

## TITLE 13

PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

## CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. TREE ORDINANCE.

## CHAPTER 1

MISCELLANEOUS

## SECTION

- 13-101. County health officer designated as health officer of city.
- 13-102. Health and sanitation nuisances.
- 13-103. Stagnant water.
- 13-104. Dead animals.
- 13-105. Weeds.
- 13-106. City may do work and charge violator with costs.
- 13-107. Placing or depositing garbage, refuse, dead animals, etc., in watercourses, etc.
- 13-108. Polluting water supply.
- 13-109. Adoption of food and beverage vending machine regulations.

13-101. County health officer designated as health officer of city. The public health officer of the county shall ex officio be the public health officer of

---

<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: section 16-107.

Toilet facilities in beer places: section 8-213(12).

Wastewater treatment: title 18, chapter 2.

## Charter references

Contagious disease control: § 5(4).

General health, nuisances, etc.: § 5(6).

Inspection of food and drink: § 5(18).

Inspection of lard, butter, etc.; regulation of vending of meats and vegetables: § 5(19)

Milk and dairy products: § 5(28).

Sewer connections; authority to prohibit cesspools, privies, etc.: § 5(27).

the city. The county public health officer is hereby vested with all authority and power granted to the health officer by this code. (1979 Code, § 8-101)

13-102. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises, to the menace of the public health or the annoyance of people residing within the vicinity. (1979 Code, § 8-104)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property. (1979 Code, § 8-106)

13-104. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1979 Code, § 8-107)

13-105. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property. It shall be unlawful for any such person to fail to comply with an order by the city building inspector to cut such vegetation when it has reached a height of over one foot. (1979 Code, § 8-109, as amended by Ord. #2612, Dec. 1990)

13-106. City may do work and charge violator with costs. When any property owner or tenant fails to comply with an order of the city building inspector to cut weeds or clean up his property, the city may do the work or have the work done and charge the violator for the reasonable costs thereof. The city may maintain any appropriate legal action to collect such costs. (1979 Code, § 8-110, as amended by Ord. #2612, Dec. 1990)

13-107. Placing or depositing garbage, refuse, dead animals, etc., in watercourses, etc. No person shall place or deposit or cause or permit to be placed or deposited in any stream, drain, gutter, or other watercourse within the city any human or animal excreta, offal, dead animals, garbage, refuse, or offensive, putrid, or polluting material or matter of any kind. (1979 Code, § 8-111)

13-108. Polluting water supply. No person shall in any manner pollute, contaminate, or render impure any spring, well, reservoir, or other water supply, public or private, within the city. (1979 Code, § 8-112)

13-109. Adoption of food and beverage vending machine regulations. The definitions; the requiring of permits for the installation and operation of vending machines; the prohibiting of the sale of adulterated or misbranded food or drink; the enforcement of this section and the fixing of penalties shall be regulated in accordance with the terms of the unabridged form of The Vending of Food and Beverages-A Sanitation Ordinance and Code-1965 Recommendations of the Public Health Service, three certified copies of which shall be on file in the office of the recorder; provided, that the words "municipality of \_\_\_\_\_" in such unabridged form shall be understood to refer to "City of Morristown."

Any person who shall violate any of the provisions of, or who fails to perform any duty imposed by, this section shall upon conviction be fined not more than fifty dollars at the discretion of the court. In addition thereto, such persons may be enjoined from continuing such violation. Each day upon which a violation occurs shall constitute a separate offense. (1979 Code, § 8-113)

## CHAPTER 2

SLUM CLEARANCE<sup>1</sup>

## SECTION

- 13-201. Findings of the governing body.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials, other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of order.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.

13-201. Findings of the governing body. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the mayor and members of city council find that there exists in the city 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 city. (Ord. #2510, Aug. 1987)

13-202. Definitions. (1) "Municipality" shall mean the City of Morristown, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body" shall mean the mayor and members of city council charged with governing the city.

(3) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or

---

<sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

state relating to health, fire, building regulations, or other activities concerning structures in the city.

(5) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (Ord. #2510, Aug. 1987)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (Ord. #2510, Aug. 1987)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupancy or use, the public officer shall, if his 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 designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after servicing of said 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. (Ord. #2510, Aug. 1987)

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 occupancy or use, he shall state in writing his 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 fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy 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 fifty percent [50%] of the value of said premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #2510, Aug. 1987)

13-206. When public officer may repair, etc. 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 occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (Ord. #2510, Aug. 1987)

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. (Ord. #2510, Aug. 1987)

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 shall, be a lien against the real property upon which such costs were incurred. If the structure is removed or demolished by the public officer, he 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 Hamblen County, Tennessee, by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the City of Morristown to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise may be provided by the charter or ordinances of the city. (Ord. #2510, Aug. 1987)

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 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 City of Morristown; 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; and uncleanliness. (Ord. #2510, Aug. 1987)

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 person is 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 (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the 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 Hamblen County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #2510, Aug. 1987)

13-211. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit 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 sixty (60) days after the posting and service of the order of the public officer, such person shall file such suit in the court.

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. (Ord. #2510, Aug. 1987)

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 the structure conditions in the city 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 deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #2510, Aug. 1987)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city 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, other ordinances, rules, regulations and other laws. (Ord. #2510, Aug. 1987)

## CHAPTER 3

TREE ORDINANCE

## SECTION

- 13-301. Purpose.
- 13-302. Definitions.
- 13-303. Administration.
- 13-304. Tree planting.
- 13-305. Tree care.
- 13-306. Tree removal.
- 13-307. Protection of existing trees.

13-301. Tree ordinance. The purpose of this chapter is to provide a mechanism for the management of trees and woody vegetation in the City of Morristown, Tennessee. (Ord. #2639, July 1991)

13-302. Definitions.

- (1) "Tree" - a woody plant with a single trunk, or multiple trunk capable of growing to a height greater than 15 feet.
- (2) "Shrub" - a woody plant with a multiple stem capable of growing to a height of up to 15 feet.
- (3) "Public tree" - a tree growing in an area owned by the community, including parks, public buildings, schools, hospitals, and other areas to which the public has free access.
- (4) "Private tree" - a tree growing in an area owned by a private individual, business or commercial establishment, company, or industry, private institution, or other areas not owned by government entities.
- (5) "Street tree" - a tree growing within a public right-of-way along a street, in a median or in a similar area in which the public right-of-way borders areas owned by private individuals.
- (6) "Public utility" - that section of local government in charge of electrical distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.
- (7) "Utility tree" - a tree that will contact any utility structure.
- (8) "Pruning" - selective removal and thinning of the upper portions of the tree taking into account the shape and natural structure of the tree.
- (9) "Proper pruning method" - selective removal and thinning of the upper portion of the tree using natural target techniques, taking into account the natural structure of the tree.
- (10) "Topping" - arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.
- (11) "Crownsread" - the distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side.

- (12) "Drip line" - all points directly underneath the end of the branches.
- (13) "Line clearance" - removal of the limbs and branches growing within a set distance of electrical distribution lines. (Ord. #2639, July 1991)

13-303. Administration. (1) The city manager shall be responsible for carrying out this chapter.

(a) Creation and establishment of a city tree board. There is hereby created and established a city tree board for the City of Morristown, which shall consist of eleven members, five members at large who are citizens and residents of this city and who shall be appointed by the mayor with the approval of the city council, and six standing members of the board which shall include the Morristown Public Works Director, Morristown Utility Board Representative, a representative from local office of State Division of Forestry, a representative from State Soil Conservation Service, a representative from Keep America Beautiful and a member of the Morristown city council.

(b) Term of office. The term of the five persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. No member shall serve more than two successive terms.

(c) Compensation. Members of the board shall serve without compensation.

(d) Duties and responsibilities. The duties of the tree board shall include, but not be limited to the following:

- (i) Develop and review, as necessary, recommend policies to carry out the intent of this chapter;
- (ii) Assist in coordinating tree-related activities;
- (iii) Coordinate publicity concerning trees and tree programs;
- (iv) Provide tree information to the community;
- (v) Maintain a recommended tree list for the community;
- (vi) Recognize groups and individuals completing tree projects;
- (vii) Coordinate donations of trees or money to purchase trees;
- (viii) Hear citizen concerns regarding tree problems during scheduled meetings;
- (ix) Perform other tree related duties and opportunities that arise from time to time.

(e) Operation. The board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(f) Review of city council. The city council shall have the right to review the conduct and acts of the city tree board. Any person may appeal from any ruling of the city tree board to the city council who may hear the matter and make final a decision. (Ord. #2639, July 1991)

13-304. Tree planting. (1) Tree planting shall be undertaken by the city on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be recommended by the tree board.

(2) Planting of trees on private property is encouraged, especially in areas where the public may have any extraordinary interest. The tree board will provide information about species, planting techniques, and placement guidelines when requested by residents.

(3) Planted or natural established seedlings near existing objects. Small tree species may not be established within 8 feet of an imaginary line drawn between utility poles or over underground utilities. Large tree species may not be established within 13 feet of an imaginary line drawn between utility poles or over underground utilities.

For street tree establishment, no tree or shrub may be established closer than 10 feet to a fire hydrant, utility pole, or street light. Establishment of trees and/or shrubs adjacent to roadway, intersections including driveways or streets is restricted to provide a safe clear distance to prevent visual impairment or obstructions. When planting between sidewalks and curbs, 6 feet between curb and sidewalk is the minimum distance required for small tree species, and 10 feet for large species. (Ord. #2639, July 1991)

13-305. Tree care. (1) Tree topping of all public trees is prohibited, except as the first stage of tree removal, and topping of private trees is strongly discouraged.

(2) Tree maintenance may include pruning, fertilizing, watering, insect and diseases control or other tree care activities. The city shall take responsibility for those maintenance activities needed to keep the public trees reasonably healthy and minimize the risk of hazard trees could cause to residents and visitors of the city. Determination of maintenance needs shall be made by the tree board and a recommendation will be made to the city manager. Tree care may be accomplished by trained city personnel or by contract with qualified commercial tree care companies.

(3) Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The tree board will provide information in a timely manner to residents about

all aspects of tree care including the latest techniques and procedures currently being practiced.

(4) Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the required methods. Where practicable, the utility shall undertake a program of replacing removed trees with appropriate replacement tree species or cultivars recommended by the tree board.

(5) The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be pre-cut (3-cut method) to prevent excessive peeling of the bark, followed by cutting the remaining curb.

(6) Grade changes and trenching within the crown spread (ends of branches) of public trees should be conducted in such a way as to minimize root system damage. Owners of private trees are encouraged to consult the tree board before proceeding with these activities.

(7) The Morristown Tree Board will recommend to the City of Morristown areas that need to be pruned along streets and sidewalks. (Ord. #2639, July 1991)

13-306. Tree removal. (1) Dead, diseased, and dying trees that pose a safety or health risk to residents, utility lines, service lines or to other trees shall be removed in a timely manner. This section will apply to both public and private trees. The tree board will make the risk determination. If the tree is on private property, the city will serve notice of said risk and specify a reasonable time for said removal to be accomplished by the owner. If the tree is on public property, the appropriate governmental department will be contacted with the recommendation that the tree be removed.

(2) Upon receipt of notice to remove a tree, the owner may appeal the decision within 15 days (or next meeting) to the tree board.

(3) Tree removal to ground level is considered part of the tree removable process (0 to 6 inches from the soil is considered ground level).

(4) Sprout control following tree removal will be accomplished by mechanical or chemical means. Any chemical used in sprout control shall be registered and used according to the manufacturers specifications. (Ord. #2639, July 1991)

13-307. Protection of existing trees. As it pertains to commercial and residential development, the city maintains that it is in the best interest of all concerned to save as many existing trees as practical. (Ord. #2639, July 1991)