TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

1. PURPOSE AND INTENT.
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3. CHARACTERISTIC PROPERTY MAINTENANCE STANDARDS.
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CHAPTER 1

PURPOSE AND INTENT

SECTION

13-101. Purpose.
13-102. Intent.
13-103. Owner responsibility.
13-104--3-107. Deleted.

13-101. Purpose. The purpose of this title is to provide for enforcement of exterior property maintenance standards which are considered essential to health and sanitation as it pertains to all areas, premises, and buildings within the city limits. Each standard enumerated herein is a minimum order of law. Persons are encouraged to maintain their properties to higher standards. (1985 Code, § 8-401, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-102. Intent. This title is intended to:

(1) Maintain residential, commercial, and industrial environmental quality to preserve and achieve the presentable appearance of existing structures and premises;

(2) Avoid blighting effects of the substandard maintenance of structures and premises and their negative impact on the value of surrounding properties; and

(3) Provide for administration, enforcement and penalties. (1985 Code, § 8-405, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.
Toilet facilities in beer places: § 8-211(10).

13-103. Owner responsibility. The owner of the premises shall fully maintain the buildings, structures and premises in compliance with these requirements, except as otherwise provided for in this title. An owner shall not occupy or permit another person to occupy a building, structure, or premises which is not in a safe, clean, and sanitary condition and or which does not comply with the requirements of this title. Any occupant of a building, structure, or premises, or part thereof, and any person or entity that operates in, on, or otherwise controls any building, structure, premises, or part thereof, is responsible for keeping that part of the building, structure, or premises, which they occupy, operate in or on, or otherwise control, in a safe, clean, and sanitary condition in compliance with this title. (1985 Code, § 8-406, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-104.–13-107. Deleted. (as deleted by Ord. #16-009, June 2016)

CHAPTER 2

GENERAL PROPERTY MAINTENANCE STANDARDS

SECTION

13-201. Scope
13-202. Emissions.
13-203. Exterior surfaces.
13-204. Attached exterior structures.
13-205. Roofing and guttering.
13-206. Yards and vacant lots.
13-207. Detached garages, sheds, and out-buildings.
13-208. Motor vehicles.
13-209. House trailers.
13-210. Casualty damage.
13-211. Temporary cover.
13-212. Enforcement.

13-201. Scope. Every person, either as owner or occupant of any land or structures described in this chapter, shall maintain said land or structure in compliance with the requirements of this chapter. Following are the minimum standards to be met by a property owner or occupant for all properties within the City of Lewisburg. Unless expressly stated otherwise, or a matter of public health and safety, the standards within this chapter apply to areas of properties that are visible from a public street. Violation of these standards may result in the issuance of a citation by the city manager or his designee. (1985 Code, § 8-410, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-202. Emissions. 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. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-203. Exterior surfaces. (1) Exterior wall surfaces including windows, doors, trim and appurtenances normally associated with exterior wall spaces shall be free of holes, breaks, and loose or damaged construction materials.

(2) Screens, if installed, shall be intact and in frames which are not bent or are otherwise secure to the window unit.

(3) Cracks or holes in mortar between bricks or stone in excess of one inch in size shall be sealed.

(4) All exterior wall surfaces shall be maintained and kept in repair using materials, texture and color the same or as compatible with undamaged wall surfaces or as may be acceptable to the city manager or his designee.

(5) All existing painted, exterior surfaces having areas of chipping, peeling, scaling or missing paint greater than fifty percent (50%) of the painted area shall be stripped and repainted or seal coated or re-sided or covered with compatible material acceptable to the city manager or his designee (hereafter, this is referred to as the paint standard).

(6) Doors and windows shall be maintained in operable condition.

(7) Appurtenances such as awnings and shutters, likewise shall be kept fully attached and in a seemingly workable condition. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-204. Attached exterior structures. (1) Porches, landings, fire escapes, chimney runs, balconies, terraces, verandas, decks, patios, railings, exterior stairs and other such appurtenances normally associated with and attached to the exterior of a structure shall be maintained in a safe, functional condition and kept in good repair including paint maintenance equivalent to the paint standard.

(2) Repair and replacement shall be accomplished with materials compatible to the undamaged portion of such exterior structure or they may be removed (if not integral to the basic structure) or covered with material acceptable to the city manager or his designee.

(3) Such exterior structures which may be exposed to public view shall be kept free of offensive materials including junk, debris, garbage, refuse, excessive accumulation of toys or toy parts, upholstered chairs or sofas not intended for outdoor use, and appliances not intended for outdoor use.

(4) Examples of materials which are permitted in such exposed areas include but are not limited to barbecue grills, patio furniture, porch swings and play materials designed for outdoor use such as swing sets and play houses. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-205. Roofing and guttering. (1) All roofs, eaves, fascia and soffits normally associated with structures shall be structurally sound, tight, and shall not admit rain or moisture penetration to the appropriate inside or underside surface.

(2) Leaks shall be repaired with materials compatible in texture to the color with the existing roof material or removed and recovered with material acceptable to the city manager or his designee.

(3) Fascia and soffit areas shall be kept in good repair and shall meet the paint standard.

(4) Guttering and downspouts which have been broken, rusted, twisted or otherwise damaged shall be repaired or replaced with compatible materials. All gutters and downspouts shall be kept in good repair and shall meet the paint

standard. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-206. <u>Yards and vacant lots</u>. (1) Established yard and court areas normally associated with structures shall be free of junk, debris, excessive vegetation and other offensive materials exposed to public view.

(2) The following specific offensive materials are hereby prohibited from these spaces:

(a) Any excessive accumulation of offensive materials including junk, debris, garbage, used tires, refuse, toys or toy parts;

(b) Any upholstered chairs or sofas not intended for outdoor use and appliances not intended for outdoor use;

(c) Any excessive accumulation of animal feces, dead animals, animal or vegetable waste or other putrid solid wastes;

(d) Clotheslines or clothes hanging in front yard areas, porches, balconies, fences, walls, trees or shrubs, or from any other device which is clearly visible from the public street;

(e) Pooled water, waste water, or trash left in water receptacles which can become breeding grounds for insects; and

(f) Inoperable vehicles, industrial or business wastes including cardboard and paper products.

(3) The following items, objects or structures are permitted in these areas:

(a) Any item specifically permitted by the zoning district regulations in effect for the area;

(b) Authorized trash containers, per standards within the City of Lewisburg's "Trash Can Ordinance;"

(c) Firewood, neatly stacked, preferably behind the line created by the foundation wall of the street-side of any primary structure (care should be taken that any ground in contact with firewood should not have contact with wood surfaces of any structure); and

(d) Materials located within a fully enclosed structure (in accordance with § 13-211) or within a back yard area which is screened from public view.

(e) The orderly stacking of lumber and materials at lumber yards or building supply businesses or to the temporary storage of building supplies on the site of commercial or residential building projects.

(4) It shall be unlawful for the owner or occupant of property to fail to cut grass, weeds and other overgrown vegetation on property when the grass, weeds and other overgrown vegetation is of a greater height than one foot (1') on the average. It shall be the duty of the owner or occupant to cut and remove all grass, weeds and other overgrown vegetation as often as necessary so as to comply with this provision but in no event shall the owner fail to comply with

this provision. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-207. Detached garages, sheds, and out-buildings. Detached garages, sheds, and other out-buildings shall be maintained in the same manner as provided for the primary structure. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-208. Motor vehicles. (1) No inoperative, immobile, or severely damaged or unlicensed motor vehicles shall be parked, kept or stored on any residential property, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

(2) A license plate with current expiration tags or a temporary registration placard must be displayed on motor vehicles at all times.

(3) Parking of motor vehicles and transport vehicles on any premises, other than agricultural land, shall be limited to surfaced parking areas, driveways, and designated parking structures such as garages and carports. A surfaced area is land where the natural surface has been altered by gravel, stone, brick, concrete, asphalt, or any other material that facilitates the parking of a motor vehicle.

(4) It shall be unlawful for the owner and/or occupant of any residential or commercial building, structure, or property within the city limits of the City of Lewisburg to utilize or permit the utilization of the premises of such property for the open display, storage, stacking, piling or scattering of any refuse, junk, abandoned motor vehicles or rubbish. It shall be the duty or responsibility of every such property owner and/or occupant to keep the premises clean and remove all refuse, junk, abandoned motor vehicles or rubbish from the premises.

(5) Exceptions. This chapter shall not apply to the following conditions:

(a) Display of new or used vehicles by a car dealership or to the temporary storage of vehicles being repaired by a body shop or repair garage; and

(b) Any motor vehicle retained by the owner for antique collection purposes and licensed by the State of Tennessee as such a vehicle.

No exceptions shall invite plundering, or endanger the health and safety of others, or create a fire hazard, or materially depreciate the value of the real property of others. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-209. 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 therefor shall have been first

duly issued by the building official, as provided for in the building code. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-210. Casualty damage. (1) Areas damaged by fire, wind storm, ice storm or other calamity, whether natural or accidental, shall be repaired within a period of ninety (90) days.

(2) The city manager or his designee may grant up to three (3), consecutive thirty (30) day extensions of time to any improvement order upon evidence that there has been a delay in processing an insurance claim through no fault of the owner, or upon request from the police or fire departments or other such authority in the event of investigation which requires maintaining fire or crime scene integrity.

(3) In any event, such sites shall be marked as dangerous and restricted to public access with appropriate construction or investigation tape. In cases of potential public hazard, such areas shall be ordered fenced or otherwise secured in a manner acceptable to the designated public official.

(4) Casualty damage includes fallen trees, tree branches, broken glass, battered buildings, roofing materials, and other products as determined by the city manager or his designee. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-211. Temporary cover. The term "cover" shall mean any form of plastic, cloth, fabric, material commonly known as "tarp," wood, or other material that is used to conceal loose or missing materials, cracks, holes or openings that expose or could expose an interior part of a structure, including the contents therein, to rain, hail or wind, or to theft or loss. The term "temporary" shall mean for a period of time not to exceed sixty (60) days. The term "permanent" shall mean lasting for an indefinite period of time.

(1) Outside storage. (a) Outside storage including but not limited to: equipment, building or landscaping materials, parts/auto parts, appliances, furniture, boxes, or any scrap items, cannot be left where visible from a public right-of-way.

(b) These types of items must be stored safely within an enclosed building or permanently screened by materials and finishes of durable, finished quality, intended for exterior application, applied in a professional manner, and that correspond with the materials on the associated structure on the site.

(c) Outside storage shall be located in the side or rear yard only and shall be permanently screened from public view at all times.

(d) These standards include placement in a structure that is open or not completely enclosed, including any porch cover, carport, or upon any open porch.

(e) The use of tarps or other temporary cover material for vehicle covers, canopies, enclosures, screens, and/or awnings is prohibited in any outdoor/open area visible from any public right-of-way.

(2) Roofs. (a) Excluding emergency repairs, it is prohibited to use temporary cover, including tarps, for roof and building repairs.

(b) The use of temporary cover may be allowed on a temporary basis for emergency repairs, in order to protect structures and contents therein from rain and moisture. A permit is not required; however, temporary cover must be securely attached to the structure, must be free of holes and tears, and must be removed no later than the time necessary to effectuate permanent repairs. The city manager or his designee may allow a property owner a period not to exceed sixty (60) days within which to remove temporary cover from, and make permanent repairs to, the structure.

(3) Boarding of doors and windows. All damaged or missing windows and doors shall be boarded in an approved manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

(a) Boarding standards. (I) Materials.

(A) Boarding sheet material shall be minimum one half inch (1/2") (12.7 mm) thick wood structural panels complying with the International Building Code.

(B) Boarding framing material shall be minimum nominal two by four inch (2" x 4") (51 mm by 102 mm) solid sawn lumber complying with the International Building Code.

(C) Boarding fasteners shall be minimum ?-inch (9.5 mm) diameter carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the International Building Code.

ii. Installation.

(A) Boards shall not be installed on the exterior of the structure.

(B) The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

(C) The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The two by four inch (2" x 4") (51 mm by 102 mm) strong back framing material shall be cut minimum two inches (2")(51 mm) wider than the window opening and shall be placed on the inside of the window opening six inches (6") minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

(D) The door opening shall be framed with minimum two by four inch (2" x 4") (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of twenty four inches (24") (610 mm) on center. Blocking shall also be secured at a maximum of forty eight inches (48") inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every six inches (6") inches (152 mm) on center.

(E) Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an approved manner.

(b) Unoccupied buildings. (i) Boarding or other securing of a building or structure shall only be permitted for a period of no greater than six (6) months.

(ii) After an unoccupied building has been boarded for six months, the owner or his authorized representative or contractor must submit to the codes department at least one (1) of the following:

(A) A detailed plan for the correction, repair, or rehabilitation of the doors, windows, and other openings by the conventional method used in the original construction and design of the building or structure;

(B) A detailed plan for sale of the property to another person or entity with provision in the sale of correction, repair, or rehabilitation; or

(C) Application for all appropriate permits for such work.

(c) Occupied buildings. No occupied building shall be permitted to be boarded for a period greater than sixty (60) days.

(d) Extensions. Any extension of time permitted for boarding shall require a showing by the owner that conditions or events beyond the owner's control exist, including but not limited to, inability to obtain financing for repair or rehabilitation, unanticipated delays in construction or rehabilitation, or unanticipated damage to the property. Extensions may be deemed permanent by the city manager or his designee if the boarding meets the standards outlined in this chapter, and the conditions beyond the owner's control are determined to be ongoing. (as added by Ord. # 16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-212. Enforcement. (1) City manager or his designee–designation; powers and duties. The "city manager or his designee" shall be such municipal, county, or state officer as the city manager shall appoint or designate to

administer and enforce health and sanitation regulations within the municipality.

The city manager or his designee is hereby charged with the duty of administering the applicable standards set forth in this title and securing compliance with the minimum property maintenance standards set forth in this title. The city manager or his designee is hereby authorized to:

(a) Conduct inspections or take other appropriate action to require compliance with this title;

(b) Issue a citation or complaint for offenses relating to code violations under provisions of Tennessee Code Annotated, § 7-63-101, it being in the public interest that violators be brought before the city court for enforcement action; and

(c) Initiate any and all other criminal or civil enforcement action as may be authorized by law to require compliance with this title.

(2) Verbal warning. (a) The city manager or his designee shall serve notice of violation of this chapter, except when a dwelling or structure has been determined to be unfit for occupation or use (see § 13-304), when there is a repeat violation, or when emergency circumstances exist.

(b) Whenever the city manager or his designee determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, the city manager or his designee shall make verbal contact with the property owner, tenant or responsible party, and educate him/her on the property maintenance regulations.

(c) In instances where a verbal warning cannot be made, a door-hanger warning shall be left on the premises.

(d) A period of three (3) days shall be provided by the city manager or his designee for the property owner, tenant, or responsible party to correct the offense.

(e) After the three (3) day period has expired, a re-inspection shall be conducted by the city manager or his designee in order to verify compliance.

(3) Notice of violation. (a) If upon re-inspection the violation has not been corrected, a notice of violation shall be provided to the owner, occupant, or person or entity in control of the building, structure, or premises where the violation or alleged violation exists. Should the city manager or his designee determine that cumulative violations exist so as to render a dwelling or structure, as defined at Tennessee Code Annotated, title 13, chapter 21 (Tennessee Code Annotated, § 13-21-101 et seq.), unfit for human habitation, occupation, or use, notice and enforcement of this chapter shall be as prescribed in § 13-304 of this title. Otherwise notice shall:

(i) Be in writing;

(ii) Include a description of the building, structure or premises sufficient for identification;

(iii) Include a brief statement that the owner is in violation of title 13 of the Lewisburg City 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;

(iv) Include an order to correct the violation within ten (10) days, excluding Saturdays, Sundays, and legal holidays to make the repairs and/or improvements required to bring the building, structure, or premises into compliance with this chapter;

(v) Include the city manager or his designee's address and telephone number;

(vi) Include a cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city;

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

(viii) Be personally delivered by the city manager or his designee or sent by certified or first-class mail addressed to the last known address; and

(ix) If notice sent by certified or first class mail is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the building, structure, or premises affected by such notice.

(4) Prosecution of violation. (a) After the notice of violation has been delivered, the property owner may be subject to fines of up to fifty dollars ($50.00) a day. Each day that a violation continues shall be deemed a separate offense. If the property owner fails or refuses to remedy the condition within ten (10) days after receiving the notice of violation, the city manager or his designee may cause grass, weeds, and other overgrown vegetation on property to be corrected at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city 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 of Marshall County, the costs shall be a lien on the property in favor of the City of Lewisburg, second only to liens of the state, county and municipality for taxes, any lien of the city 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 city tax collector 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) Appeal. The owner of record who is aggrieved by the determination made pursuant to the notice of violation subsection may appeal the determination and order to the city council. The appeal shall be filed within ten (10) days following the receipt of the notice issued. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(6) Judicial review. Any person aggrieved by an order or act of the city council may seek judicial review of the order or act. The time period established in the notice of violation section above shall be stayed during the pendency of judicial review.

(7) Prosecution of repeat violation. Whenever the city manager or his designee determines that there has been a repeat violation of this chapter or has grounds to believe that a repeat violation has occurred, the city manager or his designee shall forego the issuance of a notice of violation and immediately institute the appropriate proceeding at law or in equity to restrain, enjoin, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building, structure or premises in violation of this chapter.

(8) Violation–extensions. Extensions for the time allowed for correction of violations of this title may be granted if necessary repairs are temporarily delayed due to practical difficulties. A written request addressed to the city manager or his designee, including the address of the property, brief explanation of why an extension is being requested and a reasonable estimated time frame for when the completion of repairs will be made must be received before the time allowed for compliance has expired.

(9) Violation–modifications. Where practical difficulties are prohibitive in carrying out the provisions of this code, the city manager or his designee has the authority to grant modifications for individual cases. The modification shall be in compliance with the intent and purpose of this title, and shall not lesson health, life and fire safety requirements. The basis for granting modifications shall be recorded and entered in the department files.

(10) 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 city charter, city code, 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 added by Ord. #16-19, Nov. 2016)

CHAPTER 3

CHARACTERISTIC PROPERTY MAINTENANCE STANDARDS

SECTION

13-301. Scope.
13-302. Junkyards.
13-303. Enforcement of Junkyard regulations.
13-304. Structures unfit for human habitation.
13-305. Findings of board.
13-306. "City manager or his designee" designated; powers.
13-307. Initiation of proceedings; hearings.
13-308. Orders to owners of unfit structures.
13-309. When city manager or his designee may repair, etc.
13-310. When city manager or his designee may remove or demolish.
13-311. Lien for expenses; sale of salvage materials; other powers not limited.
13-312. Basis for a finding of unfitness.
13-313. Service of complaints or orders.
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13-315. Additional powers of city manager or his designee.
13-316. Powers conferred are supplemental.
13-317. Structures unfit for human habitation deemed unlawful.
13-318. Display of goods
13-319. Duty to maintain property.
13-320. Declaration of public nuisance.
13-321. Exemptions.
13-322. Location of personal property to be sold.
13-323. Inside storage.
13-324. License/permit.
13-325. Nuisances.
13-326. Penalty and notice.

13-301. **Scope**. Every person, either as owner or occupant of any land or structures described in this chapter, shall maintain said land or structure in compliance with the requirements of this chapter. Following are specific standards established for unique situations within the City of Lewisburg. Unlike "General Property Maintenance Standards," enforcement procedures and penalties are outlined within each section for each individual situation. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-302. **Junkyards.** All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not

constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six feet (6') in height, such fence to be so built that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-303. Enforcement of junkyard regulations. The above junkyard regulations shall be enforced as outlined in § 13-211. (1985 Code, § 4-602, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-304. Structures unfit for human habitation (formerly "slum clearance"). This section is intended to address structures that are unfit for human occupancy or use pursuant to Tennessee Code Annotated, §§ 13-21-101, et seq. Unlike minor violations addressed within Chapter 2 of this Ordinance, this section deals with properties in major disrepair that may need to be demolished in order to insure the health and safety of the general public. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-305. Findings of board. 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. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-306. "City manager or his designee" designated; powers. There is hereby designated and appointed a "city manager or his designee," to be the city manager of the city, or the person appointed and designated by the city manager, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the city manager. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-307. Initiation of proceedings; hearings. Whenever a petition is filed with the city manager or his designee 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 city manager or his designee (on his own motion) that any structure is unfit for human occupation or use, the city

manager or his designee 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 city manager or his designee (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 city manager or his designee. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-308. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the city manager or his designee 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), 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. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-309. When city manager or his designee 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 city manager or his designee may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the city manager or his designee 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." (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-310. When city manager or his designee may remove or demolish. If the owner fails to comply with an order, as specified above, to

remove or demolish the structure, the city manager or his designee may cause such structure to be removed and demolished. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-311. 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 city manager or his designee 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 Marshall 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 (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 city manager or his designee, 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 Marshall County by the city manager or his designee, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Lewisburg to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-312. Basis for a finding of unfitness. The city manager or his designee 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 Lewisburg. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation;

disrepair; structural defects; or uncleanliness. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-313. Service of complaints or orders. Complaints or orders issued by the city manager or his designee 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 city manager or his designee in the exercise of reasonable diligence, and the city manager or his designee 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 Marshall County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1985 Code, § 4-601, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-314. Enjoining enforcement of orders. Any person affected by an order issued by the city manager or his designee served pursuant to this chapter may file a bill in chancery court for an injunction restraining the city manager or his designee from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the city manager or his designee pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the city manager or his designee, 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 city manager or his designee shall be entitled to recover any damages for action taken pursuant to any order of the city manager or his designee, or because of noncompliance by such person with any order of the city manager or his designee. (1985 Code, § 4-603, modified, as replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-315. Additional powers of city manager or his designee. The city manager or his designee, 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. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-316. 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. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-317. 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.

Violations of this section shall subject the offender to a penalty of up to five hundred dollars ($500.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-318. Display of goods. The purpose of this section is to permit certain displays in front of stores, to assist merchants to market their merchandise and goods, and to enhance the vitality and commerce of the City of Lewisburg.

It is the express purpose of this chapter to provide for and promote the health, safety, and welfare of the general public, and not to create or otherwise establish or designate a particular class or group of persons who will or should be specially protected, harmed, benefitted or damaged by the terms of this chapter.

It is the special intent of this chapter to place the obligation of complying with its requirements upon persons owning, renting, leasing or possessing the property and no term used in this chapter is intended to impose any duty upon the city, its officers and employees, for whom enforcement or implementation of this chapter shall be discretionary and not mandatory.

Nothing in this chapter is intended to be, nor shall be, construed to create or form the basis for any liability on the city, it's officers and employees or agents, for any injury or damage resulting from the failure of a person to comply

with this chapter, or by reason of any action or inaction by the city related in any manner to the enforcement of this chapter by its officers, employees or agents. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-319. Duty to maintain property. No owner shall maintain or allow to be maintained on such premises any of the following conditions visible from any public street: Personal property. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-320. Declaration of public nuisance. Any property found to be maintained or kept in violation of this chapter shall be declared to be a public nuisance and shall be abated by rehabilitation, removal, demolition or repair. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-321. Exemptions. Nothing in § 13-402 of this chapter shall be applicable to automotive dealers licenses by the State of Tennessee, and retailers of new merchandise or farm equipment, and yard sales conducted pursuant to ordinance #99-09. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-322. Location of personal property to be sold. (1) All personal property for sale shall be displayed within the building setback lines as prescribed by the city's zoning ordinance #90-4.

(2) No personal property shall be placed on any sidewalk adjacent to any premises. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-323. Inside storage. All personal property shall be placed inside a building from sunset to sunrise. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-324. License/permit. No person shall sell or attempt to sell personal property from any premises without obtaining the applicable license or permit from the city. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-325. Nuisances. No person shall maintain or keep any nuisance on any premises, nor shall any person keep or maintain a premises in a manner causing substantial diminution in the value or other property in the neighborhood in which the premises is located. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

13-326. Penalty and notice. Any person found guilty of violating any provision of this chapter is subject to a penalty of not more than five hundred dollars ($500.00) and each day of violation shall be considered a separate violation subject to such penalty.

In addition to the penalty provided for in this section, the city may serve written notice ("notice") that any violation of this chapter shall be abated. (as added by Ord. #16-09, June 2016, and replaced by Ord. #16-19, Nov. 2016)

CHAPTER 4

DEFINITIONS

SECTION

13-401. Definitions.
13-402--13-410. Deleted.

13-401. Definitions. Definitions. When used in this title, the following terms shall have the following meanings, unless the content clearly otherwise requires:

(1) "Accessory use or structure." A use or structure of a nature customarily incidental and subordinate to the principal use or structure, and, on the same premises. On the same premises with respect to accessory uses and structures shall be construed as meaning on the same lot or on a contiguous lot in the same ownership. Where a building is attached to the principal building, it shall be considered a part thereof, and not an accessory structure.

(2) "Attic." Any story situated wholly or partly in the roof, so designated, arranged or built to be used for storage or uninhabitable space.

(3) "Boarding." The placement of plywood or some type of construction material as a temporary barrier to cover and obscure a window, storefront or access to a structure.

(4) "Building." A structure of any kind, which is built or constructed of parts joined together in some definite manner, which requires a fixed location on, or in the ground attached to something having a fixed location on or in the ground.

(5) "City." The City of Lewisburg, Tennessee.

(6) "Condemnation." The declaration by the city manager or his designee or designee that a property or structure is unfit for use or habitation or dangerous to person or other property.

(7) "City manager." City manager or his designee.

(8) "Corridors." East and West Commerce Streets, Cornersville Road, and Verona Road (2nd Avenue and Nashville Highway) extended to the municipal boundaries and all of Ellington Parkway (by-pass), but specifically excluded is that area designated as the downtown area as described in ordinance #98-02.

(9) "Debris." Any material which is stored externally or internally and shall include, but not be limited to the following: discarded household items; inoperative or discarded machinery, automobiles or appliances; refuse, rubbish, trash or junk; used scrap or discarded lumber, pipe, steel, plumbing fixtures, insulation, and other building material.

(10) Deterioration." A lowering in quality in the condition or appearance of a building or parts thereof, characterized by holes, breaks, rot, cracking, peeling, rusting, mold/mildew, graffiti or any other evidence or physical decay

or neglect, or excessive use, or lack of maintenance, including the landscaping and parking areas.

(11) "Dilapidated." Substantial deterioration of a building or parts thereof, such that said building, or a portion thereof, is no longer adequate for the purpose or use for which it was originally intended.

(12) "Dwelling." Any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(13) "Dwelling unit." A single unit within a building providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(14) "Garbage." Any animals or vegetable waste resulting from the handling, preparation, cooking, and consumption of food, including food containers of any type.

(15) "Governing body." The city council charged with governing the city.

(16) "Habitable room."A space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, screen enclosures, storage or utility space, and similar areas are not considered habitable space.

(17) "Improved property." Real property, which contains a building(s) or other structural improvements.

(18) "Infestation." The presence within or around a structure of insects, rodents, or pests, which are detrimental to the public health, safety, and general welfare of the residents or occupants, or neighboring properties.

(19) "Inoperative vehicle(s)." Vehicles or trailers of any type that are not immediately operable, used for the purpose for which they were manufactured, in need of mechanical or electrical repairs or the replacement of parts, or does not have current valid license plates.

(20) "Junk" Discarded, broken, or disabled material or goods, including but not limited to, furniture, appliances, tools, machinery, vehicles, vehicle parts, tires and accessories, or other items that are not in functioning order.

(21) "Junk yards." Business regulated by § 13-302 of the municipal code.

(22) "Municipal boundaries. " The limits of the City of Lewisburg, Tennessee as they now exist or as they may hereinafter change.

(23) "Municipal code." Municipal Code of the City of Lewisburg, Tennessee.

(24) "Municipality," The City of Lewisburg, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(25) "Nonresidential structure." Any structure that is not a residential structure. This term shall include, but is not limited to, any occupied or unoccupied structure, commercial structures or buildings, mixed use buildings or structures that include both dwelling units and office or retail combinations, and every other structure that is not a dwelling.

(26) "Nuisance." Unsanitary conditions or anything offensive to the senses or dangerous to health.

(27) "Occupant." Any person living, sleeping, cooking or eating in, working within, or having actual possession of a dwelling unit, within the confines of any building or structure.

(28) "Owner." The holder of title in fee simple and every mortgagee of record, and shall also mean any lessee, tenant or other person having control or possession of the property and/or personal property.

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

(30) "Person." Any individual, firm, corporation, association, partnership or other entity.

(31) "Personal property." All personal property customarily used or kept inside buildings, including but not limited to, office and household furniture, appliances, and equipment, recreational and fitness apparatus and equipment, clothes, etc.

(32) "Place of public accommodation." Any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(33) "Premises." A lot, plot or parcel of land, or portion thereof, including the buildings or structures thereon.

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

(35) "City manager or his designee." 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.

(36) "Residential structures." Any dwelling unit or structure where any part is used or intended to be used for living, sleeping, cooking or eating.

(37) "Rubbish." Any waste material other than garbage.

(38) "Signs." Signs as provided for in ordinance #98-02.

(39) "Stairway." One (1) or more flights or stairs and the necessary landings and platforms which form a continuous and uninterrupted passage from one story to another, within or attached to the exterior of a building or structure.

(40) "Story." That portion of a building including between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be the portion of a building, included between the upper surface of the topmost floor and the ceiling or roof above.

(41) "Structure." Any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

(42) "Substandard." Any residential or commercial building or structure used as a dwelling unit which is so damaged, decayed, dilapidated, or vermin infested that it creates a hazard to the health or safety of the occupants/public. Any such unit which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants/public shall be considered to be unsafe, and unsanitary, as well as unfit for human habitation and therefore substandard, except that it shall not be deemed substandard if built and maintained in accordance with the building code at the time of construction.

(43) "Tarpaulin (tarp)." A piece of cloth or other material used for protecting or covering exposed objects or areas.

(44) "Ventilation." The process of supplying and removing air by natural or mechanical means to or from any structure, building or dwelling.

(45) "Weatherproof." Able to withstand exposure to weather without damage or loss of function.

(46) "Weathertight." Able to exclude wind and rain under typical local weather conditions.

(47) "Yard." An open, unoccupied space on the same lot with a building, structure or dwelling.

(48) "Zoning ordinance." The comprehensive zoning ordinance (or land development code). (as added by Ord. #00-02, § 1, April 2000, and replaced by Ord. #16-09, June 2016, and Ord. #16-19, Nov. 2016)

13-402–13-410. Deleted. (as deleted by Ord. #16-09, June 2016)

CHAPTER 5

DELETED

(this chapter was deleted by Ord. #16-09, June 2016)