

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKED VEHICLES.
3. SLUM CLEARANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. County and state regulations adopted.
- 13-102. Expectoring.
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- 13-107. Brush, tree and limb collection and removal policy.
- 13-108. [Deleted.]
- 13-109. [Deleted.]
- 13-110. [Deleted.]
- 13-111. [Deleted.]

13-101. County and state regulations adopted. The regulations of the county and the regulations of the state relative to health and sanitation, food, food establishments and food inspections are hereby adopted by reference the same as if set out at length herein. (1988 Code, § 8-101, as replaced by Ord. #1368, June 2008)

13-102. Expectoring. It shall be unlawful for any person to expectorate upon the floor of any public room or building or expectorate upon any street or sidewalk within the city. (1988 Code, § 8-102, as replaced by Ord. #1368, June 2008)

13-103. Littering--generally. (1) It shall be unlawful for any person to:
(a) Knowingly place, drop or throw litter on any public or private property without permission and does not immediately remove it;

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-211(10).

(b) Negligently place or throw glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or within fifty feet (50') of a public highway;

(c) Negligently discharge sewage, minerals, oil products or litter into any public waters or lakes within this state.

(2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.

(3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering. (1988 Code, § 8-103, as replaced by Ord. #1368, June 2008, and Ord. #1416, July 2011)

13-104. Accumulation of rubbish. It shall be unlawful for any person owning, leasing, occupying, or having control of property, regardless of whether the property is a vacant lot or contains any form of structure, in the city, to permit the accumulation upon such property of garbage, trash, rubbish or other refuse in any form or nature, other than as authorized for city pick-up and disposal. All such accumulations are hereby declared to be a public nuisance. The failure to clean up and remove such rubbish shall constitute a violation of this section. (1988 Code, § 8-104, as replaced by Ord. #1368, June 2008)

13-105. Weeds and other vegetation. (1) It shall be unlawful for any person or other entity owning, leasing, occupying or having control of property in the city, regardless of whether the property is vacant or contains any form of structure, to permit the growth upon such property of weeds, grass, brush and all other rank or noxious vegetation to a height greater than twelve (12) inches when such growth is within two hundred (200) feet of other improved and/or occupied property or is within two hundred (200) feet of the right of way of any street, thoroughfare, or highway, within the city.

(2) Excluded from the provisions hereof shall be tracts of land of five (5) acres or larger in unplatted, undeveloped areas (i.e., not in a subdivision approved by the city planning commission, and the plat of which is recorded with the register of deeds, or in a subdivision developed prior to the creation of the planning commission, a plat of which is of record with the register of deeds) or tracts that are being used for current agricultural purposes. Property not exempt due to its size or the active practice of agriculture which is contiguous to parcel(s) of land which front on public streets or roadways, or contain any improvements shall be cleared of all weeds, tall grass and other noxious vegetation to within two hundred (200) feet of the property line of the developed property adjoining the subject tract and/or front property line adjoining the right of way of any street or roadway. Also excluded herefrom are natural wooded

areas containing trees. As to said naturally wooded areas, the clearing requirements of this section shall extend only to the line of woods or trees in said areas, adjoining developed (improved) property or public thoroughfares.

(3) The failure to cut and destroy such weeds, grass, brush and all other rank or noxious vegetation not subject to the exclusions above, shall constitute a violation of this section.

(4) It shall also be unlawful for any such person and/or other entity to permit poison vines or plants injurious because of pollination or a menace to health, to grow where they may cause injury or discomfort to any person within the city, regardless of height, which plants are hereby declared to be a public nuisance. The failure to destroy such poison vines or other such plants shall constitute a violation of this section.

(5) It shall be unlawful to plant, maintain or allow to remain any vegetation, shrubbery, hedge rows, etc., so near or upon public road rights of way as to constitute a hazard to vehicular and/or pedestrian traffic. Failure of owners of property adjoining said rights of way or owners of property upon which said vegetation exists to trim or remove same shall be guilty of a violation of this section. A violation hereof shall render the violator subject to the general penalty provisions of this code. (1988 Code, § 8-105, as replaced by Ord. #1368, June 2008)

13-106. Debris not to result in obstructing view of vehicle drivers. It shall be unlawful for any person to place debris on the property that might obstruct the vision of the operators of vehicles or of pedestrians. (1988 Code, § 8-106, as replaced by Ord. #1368, June 2008)

13-107. Brush, tree and limb collection and removal policy. The board of mayor and aldermen may adopt by resolution a policy, which may be amended from time to time, for the collection and removal of brush, trees and limbs (1988 Code, § 8-107, as replaced by Ord. #1368, June 2008)

13-108. [Deleted.] (1988 Code, § 8-108, as deleted by Ord. #1368, June 2008)

13-109. [Deleted.] (1988 Code, § 8-109, as deleted by Ord. #1368, June 2008)

13-110. [Deleted.] (1988 Code, § 8-110, as deleted by Ord. #1368, June 2008)

13-111. [Deleted.] (1988 Code, § 8-111, as deleted by Ord. #1368, June 2008)

CHAPTER 2

JUNKED VEHICLES

SECTION

- 13-201. Definitions.
- 13-202. Prohibition, declaration of nuisance; exceptions; screening of junkyards.
- 13-203. Service of notice to remove.
- 13-204. Responsibility for removal.
- 13-205. Notice procedure.
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- 13-207. Request for hearings.
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- 13-209. Removal by city.
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- 13-211. Disposition of removed vehicles.
- 13-212. Contents of public sale notice.
- 13-213. Conduct of public sale.
- 13-214. Redemption of impounded vehicles.
- 13-215. Liability of owner or occupant.

13-201. Definitions. For the purposes of this chapter, the following terms shall have the respective meanings ascribed to them:

(1) "Automobile graveyard" or "vehicle junkyard." Any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.

(2) "Director of traffic." The chief of police.

(3) "Improperly registered vehicle." Any motor vehicle which does not have lawfully affixed thereto an unexpired license plate shall be considered a junked vehicle for the purposes of this chapter.

(4) "Junked motor vehicles." Any motor vehicle the condition of which is significantly damaged, wrecked, dismantled totally or partially, inoperative, or a motor vehicle which is a damaged, wrecked, totally or partially dismantled or inoperative condition which has been abandoned, or discarded.

(5) "Motor vehicle." Any vehicle which is self-propelled and designed to travel along the ground, in the air and in the water and shall include, but not be limited to, automobiles, recreational vehicles, buses, motor-bikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf carts, campers and trailers, boats, airplanes and helicopters.

(6) "Private property." Any real property within the city which is privately owned and which is not public property as defined in this section.

(7) "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. (1988 Code, § 8-301, modified)

13-202. Prohibition, declaration of nuisance; exceptions; screening of junkyards. (1) It shall be unlawful to and no person shall park, store, leave, or permit the parking, storing, or leaving of any motor vehicle of any kind which is in a wrecked, dismantled, inoperative, heavily rusted, junked, or partially dismantled condition, whether or not attended, upon any public or private property within the city, for a period of time in excess of thirty (30) days on private property, or forty-eight (48) hours on public property. Subject vehicle shall be considered as abandoned or discarded.

(2) 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 a public nuisance which may be abated as such in accordance with the provisions of this chapter.

(3) 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 city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city, 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. (An antique is an automobile at least twenty-five (25) years old).

(4) However, any vehicles so parked, stored, left or permitted to be parked, stored or left as is hereinabove defined, upon private property either licensed as or being used as "an automobile graveyard" or "a vehicle junkyard" as is hereinabove defined, shall be screened by natural objects, plantings, fences or other appropriate means so as not to be visible in any manner whatsoever from any street or highway upon which same are located, or otherwise removed from sight. Further, any "automobile graveyard" or "vehicle junkyard" as is hereinabove defined, shall be subject to those provisions of Tennessee Code Annotated, § 54-20-104, as amended, and the city shall have the power to enforce said regulations. Those "automobile graveyards" or "vehicle junkyards" in existence prior to the effective date of this section shall likewise erect screening as is hereinabove provided.

(5) Junked motor vehicles, as are defined in § 13-201 hereof, or any parts or accessories thereof, or thereto held in conjunction with a business enterprise other than an automobile graveyard or a vehicle junkyard, such as a body repair shop, used car sales facility, paint shop, vehicle detention facility, or storage facility, etc., shall not exceed the number of ten of any such vehicles, upon said property. Such vehicles must be placed on subject property no closer to any abutting streets or roads than the setback line of the major building situate upon the property occupied by said business; provided, however, that this provision may be waived in the event that proper screening is erected by the business owner in the form of fencing or landscaping so as to hide from view from the abutting streets, said vehicles. If there is no building upon subject property upon which said stored vehicles are located then those screening requirements as set forth in sub-paragraph (4) of this section shall apply. Further provided, that the provisions hereof shall not apply to a lawfully licensed new or used car sales facility exhibiting for sale fully operable automobiles. Further, no business as is defined in this paragraph shall allow

to accumulate or shall place, within sight of abutting streets and roads, any vehicle parts such as tires, engine blocks, wheels, bumpers, etc., the provisions hereof requiring that said vehicle parts be kept fully out of sight if stored outside, or be properly screened from sight, or be stored within the buildings situate upon said property. The superintendent of public works may prescribe and must approve any screening required by this section.

(6) No notice to anyone violating the provisions of this section shall be necessary for the city to enforce its remedies under the general penalties section of this code. (1988 Code, § 8-302)

13-203. Service of notice to remove. Whenever it comes to the attention of the chief of police that any nuisance as defined in this chapter exists in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this chapter. (1988 Code, § 8-303)

13-204. Responsibility for removal. Upon proper notice and opportunity to be heard, 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. In the event of removal and disposition by the city, the owner, or occupant of the private property where same is located, shall be liable for the expenses incurred. (1988 Code, § 8-304)

13-205. Notice procedure. The director of traffic shall give notice of removal to the owner or occupant of the private property where it is located, at least ten (10) days before the time of compliance. 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 registered mail to the owner or occupant of the private property at his last known address. (1988 Code, § 8-305)

13-206. 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 city or its designee shall undertake such removal with the cost of removal to be levied against the owner of the vehicle and the owner or occupant of the private real property. (1988 Code, § 8-306)

13-207. Request for hearings. The persons to whom the notices are directed, or their duly authorized agents, may file a written request for hearing before the board of mayor and aldermen or its designee within the ten (10) day period of compliance prescribed, for the purpose of defending the charges by the city. (1988 Code, § 8-307)

13-208. Procedure for hearing. The hearing shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof. At any such hearing the city and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary. (1988 Code, § 8-308)

13-209. Removal by city. If the violation described in the notice has not been remedied within the ten (10) day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the violation is affirmed by the board of mayor and aldermen, or its designee, the chief of police or his designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such persons to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter. (1988 Code, § 8-309)

13-210. Notice that removal accomplished. Within forty-eight (48) hours of the removal of such vehicle, the chief of police shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that said vehicle has been impounded and stored for violation of this chapter. The notice shall give the location where the vehicle is stored, and the costs incurred by the city for removal. (1988 Code, § 8-310)

13-211. Disposition of removed vehicles. Upon removing a vehicle under the provisions of § 13-209 the city shall after ten (10) days cause it to be appraised. If the vehicle is appraised at seventy-five dollars (\$75.00) or less, the chief of police shall execute an affidavit so attesting and describing the vehicle, including the license plates, if any, and stating the location and appraised value of the vehicle. The chief of police, after complying with the above, may summarily dispose of the vehicle and execute a certificate of sale. If the vehicle is appraised at over seventy-five dollars (\$75.00), the chief of police shall give notice of public sale not less than ten (10) days before the date of the proposed sale. (1988 Code, § 8-311)

13-212. Contents of public sale notice. The notice of sale shall state:

- (1) The sale is of abandoned property in the possession of the city;
- (2) A description of the vehicle, including make, model, license number and any other information which will accurately identify the vehicle;
- (3) The terms of the sale; and
- (4) The date, time and place of the sale. (1988 Code, § 8-312)

13-213. Conduct of public sale. The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the chief of police shall execute a certificate of sale in duplicate, the original of which is to be given to the purchaser, and the copy thereof to be filed with the city

recorder. Should the sale for any reason be invalid, the city's liability shall be limited to the return of the purchase price. (1988 Code, § 8-313)

13-214. Redemption of impounded vehicles. The owner of any vehicle seized under the provisions of this chapter may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the city recorder of such sum as the recorder may determine and fix for the actual and reasonable expense of removal, and any preliminary sale advertising expenses, not to exceed one hundred dollars (\$100.00) plus two dollars (\$2.00) per day for storage for each vehicle redeemed. (1988 Code, § 8-314)

13-215. Liability of owner or occupant. Upon the failure of the owner or occupant of property on which abandoned vehicles have been removed by the city to pay the unrecovered expenses incurred by the city in such removal, a lien shall be placed upon the property for the amount of such expenses. (1988 Code, § 8-315)

CHAPTER 3

SLUM CLEARANCE¹

SECTION

- 13-301. Findings of board.
- 13-302. Definitions.
- 13-303. "Public officer" designated; powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Additional powers of public officer.
- 13-312. Powers conferred are supplemental.
- 13-313. Structures unfit for human habitation deemed unlawful.
- 13-314. Means of appeal.
- 13-315. Enjoining enforcement of orders.

13-301. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds 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. (as added by Ord. #1399, Feb. 2010)

13-302. Definitions. (1) "Board of appeals" shall mean the board of zoning appeals of the City of Tullahoma, Tennessee.

(2) "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.

(3) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(4) "Municipality" shall mean the City of Tullahoma, Tennessee and the areas encompassed within existing city limits or as hereafter annexed.

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

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(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) "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.

(8) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(9) "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 this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq., as may be amended.

(10) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

(11) "Value of the structure" means the value as established by the county tax assessor's office. (as added by Ord. #1399, Feb. 2010, and amended by Ord. #1426, May 2012)

13-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the director of planning and codes of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the director of planning and codes. (as added by Ord. #1399, Feb. 2010)

13-304. 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 occupation 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 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. (as added by Ord. #1399, Feb. 2010)

13-305. 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 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 as established by the county tax assessor's office), 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 fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #1399, Feb. 2010)

13-306. 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 occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #1399, Feb. 2010)

13-307. 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. (as added by Ord. #1399, Feb. 2010)

13-308. 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 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 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 Tennessee Code Annotated, §§ 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 (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 public officer, the public officer shall sell the materials of such structure and shall credit the proceeds or such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of appropriate jurisdiction by the public officer, shall be secured in such a 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 City of Tullahoma, Tennessee to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #1399, Feb. 2010)

13-309. 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 and 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 Tullahoma, Tennessee. Such conditions may include the following (without limiting the generality of the forgoing): 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. (as added by Ord. #1399, Feb. 2010)

13-310. 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 (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 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 Coffee County, Tennessee or Franklin County, Tennessee, as applicable and such filing shall have the same

force and effect as other lis pendens notices provided by law. (as added by Ord. #1399, Feb. 2010)

13-311. 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 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. (as added by Ord. #1399, Feb. 2010)

13-312. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the municipality with regard to the enforcement of the provisions of its chapter 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. (as added by Ord. #1399, Feb. 2010)

13-313. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain, or permit to be maintained, in the municipality, 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 municipality.

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. (as added by Ord. #1399, Feb. 2010)

13-314. Means of appeal. The appeal process shall be as follows:

(1) Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice or order was

served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

(2) Membership of board. The board of appeals shall consist of a minimum of three (3) members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

(3) Chairman. The board shall annually select one (1) of its members to serve as chairman.

(4) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(5) Notice of meeting. The board shall meet upon notice from the chairman, within twenty (20) days of the filing of an appeal, or at stated periodic meetings.

(6) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds (2/3) of the board membership.

(7) Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(8) Postponed hearing. When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(9) Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

(10) Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

(11) Administration. The code official shall take immediate action in accordance with the decision of the board.

(12) Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

(13) Stays of enforcement. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order

until the appeal is heard by the appeals board. (as added by Ord. #1399, Feb. 2010)

13-315. Enjoining enforcement of orders. 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 sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill 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. (as added by Ord. #1399, Feb. 2010)