

ORDINANCE NO: 2015-06

AN ORDINANCE TO MODIFY TITLE 13, CHAPTER ONE OF THE PROPERTY MAINTENANCE REGULATIONS OF THE MIDDLETON MUNICIPAL CODE.

Whereas, some of the ordinances of the City of Middleton are obsolete, and

Whereas, some of the ordinances of the city are inconsistent with each other or are otherwise inadequate, and;

Whereas, the Board of Mayor and Aldermen of the City of Middleton, Tennessee has caused its ordinances of general, continuing and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinance known as the “Middleton Municipal Code,” and;

Whereas, the Board of Mayor and Aldermen of the City of Middleton, Tennessee from time to time shall modify the Middleton Municipal Code by the ordinance process.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MIDDLETON, TENNESSEE, THAT CHAPTER 1, MISCELLANEOUS OF TITLE 13, PROPERTY MAINTENANCE REGULATIONS SHALL BE AMENDED AS FOLLOWS;

CHAPTER 1

MISCELLANEOUS SECTION

- 13-101 Health Officer
- 13-102 Smoke, soot, cinders, etc.
- 13-103 Stagnant water.
- 13-104 Weeds and grass.
- 13-105 Dead animals.
- 13-106 Health and sanitation nuisances.
- 13-107 Overgrown and dirty lots.
- 13-108 House trailers.
- 13-109 Establishment of burial places.
- 13-110 Violations and penalty

13-101. Health officer. The “health” officer shall be such municipal, county or state officer as the governing body shall appoint or designate to administer and enforce health and sanitation regulation within the municipality. (1980 Code §8-101)

13-102. 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 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 of business. (1980 Code, §8-105)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool or stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1980 Code §8-106)

13-104. 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 order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one foot (1’). (1980 Code §8-107)

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 health officer and dispose of such animal in such manner as the health officer shall direct. (1980 Code, §8-108)

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 if 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. (1980 Code §8-109)

13-107. Overgrown and dirty lots.

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 accumulation of debris, trash, litter or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of the citizens or to encourage the infestation of rats and other harmful animals.
2. **Designation of public officer or department.** The Board of Mayor and Aldermen shall designate an appropriate department or person to enforce the provisions of this section.
3. **Notice to property owner.** It shall be the duty of the department or person designated by the board of mayor and aldermen 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, Sunday, 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 §13-107 of the Middleton 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 clean-up;
 - b. The person, office, address, and telephone number of the department or person giving the notice;
 - c. A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and
 - d. A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.
4. **Clean-up at property owner 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 Board of Mayor and Aldermen to enforce the provisions of the 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. The City of Middleton may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The City of Middleton may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such 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. Upon the filing of the notice with the office of the register of deeds in Hardeman County, the cost 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 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 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.
5. **Clean-up of owner occupied property.** When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the Board of Mayor and Aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection 4 shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred (\$500) before filing the notice with the register of deed and charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.
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 Board of Mayor and Aldermen. The appeal shall be filed with the City Recorder 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 Board of Mayor and Aldermen under subsection (4) above may seek judicial review by the order or act. The time period established in subsection (3) 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, the 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.

13-108. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the municipality and unless a permit therefore shall be first duly issued by the building official, as provided for in the building code. (1980 Code, §8-104)

13-109. Establishment of burial places. With the exception of the existing City owned cemetery, it shall be unlawful for any person to establish or maintain any cemetery or burial place, or to sell or give away any lot to be used for burial purposes within six hundred feet (600') of any residence within the city. (1980 Code §10-231)

13-110. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provisions of this code. Each day a violation is allowed to continue shall constitute a separate offense. (1980 Code, §8-104)

Section 2. This ordinance shall take effect upon its final reading, the public health, safety, and welfare requiring it.

Passed 1st reading: _____

Jackie Cox, Mayor

Passed 2nd reading: _____

City Recorder