.

(2007 Code, § 13-107)

§ 13-108 SWIMMING POOLS, SPAS, OR HOT TUBS.

(1) *Prohibition.* It shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property swimming pools, spas, or hot tubs in an unclean or unsanitary condition or in a state of disrepair if such swimming pool, spa, or hot tub contains water so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of mosquitoes or other insects.

(2) *Designation of public officer or department.* The codes enforcement and inspection division shall be designated to enforce the provisions of this section.

(3) *Notice to property owner.* It shall be the duty of the codes enforcement and inspection division to serve notice upon the owner of record in violation of division (1) above, a notice in plain language to remedy the condition within ten days (or 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 sent by registered or certified United States mail, addressed to the last known address of the owner of record and if the property owner is unknown, then notice shall be posted on the property. 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 § 13-108 of the town's municipal code

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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 before the Town Manager or his or her designee.

(4) *Clean-up at property owner's expense.* If the property owner of record fails or refuses to remedy the condition within ten days after receiving the notice (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 codes enforcement and inspection division shall immediately cause the condition to be remedied at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. The town is authorized to use either internal labor and equipment or private contractors at its discretion to enforce the provisions of this code. Failure to make a request for a hearing within the aforementioned notice period shall, without exception, constitute a waiver of the right to a hearing. The Town Attorney is authorized to take legal action to collect the costs of clean-up assessed against the property owner and to take any and all necessary action to place a lien against the property for the costs of clean-up if not paid. In addition to or in the alternative, the codes enforcement and inspection division may cite the property owner to municipal court for violation of the ordinance provisions.

(5) *Judicial review; appeal.* Any person aggrieved by an order or act of the town under the provisions of the subsection above may seek judicial review of the order or act. The time period established in division (4) above shall be stayed during the pendency of judicial review.

(6) *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 swimming pools, spas, or hot tubs in an unclean or unsanitary condition or in a state of disrepair if such swimming pool, spa, or hot tub contains water so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of mosquitoes and other insects under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

(2007 Code, § 13-108) Penalty, see § 13-110

Editor's note:

Section 13-102 applies to cases where the town wishes to prosecute the offender in town court.

Section 13-108 can be used when the town seeks to clean up the swimming pool, spa, or hot tub at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in town court.

§ 13-109 HEALTH AND SANITATION NUISANCES.

It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him or her 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.

(2007 Code, § 13-109) Penalty, see § 13-110

§ 13-110 VIOLATION AND PENALTY.

A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

(2007 Code, § 13-110)

CHAPTER 2: SLUM CLEARANCE

Section

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Cross-reference:

Refuse and trash disposal, see Title 17

Statutory reference:

Slum clearance, see T.C.A. Title 13, Chapter 21

§ 13-201 FINDINGS OF TOWN COUNCIL.

Pursuant to T.C.A. §§ 13-21-101 et seq., the Town Council finds that there exists in the town structures which are unfit for human occupation 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 dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

§ 13-202 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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DWELLING. 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.

GOVERNING BODY. The Town Council charged with governing the town.

MUNICIPALITY. The Town of Smyrna, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

OWNER. The holder of title in fee simple and every mortgagee of record.

PARTIES IN INTEREST. All individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

PLACE OF PUBLIC ACCOMMODATION. Any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

PUBLIC AUTHORITY. Any housing authority or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

PUBLIC OFFICER. 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 this chapter to exercise the power prescribed herein and pursuant to T.C.A. §§ 13-21-101 et seq.

STRUCTURE. Any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

§ 13-203 “PUBLIC OFFICER” DESIGNATED; POWERS.

There is hereby designated and appointed a “public officer,” to be the building official of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.

§ 13-204 INITIATION OF PROCEEDINGS; HEARINGS.

Whenever a petition is filed with the public officer by a public authority or by at least five residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his or her own motion) that any structure is unfit for human occupation or use, the public officer shall, if his or her 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 public officer (or

his or her designated agent) at a place therein fixed, not less than ten days nor more than 30 days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

§ 13-205 ORDERS TO OWNERS OF UNFIT STRUCTURES.

If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he or she shall state in writing his or her finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding 50% of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed 50% of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

§ 13-206 WHEN PUBLIC OFFICER MAY REPAIR AND THE LIKE.

If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling 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."

§ 13-207 WHEN PUBLIC OFFICER MAY REMOVE OR DEMOLISH.

If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.

§ 13-208 LIEN FOR EXPENSES; SALE OF SALVAGED MATERIALS; OTHER POWERS NOT LIMITED.

The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and

professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, 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 collected by the municipal tax collector or county trustee 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 as set forth in T.C.A. §§ 67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one action for debt against more than one 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 action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer 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 of Rutherford County by the public officer, 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 or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

§ 13-209 BASIS FOR A FINDING OF UNFITNESS.

The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he or she finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the town. 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 uncleanliness.

§ 13-210 SERVICE OF COMPLAINTS OR ORDERS.

Complaints or orders issued by the public officer 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 public officer in the exercise of reasonable diligence, and the public officer 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 consecutive weeks in a newspaper printed and published in the town. In addition, 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 Rutherford County and such filing shall have the same force and effect as other lis pendens notices provided by law.

§ 13-211 ENJOINING ENFORCEMENT OF ORDERS.

(1) Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in Chancery Court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within 60 days after the posting and service of the order of the public officer, such person shall file such bill in the court.

(2) The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

§ 13-212 ADDITIONAL POWERS OF PUBLIC OFFICER.

The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he or she deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his or her functions and powers under this chapter to such officers and agents as he or she may designate.

§ 13-213 POWERS CONFERRED ARE SUPPLEMENTAL.

This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the Charter and other laws.

§ 13-214 STRUCTURES UNFIT FOR HUMAN HABITATION DEEMED UNLAWFUL.

(1) It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation 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 dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

(2) Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3: JUNKYARDS

Section

- 13-301 Definitions
- 13-302 Junkyard screening
- 13-303 Screening methods
- 13-304 Requirements for effective screening
- 13-305 Maintenance of screens
- 13-306 Utilization of highway right-of-way
- 13-307 Non-conforming junkyards
- 13-308 Permits and fees
- 13-309 Designation of public officer or department
- 13-310 Violation and penalty

Cross-reference:

Abandoned, wrecked vehicles, see Title 13, Chapter 4

§ 13-301 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

JUNK. Includes old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

JUNKYARD. An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

PERSON. Any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.

RECYCLING CENTER. An establishment, place of business, facility, or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

SCREENING. The use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the town.
(2007 Code, § 13-301)

§ 13-302 JUNKYARD SCREENING.

Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter.
(2007 Code, § 13-302)

§ 13-303 SCREENING METHODS.

The following methods and materials for screening are given for consideration only.

(1) *Landscape planting.* The planting of trees, shrubs, and the like, of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) *Earth grading.* The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

(3) *Architectural barriers.* The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood;

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative; or

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) *Natural objects.* Naturally occurring rock outcrops, woods, earth mounds, and the like, may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen.

(2007 Code, § 13-303)

§ 13-304 REQUIREMENTS FOR EFFECTIVE SCREENING.

Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the town. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(1) Screens which provide a “see-through” effect when viewed from a moving vehicle shall not be acceptable.

(2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(3) Screening shall be located on private property and not on any part of the highway right-of-way.

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area.

(2007 Code, § 13-304)

§ 13-305 MAINTENANCE OF SCREENS.

(1) The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to ensure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the town.

(2) If not replaced within 30 days the town shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in the fee, plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the town.

(2007 Code, § 13-305)

§ 13-306 UTILIZATION OF HIGHWAY RIGHT-OF-WAY.

The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition.

(2007 Code, § 13-306)

§ 13-307 NON-CONFORMING JUNKYARDS.

Those junkyards within the town and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code, shall be considered as “non-conforming”. Such junkyards may be subject to the following conditions, any violation of which shall terminate the non-conforming status.

(1) The junkyard must continue to be lawfully maintained.

(2) There must be existing property rights in the junk or junkyard.

(3) Abandoned junkyards shall no longer be lawful.

(4) The location of the junkyard may not be changed for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the town.

(5) The junkyard may not be extended or enlarged.
(2007 Code, § 13-307)

§ 13-308 PERMITS AND FEES.

It shall be unlawful for any junkyard located within the town to operate without a “junkyard control permit” issued by the town.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The town’s fiscal year begins on July 1 and ends on June 30 the year next following.

(2) Each application for an original or renewal permit shall be accompanied by a fee established by the Town Council in the fee schedule which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the town.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued.
(2007 Code, § 13-308) Penalty, see § 13-310

§ 13-309 DESIGNATION OF PUBLIC OFFICER OR DEPARTMENT.

The codes enforcement and inspection division shall be designated to enforce the provisions of this section.

(2007 Code, § 13-309)

§ 13-310 VIOLATION AND PENALTY.

A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

(2007 Code, § 13-310)

CHAPTER 4: ABANDONED AND WRECKED VEHICLES

Section

- 13-401 Abandoned, wrecked, dismantled, or inoperative motor vehicle
- 13-402 Presence of abandoned vehicles and the like prohibited
- 13-403 Notice to remove
- 13-404 Responsibility for removal
- 13-405 Notice procedure
- 13-406 Failure to remove vehicle
- 13-407 Town court
- 13-408 Violation and penalty

Cross-reference:

Junkyards, see Title 13, Chapter 3

§ 13-401 ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE MOTOR VEHICLE.

(1) *Definitions.* For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

CHIEF OF POLICE. The Chief of Police of the town.

JUNKED MOTOR VEHICLE. Any motor vehicle, as defined below, which does not have lawfully affixed thereto an unexpired license plate or the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned, or discarded.

MOTOR VEHICLE. Any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf carts, campers, and trailers. ***MOTOR VEHICLES*** shall also include airplanes and self-propelled boats, including watercraft such as jet skis, designed to travel along the water by motorized means.

PERSON. Any person, firm, partnership, association, corporation, company, or organization of any kind.

PRIVATE PROPERTY. Any real property within the town which is privately owned and which is not public property as defined below.

PUBLIC PROPERTY. Any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

TOWN. The Town of Smyrna.

(2) *Storing, parking, or leaving dismantled or other such motor vehicle prohibited.* No person shall park, store, leave, or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition, whether attended or not, upon any public or private property within the town for a period of time in excess of 72 hours.

(2007 Code, § 13-401) Penalty, see § 13-408

§ 13-402 PRESENCE OF ABANDONED VEHICLES AND THE LIKE PROHIBITED.

The presence of an abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled vehicle or parts thereof, on private or public property is hereby declared unlawful and is prohibited. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the town and properly operated in the appropriate business zone, pursuant to the zoning laws of the town, or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, or any vehicle retained by the owner for antique collection purposes.

(2007 Code, § 13-402) Penalty, see § 13-408

§ 13-403 NOTICE TO REMOVE.

Whenever it comes to the attention of the town police that a violation of §§ 13-401 or 13-402, as defined in this chapter, has occurred or exists in the town, a notice in writing shall be served upon the occupant of the land where the violation exists, or in case there is no such occupant, then upon the owner of the property or his or her agent, notifying them of the existence of the violation and requesting removal of the junked motor vehicle in the time specified in this chapter.

(2007 Code, § 13-403)

§ 13-404 RESPONSIBILITY FOR REMOVAL.

Upon notice as provided in § 13-403 above, the owner of the abandoned, wrecked, dismantled, or inoperative vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal.

(2007 Code, § 13-404)

§ 13-405 NOTICE PROCEDURE.

(1) *Written notice.* The town's Police Department shall give written notice of removal to the owner or occupant of the private property where the vehicle is located at least 30 days before the issuance of a citation. It shall constitute sufficient notice, when a copy of same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by certified mail to the owner or occupant of the private property at his or her last known address.

(2) *Content of notice.* The notice shall contain the request for removal within the time specified in this chapter, and the notice shall advise that upon failure to comply with the notice to remove the Police Department shall issue a citation against the owner or occupant of the property for violation of this chapter.

(2007 Code, § 13-405)

§ 13-406 FAILURE TO REMOVE VEHICLE.

If the vehicle is not removed within 30 days after written notice duly given pursuant to this chapter, the Police Department shall issue a citation for violation of this chapter to the person to whom the notice has been directed.

(2007 Code, § 13-406)

§ 13-407 TOWN COURT.

A hearing upon the citation for violation of this chapter shall be held in the town court before the Town Judge who shall adjudge this matter according to the facts and law presented therein.

(2007 Code, § 13-407)

§ 13-408 VIOLATION AND PENALTY.

Violations shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

(2007 Code, § 13-408)

CHAPTER 5: VEHICLES DISPLAYED FOR SALE, RENTAL OR DISTRIBUTION

Section

- 13-501 Definitions
- 13-502 Application
- 13-503 Property maintenance conditions
- 13-504 Coordination with other sections
- 13-505 Enforcement
- 13-506 Violation and penalty

§ 13-501 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTOMOBILE RENTAL ESTABLISHMENT. A properly licensed establishment engaged primarily in the temporary rental of motorized vehicles.

AUTOMOBILE RETAIL ESTABLISHMENT. A properly licensed establishment engaged primarily in the retail sale of motorized vehicles.

AUTOMOBILE WHOLESALE ESTABLISHMENT. A properly licensed establishment engaged primarily in the wholesale distribution of motorized vehicles.

ENGAGED PRIMARILY. An establishment that is engaged in the sale, wholesale distribution or rental of more than one motorized vehicle.

§ 13-502 APPLICATION.

The provisions of this section shall apply to all businesses located within the town which are primarily engaged in retail sale, wholesale distribution or rental of motorized vehicles.

§ 13-503 PROPERTY MAINTENANCE CONDITIONS.

All automobile retail, wholesale and rental establishments shall maintain their properties in the following condition at all times:

Smyrna - Property Maintenance Regulations

(a) All vehicles displayed for sale, rental, or distribution shall be stored on a paved or concrete surface and shall not be stored on a grass, gravel, or any other unpaved surface.

(b) There shall be no less than a three-foot unobstructed pathway for movement in between each vehicle displayed for sale, rental or distribution.

(c) All vehicles displayed for sale, rental or distribution shall be parked or configured in such a way as to allow a 16-foot wide path for the ingress and egress of such vehicles.

(d) No motorized vehicle displayed for sale, rental or distribution shall be parked less than ten feet from a public or private roadway or thoroughfare.

(e) No motorized vehicle displayed for sale shall be parked in such a way as to block access to any public or private alleyway or sidewalk.

(f) No motorized vehicle displayed for sale shall be parked in such a manner as to block access to any fire hydrant.

(g) No vehicle shall be parked in such a manner as to block the entrance to any automobile retail, rental or wholesale establishment's parking lot.

(h) No automobile retail, rental, or wholesale establishment shall maintain in excess of five inoperable vehicles on its lot and any inoperable vehicles so maintained shall be governed by the provisions of this section.

Penalty, see § 13-506

§ 13-504 COORDINATION WITH OTHER SECTIONS.

Nothing in this chapter should be interpreted as relieving any automobile retail, wholesale or rental establishment from complying with all other provisions of the municipal code.

§ 13-505 ENFORCEMENT.

The Codes Enforcement and Inspection Division and Police Department shall be empowered to enforce the provisions of this chapter.

§ 13-506 VIOLATION AND PENALTY.

Any person found to be in violation of the provisions of this chapter shall be subject to a fine of up to \$50 for each offense.