

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. ABANDONED AND DISCARDED VEHICLES.
3. SLUM CLEARANCE.
4. BLIGHTED AREAS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Removal from property of unsafe and unhealthy man-made and natural material at property owner's expense.

13-101. Smoke, soot, cinders, etc. 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.

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 property without treating it so as effectively to prevent the breeding of mosquitoes. (1981 Code, § 10-76, modified)

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an

¹Municipal code references

Animal control: title 10.

Toilet facilities in beer places: § 8-213(10).

Wastewater treatment: title 18, chapter 1.

order by the code enforcement officer to cut such vegetation when it has reached a height of over one (1) foot. (1981 Code, § 10-76, modified)

13-104. Overgrown and dirty lots.¹ (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 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, waste tires, or garbage, or any other 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) Deleted. This subsection was deleted by Ord. of 6/18/2001.

(3) Designation of public officer or department. The city 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 city council to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be 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 Cleveland Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 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 city; and

¹Municipal code reference

Section 13-103 applies to cases where the city wishes to prosecute the offender in city court. Section 13-104 can be used when the city 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 city court.

This title, chapter 2.

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (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 city manager 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. Upon the filing of the notice with the office of the register of deeds in Bradley 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. 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. 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.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the city manager. The appeal shall be filed with the city clerk within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the city manager under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) 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 city 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. (as amended by Ord. of 6/18/2001, and Ord. #2005-45, Nov. 2005)

13-105. 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 animal control officer and dispose of such animal in such manner as the animal control officer shall direct. (1981 Code, § 10-18, modified)

13-106. 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.

13-107. Removal from property of unsafe and unhealthy man-made and natural material at property owner's expense. 1. Prohibition. It shall be unlawful for any owner of any real property in the city to create, maintain or permit to be maintained on such property any unsafe and unhealthy man-made and natural materials, including junk motorized and non-motorized vehicles and carriage of every kind and description, debris, trash, litter and garbage, and growth of vegetation, including weeds, trees, vines, grass and underbrush.

2. Application. The provisions of this section shall apply to every piece of real property in the city, including, but not limited to, residential commercial, industrial and business property, whether is occupied or unoccupied.

3. Designation of enforcement officer. The city manager shall designate an appropriate department or person to enforce the provisions of this section.

4. Notice to property owners. It shall be the duty of the enforcement department or officer to service notice upon the owner of record of the property in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days, excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified U.S. 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 a minimum contain the following information:

a. A brief statement that the owner is in violation of § 13-107 of the Cleveland Municipal Code, and that the property in violation of that section 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 enforcement department or officer giving the notice;

c. A cost estimate for remedying the noted condition, which shall be in conformity with the standards of costs in the city; and

d. A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

5. Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice, the enforcement department or officer 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. Upon the filing of the notice with the office of the register of deeds in Bradley County, the costs shall be a lien on the property in favor of the city, second only to liens of the state, county and city for property taxes, and lien of the city for special assessments, and any valid lien, right or interest in such property duly recorded or perfected, prior to the filing of such notice, and the expenses shall be collected by the city's tax collector at the same time and in the same manner as property taxes are collected.

6. Appeal. The owner of record who is aggrieved by the determination of the enforcement department or officer may appeal the determination and order to the city manager. The appeal shall be filed with the city clerk within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception constitute a waiver of the right to a hearing.

7. Judicial review. Any person aggrieved by an order or act of the enforcement department or officer or city manager under subsection (5) above, shall be stayed during the pendency of judicial review.

8. Supplemental nature of this section. The provisions of this section shall be 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 city to proceed against a property owner, tenant or occupant of property who has created maintained or permitted to be maintained on such property unsafe and unhealthy man-made and natural materials. (as added by Ord. of 6/18/2001)

CHAPTER 2**ABANDONED AND DISCARDED VEHICLES--AND IMPROPERLY
STORED PORTABLE BUILDINGS****SECTION**

- 13-201. Definitions.
- 13-202. Abandoning prohibited.
- 13-203. Leaving nonoperating junked vehicle on street prohibited.
- 13-204. Location or presence of discarded, or abandoned, or inoperable, or unlicensed vehicles or improperly stored portable buildings within city deemed a public nuisance; exceptions.
- 13-205. Screening of otherwise lawfully located inoperable and unlicensed vehicles.
- 13-206. Penalties.

13-201. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

1. "Abandoned vehicle" shall mean any vehicle or part thereof which is left unattended on public or private property for more than thirty (30) days, or a vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or a vehicle that has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours.
2. "Discarded vehicle" shall mean any vehicle or part thereof which:
 - a. is inoperative and which does not have lawfully affixed thereto an unexpired license plate or plates and which is wrecked, dismantled, partially dismantled or discarded; or
 - b. remains inoperable and without unexpired license plate or plates affixed thereto for a continuous period of more than thirty (30) days.
3. "Property" shall mean any property within the city which is not a street, highway or public right-of-way.
4. "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport person or property or pull machinery, and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, and wagons. For purposes of this title 13 of the Cleveland Municipal Code, "vehicle" shall also include watercraft and aircraft.
5. For purposes of this title 13 of the Cleveland Municipal Code, "portable buildings" shall include structures such as mobile homes, office trailers, portable kitchens, tents, or other structures for human occupancy or storage that are to designed to be transported intact or in sections.

6. For purposes of this title 13 of the Cleveland Municipal Code, "improperly stored portable buildings" shall be deemed to include any portable building located or maintained on a property so as to exhibit one or more of the health hazard conditions applicable to vehicles as described in § 13-204. However, the use of a portable building for its designed purpose would not constitute a health hazard (e.g. sheltering a dog in a doghouse) apart from other conditions. Portable buildings, except when held for sale or lease on a person-attended sales or rental lot that is properly zoned and developed in compliance title 14, chapter 2 of the Cleveland Municipal Code, will be considered improperly stored if they are stored or abandoned on any property for more than 30 days such that the portable building is not connected to public water and sewer if so designed, or such that the portable building installation was without a required permit or in violation of a condition of the required permit, or such that the portable building is open or otherwise not secure from entry, or such that the portable building is not properly secured with an approved foundation or anchoring system. Relocation of a portable building prior to the end of the aforementioned 30-day period shall not change the effective date of the violation or otherwise cure the violation unless such relocation is in a place and manner that would not constitute the improper placement of a portable building at the end of the 30-day period. Portable buildings, when permitted in accordance with temporary use provisions in title 14, chapter 2, section 2.16 and maintained and removed in accordance with said permit, shall not be considered as improperly stored.

7. "Inoperative" and "inoperable," as applied to vehicles, shall mean any vehicle that is not roadworthy if designed to be driven on public streets; or any vehicle that cannot be moved under its own power if designed to be moved under its own power, or a vehicle designed to be towed or hauled that is not safe and roadworthy for towing or hauling, or vehicle parts that are not assembled so as to comprise a complete vehicle. Conditions that would render a vehicle not roadworthy would include damage or disrepair of the vehicle such that it cannot be moved, steered, and stopped as designed, or a condition of the vehicle such that it cannot be operated in compliance with applicable traffic laws. Vehicle damage that is of a purely aesthetic nature would not, apart from other conditions, constitute an inoperable vehicle condition. When applied in particular to watercraft or aircraft, the terms "inoperative" and "inoperable" shall also include being wrecked or otherwise incapable of being safely operated in the water or air as designed.

8. "Unlicensed," as applied to vehicles, shall mean a vehicle without unexpired license plates or a vehicle without other lawfully required registration that is currently valid.

9. "Health hazard," for the purposes of this ordinance pertaining to inoperable vehicles shall include, but are not necessarily be limited to, the following conditions: a vehicle passenger compartment, trunk, or other normally enclosed area that is open to the elements; vegetation growing on, within, or

under the vehicle other than grass maintained at an otherwise lawful height; storage of junk, garbage, or debris on or within the vehicle; infestation of the vehicle by rats, snakes or other vermin; standing water on or within the vehicle so as to create a potential breeding ground for mosquitos; use of the vehicle for the unsafe storage of hazardous materials; use of a vehicle for human habitation where it is not designed for human habitation; use of a vehicle designed for human habitation for such habitation where the vehicle is not properly connected with utilities and otherwise in compliance with zoning, building, housing, and property maintenance regulations; occupancy of the vehicle for the conduct of activities that are criminal or otherwise unlawful; or use of the vehicle to shelter or confine animals. (1981 Code, § 15-131, modified, as amended by Ord. of 12/10/2001)

13-202. Abandoning prohibited. No person shall abandon any vehicle within the city, and no person shall leave any vehicle at any place within the city, for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (1981 Code, § 15-132)

13-203. Leaving nonoperating junked vehicle on street prohibited. No person shall leave any partially dismantled, nonoperating, wrecked, or junked vehicle on any street, alley or highway within the city, or on any public right-of-way. (1981 Code, § 15-133)

13-204. Location or presence of discarded, or abandoned, or inoperable, or unlicensed vehicles or improperly stored portable buildings within city deemed a public nuisance; exceptions. The location or presence of any discarded, or abandoned, or inoperable, or unlicensed vehicle or improperly stored portable building on any lot, tract, or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the City of Cleveland shall be deemed a public nuisance. It shall be unlawful for any person or persons to cause or maintain such a public nuisance by improperly storing a portable building, as described in subsection 13-201(6) above, on his or her property or on the property of another, or to suffer, allow, or permit such improper storage of a portable building on his or her property. It shall be unlawful for any person or persons to cause or maintain such public nuisance by wrecking, dismantling, rendering inoperable, storing in an inoperable condition, abandoning, or discarding his or their vehicle or vehicles on the property of another or to suffer, permit, or allow the same to be placed, located, maintained or exist upon his or their own real property; provided that his section shall not apply to:

1. A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

2. Abandoned, discarded, unlicensed, or inoperable vehicles or parts thereof stored in the location of a lawfully existing junkyard, salvage yard, or automobile disassembler that is operated and maintained in a lawful manner;

3. A vehicle stored in a lawful place and manner by the city or other governmental authority in an appropriate storage place or depository;

4. One or more inoperable vehicles stored in ordinary public view for less than 30 days for the purposes of repair when such storage is otherwise lawful. This exception is subject to the condition that the relocation of such vehicles prior to the end of the aforementioned 30-day period would not change the effective date of the violation or otherwise cure the violation unless the relocation was in such a place and manner so as not to be in violation of this ordinance at the end of the 30-day period;

5. Inoperable vehicles held for repair by a properly zoned and licensed vehicle dealer or vehicle repair establishment provided that such vehicles are screened in accordance with § 13-205 and provided that such vehicles are stored in a manner that does not produce health hazard conditions described in § 13-201(9). Such vehicles held in this manner shall not exceed the greater of four vehicles or one vehicle per 7500 square feet or fraction thereof of land area in the site occupied by the vehicle dealer or vehicle repair establishment;

6. Unlicensed but operable vehicles held for sale or lease by a licensed vehicle dealer in an otherwise lawful place and manner; or

7. Less than three unlicensed or inoperable vehicles when stored on private property in a manner screened from ordinary public view as provided in § 13-205 and maintained so as not to create a health hazard as described in § 13-201(9). (1981 Code, § 15-134, as amended by Ord. of 12/10/2001)

13-205. Screening of otherwise lawfully located inoperable and unlicensed vehicles. Where unlicensed or inoperable vehicles are stored in a manner otherwise in compliance with this ordinance, such storage shall be behind the front building line of the principal structure on the site and shall be screened from the view of neighboring properties. Screening may be by means of a building, structure, wall, fence, landscaped earthen berm, evergreen trees or shrubs, or natural topographic feature, or a combination thereof. Screening must be otherwise lawful and maintained in good condition. Vegetation normally considered weeds, fences or walls made with scrap or junk material, or piles of rock, earth, logs, or debris would not constitute proper screening. Screening must be accomplished in a manner that does not create a traffic hazard or otherwise violate the site development standards in title 14, chapter 2, section 3.0 of the Cleveland Municipal Code. Screening must be of proper height, position, and opacity to hide the vehicle from ordinary public view and from the view of neighboring properties. (as added by Ord. of 12/10/2001)

13-206. Penalties. Any person or persons violating this ordinance shall, upon conviction, be fined not less than two (2) or more than fifty (50) dollars for

each offense and such person or persons shall be liable for court costs. Each day that such violation continues shall constitute a separate offense. It is further provided that the foregoing penal provisions are not intended to be the exclusive means of enforcing this ordinance, and violation of the provisions hereof is expressly declared to be a public nuisance, and, in addition to the fines herein provided above, the nuisance shall be abatable in law or in equity as in the case of other nuisances. (as added by Ord. of 12/10/2001)

CHAPTER 3

SLUM CLEARANCE¹

SECTION

- 13-301. Findings of council.
- 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 salvage materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Enjoining enforcement of orders.
- 13-312. Additional powers of public officer.
- 13-313. Powers conferred are supplemental.
- 13-314. Structures unfit for human habitation deemed unlawful.

13-301. Findings of council. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council 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.

13-302. Definitions. (1) "Municipality" shall mean the City of Cleveland, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body" shall mean the 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

¹State 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.

13-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the codes enforcement officer of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the codes enforcement officer.

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 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 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.

13-305. 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 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 the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

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 occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful."

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.

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 shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Bradley County, 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. 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, 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 Bradley 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 provided, however, that nothing in this section shall be construed to

impair or limit in any way the power of the City of Cleveland to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

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, 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 Cleveland; 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.

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 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 Bradley County, Tennessee, and such filing shall have the same force and effect as other *lis pendens* notices provided by law.

13-311. Enjoining enforcement of orders. 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.

13-312. 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.

13-313. 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 and other laws.

13-314. 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 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.

CHAPTER 4**BLIGHTED AREAS****SECTION**

- 13-401. Findings of council.
- 13-402. Definitions.
- 13-403. Vacant property review commission created.
- 13-404. Eminent domain--authority of city to acquire blighted, deteriorated properties.
- 13-405. Same--Determination by vacant property review commission prior to initiation of proceedings by city.
- 13-406. Same--Institution by city pursuant to certain conditions and certification.
- 13-407. When disclosure of interest required by city officers, employees.

13-401. Findings of council. 1. The city council hereby finds:

It is hereby found:

a. That there exists in the City of Cleveland blighted and deteriorated properties in neighborhoods which cause the deterioration of those and contiguous neighborhoods and constitute a serious and growing menace which is injurious to the public health, safety, morals and general welfare of the residents of the city and are beyond remedy and control solely by regulatory process in the exercise of the police power.

b. That the existence of blighted and deteriorated properties within neighborhoods, and the growth and spread of blight and deterioration or the threatened deterioration of other neighborhoods and properties:

i. Contribute substantially and increasingly to the spread of disease and crime, and to losses by fire and accident;

ii. Necessitate expensive and disproportionate expenditure of public funds for the preservation of public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire and accident protection, and for other public services and facilities;

iii. Constitute an economic and social liability;

iv. Substantially impair or arrest the sound growth of the community;

v. Retard the provision of decent, safe, and sanitary housing accommodations;

vi. Depreciate assessable values;

vii. Cause an abnormal exodus of families from these neighborhoods; and

viii. Are detrimental to the health, the well being and the dignity of many residents of these neighborhoods;

c. That this menace cannot be effectively dealt with by private enterprise without the aid provided herein;

d. That the benefits, which would result from eliminating the blighted properties, that cause the blight and deterioration of neighborhoods will accrue to the inhabitants of the neighborhoods in which these conditions exist and to the inhabitants of this state generally.

2. It is hereby declared:

a. That it is the policy of the City of Cleveland to protect and promote the health, safety, and welfare of the people of the city by eliminating the blight and deterioration of neighborhoods through the elimination of blighted and deteriorated properties within these neighborhoods;

b. That the elimination of such blight and deterioration and the preparation of the properties for sale or lease, for development or redevelopment, constitute a public use and purpose for which public money may be expended and private property acquired and are governmental functions in the interest of the health, safety, and welfare of the people of Cleveland, and

c. That the necessity in the public interest for the provision enacted herein is hereby declared to be legislative determination. (as added by Ord. of 7/9/2001)

13-402. Definitions. Unless the context otherwise requires:

1. "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood; provided, however, "blighted" or "deteriorated" shall not be construed to apply to any property used for agricultural purposes:

a. Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with local housing, building, plumbing, fire or related codes;

b. Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

c. Which because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing code of the municipality, has been designated by the appropriate agency or department responsible for enforcement of the code as unfit for human habitation;

d. Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

e. From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

f. Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

g. Which has been tax delinquent for a period of at least three (3) years; or

h. Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

2. "City" means City of Cleveland, Tennessee.

3. "Redevelopment" means the planning or replanning, design or redesign, acquisition, clearance, development and disposal or any combination of these, of a property in the preparation of such property for residential and related uses, as may be appropriate or necessary.

4. "Residential and related use" shall mean residential property for sale or rental and related uses; including, but not limited to, park and recreation area, neighborhood community service, and neighborhood parking lots;

5. "Vacant property review commission" means commission established by ordinance to review vacant properties to make a written determination of blight and deterioration. (as added by Ord. of 7/9/2001)

13-403. Vacant property review commission created. 1. The city council of the city finds and declares that there exists in the city blighted or deteriorated properties and that there is in the city for the exercise of powers, functions and duties conferred by Public Chapter No. 1034 of the Public Acts of 1990.

2. There is hereby established a vacant property review commission which shall certify properties as blighted or deteriorated to the legislative body. The number of members that will serve on the commission shall be five (5), all of whom must be residents of the city. Members shall be appointed by the chief executive officer and approved by the legislative body. The first five (5) members shall hold office as follows: Two (2) members, until June 2002; two (2) members, until June 2003; and one (1) member, until June 2004. Thereafter, such members shall be appointed for terms of three (3) years, or until their successors are appointed; however, any member may be removed for cause at any time by the city council. The vacant property review commission shall serve without compensation. No officer or employee of the city whose duties include enforcement of local housing, building, plumbing, fire or related codes shall be appointed to the commission. (as added by Ord. of 7/9/2001)

13-304. Eminent domain—authority of city to acquire blighted, deteriorated properties. The city may acquire, by eminent domain pursuant to Tennessee Code Annotated, title 29, chapters 16 and 17, any property determined to be blighted or deteriorated pursuant to this act, and shall have the power to hold, clear, manage or dispose of property so acquired for residential and related use, pursuant to the provisions of this division. (as added by Ord. of 7/9/2001)

13-305. Same—determination of vacant property review commission prior to initiation of proceedings by city. 1. The city shall not institute eminent domain proceedings pursuant to Public Chapter No. 1034 of the Public Acts of 1990 unless the vacant property review commission has certified that the property is blighted or deteriorated. A property which has been referred to the vacant property review commission by an agency of the city as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated may only be certified to the legislative body as blighted and deteriorated after the vacant property review commission has determined:

a. That the owner of the property or designated agent has been sent an order by the appropriate agency of the city to eliminate the conditions which are in violation of local codes or law;

b. That the property is vacant;

c. That the property is blighted and deteriorated;

d. That the vacant property review commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent has failed to comply with notice; and

e. That the planning commission of the city has determined that the reuse of the property for residential and related use is in keeping with the comprehensive plan.

2. The findings required by subsection (a) of this section shall be in writing and included in the report to the legislative body.

3. The vacant property review commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the provision subject to condemnation by the city under the provisions of Public Chapter 1034 of the Public Acts of 1990. Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the vacant property review commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his agent shall describe the conditions that render the property blighted and

deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice.

4. An extension of the ninety-day time period may be granted by the vacant property review commission if the owner or designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice. (as added by Ord. of 7/9/2001)

13-406. Same--institution by city pursuant to certain conditions and certifications. The city may institute eminent domain proceedings pursuant to Tennessee Code Annotated, title 29, chapters 16 and 17, against any property, which has been certified as blighted or deteriorated by the vacant property review commission if it finds:

1. That such property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;

2. That such property is likely to continue to deteriorate unless corrected;

3. That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

4. That the owner of such property has failed to correct the deterioration of the property. (as added by Ord. of 7/9/2001)

13-407. When disclosure of interest required by city officers, employees. No officer or employee of the city, or of the vacant property review commission, who in the course of his duties is required to participate in the determination of property blight or deterioration or the issuance of notices on code violations which may lead to a determination of blight or deterioration, shall acquire any interest in any property declared to be blighted or deteriorated. If any such officer or employee owns or has financial interest, direct or indirect, in any property certified to be blighted or deteriorated, he shall immediately disclose, in writing, such interest to the vacant property review commission and to the legislative body and such disclosure shall be entered in the minutes of the vacant property review commission and of the legislative body. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any officer or employee for any property or interest therein acquired by the municipality from such officer or employee unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless payment is unanimously approved by the legislative body. (as added by Ord. of 7/9/2001)