

## TITLE 13

PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

## CHAPTER

1. MISCELLANEOUS.
2. RATS.
3. PUBLIC NUISANCES.
4. LEBANON ANTI-LITTER ORDINANCE.
5. OUTDOOR SWIMMING POOLS TO BE COMPLETELY ENCLOSED BY A FENCE.

## CHAPTER 1

MISCELLANEOUS

## SECTION

- 13-101. Director of codes enforcement.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Junkyards.

**13-101. Director of codes enforcement.** The "director of codes enforcement" shall be such city, county, or state officer as the city council shall appoint or designate to administer and enforce health and sanitation regulations within the City of Lebanon. (1968 code, § 8-801, as replaced by Ord. #97-1608, June 1997)

**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 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

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<sup>1</sup>Charter references

Authority to enact health and sanitation measures, abate nuisances, etc.: Particularly Art. I, § 3 and Art. II, § 1 (19), (20), (21), (24), (28), (29), and (33).

Municipal code reference

Health and sanitation relating to animals and fowls: title 10.

cause injury or damage to property or business. (1968 code, § 8-804, as replaced by Ord. #97-1608, June 1997)

**13-103. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1968 code, § 8-805, as replaced by Ord. #97-1608, June 1997)

**13-104. Weeds.** 1. 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 director of codes enforcement or chief of police to cut such vegetation when it has reached a height of over one (1) foot.

2. The grass in lawns/yards or vacant lots of property located in districts zoned residential shall not exceed eight (8) inches in height, and the property owner or tenant shall mow said grass on a regular basis during the growing season unless in case of extreme and prolonged drought. It shall be unlawful for any person to fail to comply with an order by the director of codes enforcement or the chief of police to cut such grass within five days, when it has reached a height of eight inches.

3. If a residential property owner or tenant fails or refuses to comply with an order of the director of codes enforcement or the chief of police to remedy the condition, by mowing the lawn/yard or vacant lot of such property within five days after receiving such order, the enforcing authority may immediately cause the lawn/yard or vacant lot of such property to be mowed and the cost thereof shall be assessed against the property owner or tenant owning or occupying such residential property. Failure to pay the assessed sum to the City of Lebanon within thirty days shall cause these costs to be placed upon the tax rolls of the City of Lebanon as a lien upon the property and such costs shall be collected in the same manner as the city taxes are collected. In addition to or in lieu thereof, the enforcing authority may issue a citation to the property owner or tenant occupying said property, citing such person into city court for violation of LMC 13-104 as amended, and such person shall be subject to a civil penalty not to exceed \$500.00. Each day that a violation continues after the five-day period following receipt of the notice to mow the lawn/yard or vacant lot, shall constitute a separate violation. (1968 code, § 8-806, as replaced by Ord. #97-1608, June 1997, and amended by Ord. #00-2080, May 2000)

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury it or notify the director of codes enforcement and dispose of the animal in such manner as the director of codes enforcement directs. (1968 code, § 8-807, as replaced by Ord. #97-1608, June 1997)

**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. (1968 code, § 8-808, as replaced by Ord. #97-1608, June 1997)

**13-107. Junkyards.**<sup>1</sup> All junkyards, auto graveyards, and salvage yards 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, auto graveyards, and salvage yards shall be enclosed within close fitting plank fence [privacy fence] touching the ground on the bottom and being not less than eight (8) feet in height, such fence shall be built so it will be impossible for stray cats or dogs to have access to such junk yards.

(3) 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. (1968 code, § 8-809; as replaced by Ord. #97-1608, June 1997; and further replaced by Ord. #99-1902, Feb. 1999)

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<sup>1</sup>State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

## CHAPTER 2

RATS

## SECTION

- 13-201. Definitions.
- 13-202. Business buildings to be ratproofed, etc.
- 13-203. Owners to comply with orders of director of codes enforcement.
- 13-204. Occupants to comply with orders of director of codes enforcement.
- 13-205. Authorized methods of complying with requirements.
- 13-206. Occupants responsible for maintaining ratproofing.
- 13-207. Inspections.
- 13-208. Authority to close buildings.
- 13-209. Authority to institute condemnation proceedings.
- 13-210. Unlawful to remove or fail to restore ratproofing, etc.
- 13-211. New structures, repairs, etc., required to include ratproofing.
- 13-212. Storage, etc., of foodstuffs.
- 13-213. Storage of garbage, refuse, boxes, etc.

**13-201. Definitions.** For the purposes of this chapter the following definitions shall apply:

(1) "Business buildings" means any structure, whether public or private, that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares, or merchandise, or for the performance of work or labor, including hotels, apartment buildings, tenement houses, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abatoirs, warehouses, workshops, factories, and all outhouses, sheds, barns, and other structures on premises used for business purposes.

(2) "Ratproofing" applies to a form of construction to prevent the ingress of rats into business buildings from the exterior or from one business building or establishment to another. It consists essentially of treating, with material impervious to rat gnawing, all actual or potential openings in exterior walls, ground or first floors, basements, roofs, and foundations, that may be reached by rats from the ground by climbing or by burrowing.

(3) "Rat harborage" means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under, or outside any structure.

(4) "Rat eradication" means the elimination or extermination of rats within buildings by any or all of the accepted measures, such as: poisoning, fumigation, trapping, clubbing, etc.

(5) "Director of codes enforcement" means the officer described in section 13-101 of this code.

(6) "Owner" means the actual owner, agent, or custodian of the business buildings, whether an individual, a partnership, or a corporation. The lessee shall be construed as the "owner" for the purposes of this chapter when business building agreements hold the lessee responsible for maintenance and repairs.

(7) "Occupant" means the individual, partnership, or corporation that uses or occupies any business building or part thereof, whether the actual owner or tenant. In the case of vacant business buildings or vacant portions thereof, the owner, agent, or custodian shall have the responsibility as occupant. (1968 code, § 8-101, as replaced by Ord. #97-1608, June 1997)

**13-202. Business buildings to be ratproofed, etc.** It is hereby ordained and required that all business buildings in the City of Lebanon shall be ratproofed, freed of rats, and maintained in a ratproof and rat-free condition to the satisfaction of the director of codes enforcement. (1968 code, § 8-402, as replaced by Ord. #97-1608, June 1997)

**13-203. Owners to comply with orders of director of codes enforcement.** Upon receipt of a written notice and/or order from the director of codes enforcement, the owner of any business building specified therein shall take immediate measures for ratproofing the building. Unless the work and improvements have been completed by the owner in the time specified in the written notice, in no event to be less than fifteen (15) days, or within the time to which a written extension may have been granted by the director of codes enforcement, then the owner shall be deemed guilty of an offense under the provisions of this chapter. (1968 code, § 8-403, as replaced by Ord. #97-1608, June 1997)

**13-204. Occupants to comply with orders of director of codes enforcement.** Whenever the director of codes enforcement notified the occupant or occupants of a business building in writing that there is evidence of rat infestation in the building, the occupant or occupants shall immediately institute rat eradication measures and shall continuously maintain such measures in a satisfactory manner until the premise is declared by the director of codes enforcement to be free of rat infestation. Unless the measures are undertaken within five (5) days after receipt of notice, it shall be construed as a violation of the provisions of this chapter and the occupant shall be held responsible therefor. (1968 code, § 8-404, as replaced by Ord. #97-1608, June 1997)

**13-205. Authorized methods of complying with requirements.** The owner of a business building, in complying with the provisions hereof relative to ratproofing the building, and the occupant, in maintaining in a ratproof condition and in pursuing a system of rat control as required by sections 13-204

and 13-206, may do the work himself or may engage a contractor to do the work, or the owner or occupant, if he so desires, may make application to the director of codes enforcement who thereupon is hereby authorized to have the necessary ratproofing or the work of rat control done at cost. The cost of ratproofing and/or rat control performed by the director of codes enforcement shall include the cost of all labor, materials, equipment, and supervision necessary to complete the work. Upon completion of the work applied for, the director of codes enforcement shall submit a bill for the costs to the applicant who shall thereupon become liable to the City of Lebanon for the full amount of the bill. If bills are not paid within thirty (30) days after billing, the director of codes enforcement shall certify the amount due from the applicant to the city attorney, who shall bring suit in the name of the city to collect it. (1968 code, § 8-405, as replaced by Ord. #97-1608, June 1997)

**13-206. Occupants responsible for maintaining ratproofing.** The occupants of all ratproofed business buildings are required to maintain the premises in a ratproof condition and to repair all breaks or leaks that may occur in the ratproofing without a specific order of the director of codes enforcement. (1968 code, § 8-406, as replaced by Ord. #97-1608, June 1997)

**13-207. Inspections.** The director of codes enforcement is empowered to make unannounced inspections of the interior and exterior of business buildings to determine full compliance with this chapter. He shall also make periodic inspections at intervals of not more than forty-five (45) days of all ratproofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in ratproofing. When any evidence is found indicating the presence of rats or openings through which rats may enter business buildings, the director of codes enforcement shall serve the owners or occupants with notices and/or orders to abate the condition found. (1968 code, § 8-407, as replaced by Ord. #97-1608, June 1997)

**13-208. Authority to close buildings.** Whenever conditions inside or under occupied business buildings provide extensive harborage for rats in the opinion of the director of codes enforcement he is empowered, after due notification in accordance with § 13-203, to close such business buildings until such time as the conditions are abated by ratproofing and harborage removal including, if necessary, the installation of suitable concrete floors in basements or replacement of wooden first or ground floors with concrete or other major repairs necessary to facilitate rat eradication. (1968 code, § 8-408, as replaced by Ord. #97-1608, June 1997)

**13-209. Authority to institute condemnation proceedings.** Whenever conditions inside or under unoccupied business buildings provide extensive harborage for rats in the opinion of the director of codes enforcement,

he is empowered to require compliance with the provisions of § 13-203. In the event that the conditions are not corrected within a period of sixty (60) days or within the time to which a written extension may have been granted by the director of codes enforcement, the director of codes enforcement is empowered to institute condemnation and destruction proceedings. (1968 code, § 8-409, as replaced by Ord. #97-1608, June 1997)

**13-210. Unlawful to remove or fail to restore ratproofing, etc.** It shall be unlawful under the provisions of this chapter for the occupant, owner, contractor, public utility company, plumber, or any other person to remove and fail to restore in like condition the ratproofing from any business building for any purpose. Further, it shall be unlawful for any person or agent to make any new openings that are not closed or sealed against the entrance of rats. (1968 code, § 8-410, as replaced by Ord. #97-1608, June 1997)

**13-211. New structures, repairs, etc., required to include ratproofing.** It shall be unlawful for any person, firm, or corporation hereafter to construct, repair, or remodel any building, dwelling, stable, or market, or other structure whatsoever, unless the construction, repair, remodeling, or installation renders the building or other structure ratproof in accordance with the regulations prescribed herein. The provisions of this section apply only to construction, repairs, remodeling, or installation that affect the ratproof condition of any building or other structure. (1968 code, § 8-411, as replaced by Ord. #97-1608, June 1997)

**13-212. Storage, etc., of foodstuffs.** It shall be unlawful for any person, firm, or corporation hereafter to occupy any new or existing business buildings wherein foodstuffs are to be stored, kept, handled, sold, held, or offered for sale without complying with § 13-210. (1968 code, § 8-412, modified, as replaced by Ord. #97-1608, June 1997)

**13-213. Storage of garbage, refuse, boxes, etc.** Within the corporate limits of the City of Lebanon all garbage or refuse consisting of waste animal or vegetable matter upon which rats may feed, and all small dead animals, shall be placed and stored until collected in covered metal containers of a type prescribed by the director of codes enforcement. It is further declared unlawful for any person, firm, or corporation to dump or place on any premise, land, or waterway, any dead animals, or any waste vegetable or animal matter of any kind, as replaced by Ord. #97-1608, June 1997.

It shall be unlawful for any person to place, leave, dump, or permit to accumulate any garbage, rubbish, or trash in any building or on any premise, improved or vacant, or on any open lot or alley in the City of Lebanon so that it affords or may afford food or harborage for rats.

It shall be unlawful for any person to permit to accumulate on any premise, improved or vacant, or on any open lot or alley in the City of Lebanon any lumber, boxes, barrels, bottles, cans, containers, or similar materials that may be permitted to remain thereon unless these are placed on open racks that are elevated not less than eighteen (18) inches above the ground, and evenly piled or stacked. (1968 code, § 8-413, as replaced by Ord. #97-1608, June 1997)

CHAPTER 3

PUBLIC NUISANCES

SECTION

- 13-301. Certain conditions described as constituting a public nuisance.
- 13-302. Described public nuisances prohibited.
- 13-303. Misdemeanor to permit.
- 13-304. Notice to be given to property owners and occupants.
- 13-305. Abatement of public nuisance.
- 13-306. City court proceedings.
- 13-307. Definitions; junk vehicles a public nuisance.
- 13-308. Abatement by city at property owner's expense.
- 13-309. Files, records, etc. to be kept.
- 13-310. Removal of abandoned and junk vehicles.
- 13-311. Removal and disposal procedure - abandoned and/or junk motor vehicles.
- 13-312. Sale or disposal of abandoned or junk motor vehicles.

**13-301. Certain conditions described as constituting a public nuisance.** The accumulation and storage of debris, rubbish, trash, tin cans, bottles, junk vehicles, and papers, or stagnant water, or a dense growth of trees, vines, grass, and other underbrush on any lot, tract, or parcel of land within the corporate limits of the City of Lebanon, Tennessee are in the nature of rubbish and unsightly debris and constitutes a menace to life and property in that, such conditions tend to interfere with the enjoyment of and reduce the value of public and private property, endangers the public health and welfare, and can create fire hazards to the extent that the same is a public nuisance to the citizens, residents, and inhabitants of the city. The storage or parking of junk vehicles in areas authorized by the zoning ordinances of Lebanon, Tennessee are not to be construed as a public nuisance so long as the storage areas meet all requirements of the zoning ordinances, including any necessary appeals. (1968 Code, § 8-501, as replaced by Ord. #89-717; Ord. #97-1608, June 1997; and Ord. #02-2348, July 2002)

**13-302. Described public nuisances prohibited.** The allowing, accumulation or permitting of debris, rubbish, trash, tin cans, bottles, and papers, junk vehicles in improperly zoned areas, or stagnant water to accumulate, or a dense growth of trees, vines, grass, and underbrush which is allowed to develop on any lot, tract, or parcel of land within the corporate limits of the City of Lebanon to such an extent that such constitutes a menace to life, property, public health, public welfare and/or creates a fire hazard is hereby specifically prohibited and declared to be a public nuisance punishable as stated herein. (1968 Code, § 8-502, as replace by ord. 89-717, § 2, and Ord. #97-1608, June 1997)

**13-303. Misdemeanor to permit.** Any land owner, lessee, or occupant of any lot, tract, or parcel of land in the City of Lebanon who permits debris, rubbish, trash, tin cans, bottles, junk vehicles and papers, or stagnant water to accumulate, or a dense growth of trees, vines, grass, or underbrush to develop thereon to such an extent that such conditions constitutes a menace to life, property, the public health, or the public welfare and/or creates a fire hazard shall be guilty of a misdemeanor and upon conviction thereof shall be punished according to the general penalty clause according to the municipal ordinance together with all costs of the prosecution. (1968 code, § 8-503, as replaced by ord. 89-717, § 2, and Ord. #97-1608, June 1997)

**13-304. Notice to be given to property owners and occupants.** If the commissioner of public works of the City of Lebanon, the codes enforcement officer or any other duly authorized representative of the City of Lebanon shall find that debris, rubbish, trash, tin cans, bottles, junk vehicles, and papers, or stagnant water have been allowed to illegally accumulate, or the property owner or occupant has allowed a dense growth of trees, vines, grass, and underbrush to develop on any lot, tract, or parcel of land within the City of Lebanon to such an extent that it constitutes a menace to life, property, the public health, or the public welfare and/or creates a fire hazard, he shall notify the recorded owner of such property in writing at his last known mailing address. The notice shall describe the findings to such an extent that the owner or occupant shall have notice of the conditions on the property that have been deemed to constitute a hazard or menace to life, property, the public health, the public welfare and/or creates a fire hazard and said notice shall demand that the owner or occupant remedy the condition or conditions immediately. The commissioner of public works, codes enforcer or other duly authorized representative of the City of Lebanon shall also cause a copy of the notice to be served by a police officer of the City of Lebanon upon the occupant of the property or upon any agent of the owner thereof, or, if no person occupies the property, upon the property by posting a notice thereon. (1968 code, § 8-504, and Ord. #97-1608, June 1997)

**13-305. Abatement of public nuisance.** If the conditions described in the notice have not been remedied by the occupant or property owner within thirty (30) days after the mailing or posting of said notice, the director of codes enforcement shall cause to be issued a citation to the city court of Lebanon, Tennessee or other court of proper jurisdiction demanding the owner and/or occupant of the subject property to show cause why the owner and/or occupant shall not be held guilty for violation of this chapter. (Ord. 89-717, § 2, and Ord. #97-1608, June 1997)

**13-306. City court proceedings.** Upon issuance of a citation, a hearing shall be held before the city judge, or other duly authorized judge, to determine if the alleged offender has violated the terms and conditions of this chapter. The

proof presented at the judicial hearing shall show that the alleged condition or conditions cited have occurred and do exist and said proof shall be taken with the burden to be upon the city or its duly authorized representative to prove said conditions and the violation of this chapter beyond a reasonable doubt. Upon the completion of the hearing, the court may find the owner or occupant guilty of violation of this chapter and is hereby authorized to penalize said owner and/or occupant for each violation thereof, with each separate day that the violation exists after the receipt or posting of the notice described in this chapter to be deemed a separate violation, and any person found guilty of violating this chapter may be punished according to the general penalty provision of this municipal code of ordinances. (Ord. 89-717, § 2, and Ord. #97-1608, June 1997)

**13-307. Definitions; junk vehicles a public nuisance.**

(1) Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

(a) "Debris." The remains of something broken down or destroyed; and accumulation of rock fragments.

(b) "Junk vehicle." For the purpose of this chapter, the storing or parking of any vehicle or vehicles which:

(i) Is two years old, or older; and

(ii) Is damaged or defective in any one or a combination of any of the following ways that indicates the vehicle cannot reasonably be safely operated upon the streets and highways under its own power:

(A) Broken or cracked window or windshield;

(B) Missing tires or missing or partially or totally disassembled tires and wheels;

(C) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, axle;

(D) Extensive exterior body damage or missing or partially or totally disassembled exterior body parts essential to the reasonably safe operation of the motor vehicle, such as, but not limited to fenders, doors, engine hood;

(E) Missing or partially or totally disassembled interior parts essential to the reasonable safe operation of the motor vehicle, such as, but not limited to, driver's seat, steering wheel, instrument panel;

(F) Missing or partially or totally disassembled other parts essential to the starting or running of the vehicle under its own power, such as, but not limited to,

starter, generator or alternator, battery, distributor, gas tank, radiator;

(G) The interior is a container for metal, glass, paper, rags, wood, machinery, parts, cloth or other waste or discarded materials in one or any combination of such materials in such quantity and arrangement that the vehicle cannot be reasonably safely operated upon the streets and highways; and

(iii) Does not have a current state license plate fixed to the place on the vehicle prescribed by state law; and

(iv) Has been parked in the same place for more than ninety days.

(c) "Person." Any person, firm, organization, partnership, association, corporation or company of any kind.

(d) "Vehicle." Any machine propelled by other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery, and shall include, without limitation, automobile, truck/trailer, motorcycle, tractor, mobile home, or motor home.

(2) Junk vehicles a public nuisance. (a) The parking or storing of a junk vehicle, as defined herein, on the public roadway, right-of-way, street or alleyway adjacent to a subject property, shall be declared a public nuisance and the owner of said junk vehicle and/or the owner of the adjoining property, who permits or allows the subject junk vehicle to be parked on the public right-of-way, roadway, street or alleyway, shall be deemed to be in violation of this chapter and shall be punishable pursuant to the provisions of title 13, chapter 3, of the Lebanon Municipal Code.

(b) The parking or storing of a junk vehicle, as defined herein, on any residential or private property not zoned for a vehicle junkyard, for more than forty-eight (48) hours without the knowledge and consent of the property owner or occupant, shall be deemed a violation of this chapter by the owner of the junk vehicle and/or the owner or occupant of said private property; and shall be punishable pursuant to the provisions of title 13, chapter 3 of the Lebanon Municipal Code. Said owner of the junk vehicle, and or the said owner or occupant of the private property shall remove said junk vehicle from said private property within thirty days after notice of violation is issued by the city. Failure to remove said junk vehicle within the time prescribed herein shall be deemed a further violation of this chapter and removal and disposal of said junk vehicle by the city shall be pursuant to the provisions of title 13, chapter 3, sections 311 and 312.

(c) Nothing in this section shall create an exception to the definition of, or compliance with, the provisions of title 14 of the Lebanon

Municipal Code. (Ord. #89-717, as replaced by Ord. #97-1608, June 1997; Ord. #98-1867, Jan. 1999; and Ord. #02-2348, July 2002)

**13-308. Abatement by city at property owner's expense.** If the Director of Codes Enforcement for the City of Lebanon deems it appropriate, and if an owner or occupant continues to violate the terms and conditions of this chapter, the commissioner of public works may be instructed to remove said public nuisance from or about the property of the owner or occupant, at the expense of the owner or occupant of the subject property. If the commissioner of public works shall cause the conditions to be remedied by the City of Lebanon, the action shall be certified to the commissioner of finance and revenue and the expense incurred in remedying the condition together with a certificate as to the conditions of the property which necessitated the incurring of the expense, a copy of the notice mentioned above with proof of service thereof, and a copy of the result of the hearing before the city panel described herein, shall become and constitute a lien and charge upon the property, in the amount of the expense incurred by the City of Lebanon in remedying the condition, and the lien shall be payable with interest at the rate of ten (10%) percent per annum from the date of said certification to the commissioner of public works, and the recording of a notice in the register's office of Wilson County, Tennessee. The lien shall be collectible at the time ad valorem taxes on the property become due and payable to the City of Lebanon, Tennessee, and the expense charged for collection shall be first a prior lien against the property, subject only to the lien

for taxes to the County of Wilson and also subject to any taxes owed to the City of Lebanon for municipal taxes. On the failure of the owner or occupant of the property to pay the lien, the lien may be enforced in the same manner as a tax lien in favor of the City of Lebanon and shall be certified by the commissioner of finance and revenue for collection along with the certification of any ad valorem taxes assessed against the property which are not paid when due. (1968 code § 8-506, as replaced by ord. 89-717, § 2, and Ord. #97-1608, June 1997)

**13-309. Files, records, etc. to be kept.** The commissioner of finance and revenue of the City of Lebanon shall keep a complete set of files and records relating to such liens, and shall include the amounts of such liens in tax statements for ad valorem taxes thereafter submitted to the owners of lots, tracts or parcels of land that may be subject to said lien as a result of any violation of this chapter. (1968 code § 8-507 as replaced by ord. 89-717, § 2, and Ord. #97-1608, June 1997)

**13-310. Removal of abandoned and junk vehicles.** Under the provisions of this section, any abandoned vehicle or junk vehicle as defined in section 13-308 may be tagged as described herein and removed for disposal as described by the provisions of this code section. Under this section, "abandoned motor vehicle" means any motor vehicle that is over four (4) years old and is left unattended on public property for more than five (5) days, or is a motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or is a motor 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. (as added by Ord. #95-1399, § 1, Dec. 1995, and Ord. #97-1608, June 1997)

**13-311. Removal and disposal procedure - abandoned and/or junk motor vehicles.** (1) Under the provisions of this section, the police department or the director of codes enforcement, or their duly authorized representatives, may take into custody any motor vehicle found abandoned on public or private property, after tagging and notification as described herein.

(2) Any unattended vehicle which is believed to be an abandoned or junk motor vehicle under the provisions of this code section, shall be tagged by the following notice:

**WARNING! UNATTENDED VEHICLE**

**CITY OF LEBANON, TENNESSEE**

This vehicle check: Date: \_\_\_\_\_, 199\_\_  
Time: \_\_\_\_\_ am pm

This vehicle tagged By: \_\_\_\_\_  
\_\_\_\_\_ Rank

Location: \_\_\_\_\_

Vehicle ID \_\_\_\_\_ Vehicle License \_\_\_\_\_

In an effort to promote safety and protect your property the City of Lebanon Police Department or Director of Codes Enforcement has stopped to offer assistance and determine that your vehicle was not stolen or abandoned.

The Lebanon Municipal Code provides for removal of the vehicle from public or private property when an officer has reasonable grounds to believe it has been abandoned or it creates a traffic hazard, or it is in violation of the Lebanon Municipal Code concerning junk vehicles.

A vehicle is considered abandoned if it is over four (4) years old and is left unattended on public property for more than five (5) days, or is a motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or is a motor 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.

Officials are authorized to remove abandoned or junk vehicles at the owners expense. Therefore, we urge you to remove this vehicle as soon as possible to prevent damage to the property and/or vandalism and/or the removal and disposal of this vehicle pursuant to the Lebanon Municipal Code.

**THIS IS NOT A TRAFFIC CITATION**

(3) Upon taking into custody a motor vehicle found to be abandoned and/or a junk vehicle, which is abandoned on either public or private property, the police department or codes enforcement section shall notify within fifteen (15) days thereof, by registered mail, return receipt requested, the last known registered owner of the vehicle and all lienholders of record that the vehicle has been taken into custody. The notice shall describe the year, make, model and serial number of the vehicle, setting forth the location where the motor vehicle is being held; inform the owner and any lienholders of their right to reclaim the motor vehicle within ten (10) days after the date of the notice, upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody; and state that the failure of the owner or lienholder to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver

by the owner and all lienholders of all right, title and interest in the vehicle and consent to the sale of the abandoned vehicle at a public auction.

(4) In the event there is no response to the notice by registered mail provided for in paragraph (3) herein, then there shall be notice by one (1) publication in one (1) newspaper of general circulation in the area where the motor vehicle was abandoned. Such notice shall be in a small display ad format, but one (1) advertisement may contain multiple listings of abandoned and/or junk vehicles which are subject to be sold.

(5) Notwithstanding any provisions of this section to the contrary, the consequences and effect of failure of an owner or lienholder to reclaim an abandoned or junk motor vehicle shall cause the subject vehicle to be subject to sale or disposal as stated in this section. (As added by Ord. #95-1399, § 1, Dec. 1995, and Ord. #97-1608, June 1997)

**13-312. Sale or disposal of abandoned or junk motor vehicles.**

(1) If an abandoned or junk vehicle in violation of the provisions of the Lebanon Municipal Code has not been reclaimed after seizure by the police department and or director of codes enforcement, the City of Lebanon may sell the subject vehicle at a public auction.

(2) The sale shall be construed to be performed under a lien in favor of the City of Lebanon for the towing, preservation and storage charges that have accumulated as a result of the taking of the subject vehicle into custody.

(3) The proceeds from the sale of an abandoned or junk motor vehicle shall be used for the payment of the expenses of sale, the cost of towing, preservation and storing the motor vehicle, and all reasonable and necessary costs which have been incurred pursuant to the provisions of this section. Any remaining proceeds from the sale shall be held for the owner of the vehicle or title lienholder for a period of one hundred eighty (180) days, and then shall be dispersed to a special fund which will remain available for the payment of auction, towing, preservation and storage, notice and publication costs in support of the program for the removal of abandoned or junk vehicles from the City of Lebanon.

(4) In the event the abandoned or junk vehicle has insufficient value to warrant the sales expenses described herein, the City of Lebanon may, after providing notice by mail and publication as stated above, sell the junk or abandoned motor vehicle to an automobile demolisher who regularly purchases or otherwise acquires motor vehicles for the purpose of wrecking, dismantling or demolition of junk vehicles. (As added by Ord. #95-1399, § 1, Dec. 1995, and Ord. #97-1608, June 1997)

## CHAPTER 4

LEBANON ANTI-LITTER ORDINANCE<sup>1</sup>

## SECTION

- 13-401. Title.
- 13-402. Definitions.
- 13-403. Litter in public places.
- 13-404. Placement of litter in receptacles so as to prevent scattering.
- 13-405. Sweeping litter into gutters prohibited; sidewalks to be kept clean.
- 13-406. Merchants' duty to keep sidewalks free of litter.
- 13-407. Litter thrown by persons in vehicles.
- 13-408. Truck loads causing litter.
- 13-409. Litter in parks.
- 13-410. Litter in lakes and fountains.
- 13-411. Throwing or distributing commercial handbills in public places.
- 13-412. Placing commercial and non-commercial handbills on vehicles.
- 13-413. Prohibiting distribution of handbills where property posted.
- 13-414. Distributing commercial and non-commercial handbills at inhabited private premises.
- 13-415. Dropping litter from aircraft.
- 13-416. Posting notices prohibited.
- 13-417. Litter on occupied private property.
- 13-418. Owner to maintain premises free of litter.
- 13-419. Litter on vacant lots.
- 13-420. Clearing of litter from open private property by city.
- 13-421. Violations.

**13-401. Title.** This chapter shall be known and may be cited as the "Lebanon Anti-Litter Ordinance." (1968 code, § 8-601, as replaced by Ord. #97-1608, June 1997)

**13-402. Definitions.** For the purposes of this chapter the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

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<sup>1</sup>State law reference

For a discussion of the constitutionality of portions of a litter ordinance similar to this one, see H & L Messengers, Inc., v. City of Brentwood, 577 S.W. 2d 444 (Tenn. 1979).

(1) "Aircraft" is any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter than air dirigibles and balloons.

(2) "Authorized private receptacle" is a litter storage and collection receptacle as required and authorized for refuse in title 17, chapter 1.

(3) "City" is the City of Lebanon.

(4) "Commercial handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

(a) Which advertises for sale any merchandise, product, commodity, or thing; or

(b) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(c) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up, for the purpose of defraying the expenses incident to the meeting, theatrical performance, exhibition, or event of any kind, when either is held, given, or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety, and good order. Nothing contained in this clause shall be deemed to authorize the holding, giving, or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where a license is or may be required by any law of this state, or under any ordinance of this city; or

(d) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person engaged as advertiser or distributor.

(5) "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

(6) "Litter" is garbage, refuse, and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

(7) "Newspaper" is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with federal statutes or regulations, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto, includes any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public.

(8) "Non-commercial handbill" is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

(9) "Park" is a park, reservation, playground, beach, recreation center, or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

(10) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.

(11) "Private premises" is any dwelling, house, building, or other structure designated or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(12) "Public place" is any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

(13) "Refuse" is all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

(14) "Rubbish" is nonputrescible solid wastes consisting of both combustible and non-combustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

(15) "Vehicle" is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks. (1968 code, § 8-60241, as replaced by Ord. #97-1608, June 1997)

**13-403. Litter in public places.** No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the city except in public receptacles, in authorized private receptacles for collection, or in official city dumps. (1968 code, § 8-603, as replaced by Ord. #97-1608, June 1997)

**13-404. Placement of litter in receptacles so as to prevent scattering.** Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property. (1968 code, § 8-604, as replaced by Ord. #97-1608, June 1997)

**13-405. Sweeping litter into gutters prohibited; sidewalks to be kept clean.** No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. (1968 code, § 8-605, as replaced by Ord. #97-1608, June 1997)

**13-406. Merchants' duty to keep sidewalks free of litter.** No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free of litter. (1968 code, § 8-606, as replaced by Ord. #97-1608, June 1997)

**13-407. Litter thrown by persons in vehicles.** No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property. (1968 code, § 8-607, as replaced by Ord. #97-1608, June 1997)

**13-408. Truck loads causing litter.** No person shall drive or move any truck or other vehicle within the city unless the vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or other public place. Nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit mud, dirt, sticky substances, litter, or foreign matter of any kind, in any street, alley, or other public place. (1968 code, § 8-608, as replaced by Ord. #97-1608, June 1997)

**13-409. Litter in parks.** No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein. (1968 code, § 8-609, as replaced by Ord. #97-1608, June 1997)

**13-410. Litter in lakes and fountains.** No person shall throw or deposit litter in any fountain, pond, lake, stream, bay, or any other body of water in a park or elsewhere within the city. (1968 code, § 8-610, as replaced by Ord. #97-1608, June 1997)

**13-411. Throwing or distributing commercial handbills in public places.** No person shall throw or deposit any commercial or non-commercial

handbill in or upon any sidewalk, street, or other public place within the city. (1968 code, § 8-611, modified, as replaced by Ord. #97-1608, June 1997)

**13-412. Placing commercial and non-commercial handbills on vehicles.** No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle. (1968 code, § 8-612, modified, as replaced by Ord. #97-1608, June 1997)

**13-413. Prohibiting distribution of handbills where property posted.** No person shall throw, deposit, or distribute any commercial or non-commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon the premises. (1968 code, § 8-614, as replaced by Ord. #97-1608, June 1997)

**13-414. Distributing commercial and non-commercial handbills at inhabited private premises.** No person shall throw, deposit, or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited, except by handing or transmitting the handbill directly to the owner, occupant, or other person then present in or upon the private premises. In case of inhabited private premises which are not posted as provided in this chapter, the person, unless requested by anyone upon the premises not to do so, may place or deposit a handbill in or upon the premises if it is so placed or deposited as to secure or prevent it from being blown about the premises or sidewalks, streets, or other public places. Mailboxes may not be so used when prohibited by federal postal law or regulations.

The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property. (1968 code, § 8-615, as replaced by Ord. #97-1608, June 1997)

**13-415. Dropping litter from aircraft.** No person in an aircraft shall throw out, drop, or deposit within the city any litter, handbill, or any other object. (1968 code, § 8-616, as replaced by Ord. #97-1608, June 1997)

**13-416. Posting notices prohibited.** No person shall post or affix any notice, posted or other paper or advice, calculated to attract the attention of the public, to any lamp post, public utility pole, or shade tree, or upon any public structure or building, except as authorized or required by law.

(1968 code, § 8-617, as replaced by Ord. #97-1608, June 1997)

**13-417. Litter on occupied private property.** No person shall throw or deposit litter on any occupied private property within the city, whether owned by the person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property. (1968 code, § 8-618, as replaced by Ord. #97-1608, June 1997)

**13-418. Owner to maintain premises free of litter.** The owner or person in control of any private property shall at all times maintain the premises free of litter. This section shall not prohibit the storage of litter in authorized private receptacles for collection. (1968 code, § 8-619, as replaced by Ord. #97-1608, June 1997)

**13-419. Litter on vacant lots.** No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not. (1968 code, § 8-620, as replaced by Ord. #97-1608, June 1997)

**13-420. Clearing of litter from open private property by city.** The city may proceed to remove litter from open private property in the following manner:

(1) Notice to remove. The city director of codes enforcement is hereby authorized and empowered to notify the owner of any open or vacant private property within the city, or the agent of the owner, properly to dispose of litter located on the owner's property which is dangerous to public health, safety, or welfare. The notice shall be by registered mail, addressed to the owner at his last known address.

(2) Action upon non-compliance. Upon the failure, neglect, or refusal of any owner or agent so notified properly to dispose of litter dangerous to the public health, safety, or welfare within ten (10) days after receipt of written notice provided for in subsection (1) above, or within fifteen (15) days after the date of the notice in the event it is returned to the city post office department because of the department's inability to make delivery thereof, if it was properly addressed to the last known address of the owner or agent, the city director of codes enforcement is hereby authorized and empowered to pay for the disposing of the litter or to order its disposal by the city.

(3) Charge included in tax bill. When the city has effected the removal of the dangerous litter or has paid for its removal, the actual cost thereof plus accrued interest at the rate of six percent (6%) per annum from the date of the completion of the work, if not paid by the owner prior thereto, shall be charged to the owner of the property on the next regular tax bill forwarded to the owner

by the city. The charge shall be due and payable by the owner at the time of payment of the bill.

(4) Recorded statement constitutes lien. Where the full amount due the city is not paid by the owner within ten (10) days after the disposal of the litter, as provided for in subsections (1) and (2) above, then, the city director of codes enforcement shall cause to be recorded in the office of the commissioner of finance and revenue a sworn statement showing the cost and expense incurred for the work, the date the work was done, and the location of the property on which the work was done. The recordation of the sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. The costs and expenses shall be collected in the manner fixed by law for the collection of taxes and further shall be subject to a delinquent penalty of ten percent (10%) in the event it is not paid in full on or before the date the tax bill upon which the charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the attachment is due and collectible as provided by law. (1968 code, § 8-621, as replaced by Ord. #97-1608, June 1997)

**13-421. Violations.** Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined under the general penalty clause for this code. (1968 code, § 8-622, as replaced by Ord. #97-1608, June 1997)

## CHAPTER 5

OUTDOOR POOLS TO BE COMPLETELY ENCLOSED BY A FENCE

## SECTION

- 13-501. Fencing requirements.
- 13-502. Compliance.
- 13-503. Definition.
- 13-504. Location of fencing.
- 13-505. Distance between pool and fencing.
- 13-506. Wall may be incorporated into fence.
- 13-507. Fine.
- 13-508. Enforcement.
- 13-509. Severability.

**13-501. Fencing requirements.** All outdoor swimming pools, both public and private and wherever located within the corporate limits of the City of Lebanon, constructed or to be constructed after the effective date of this chapter,<sup>1</sup> shall be completely enclosed by a fence. All fence openings or points of entry into pool area enclosure shall be equipped with gates. The fence and gates shall be at least four feet in height above grade level and shall be constructed of brick, stone, wrought iron, wood, or a minimum number 9 gauge woven wire mesh corrosion-resistant material, or other similar material. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate and shall be equipped to have a lock thereon. If the self-latching device is less than 54 inches from the bottom of the gate, the device must be located inside the fence and at least three inches below the top. No opening of more than ½ inch in the fence will be allowed less than 18 inches of the release mechanism. Fence posts shall be made of the same material as the fence or shall be decay or corrosion resistant and shall be set in concrete bases. There shall be no more than a three (3") inch opening between the ground or deck floor and the bottom of the fence. (Ord. #99-1986, Sept. 1999)

**13-502. Compliance.** Owners or tenants of property on which is located an outdoor swimming pool already in existence and use, on the effective date of this chapter,<sup>1</sup> shall have until Memorial Day of the year 2000 to comply with the provision set forth herein. (Ord. #99-1986, Sept. 1999)

**13-503. Definition.** The definition of a "swimming pool" shall be as follows:

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<sup>1</sup>This chapter was taken from Ord. #99-1986 which passed second reading Sept. 7, 1999.

"Swimming pool--Any constructed or pre-fabricated pool used for swimming or bathing twenty-four (24") inches or more in depth. Private home spas and above ground pools, not exceeding ten (10') feet in diameter, shall not be deemed a swimming pool."(Ord. #99-1986, Sept. 1999)

**13-504. Location of fencing.** Location or fencing of outdoor swimming pools shall be subject to all other applicable ordinances. (Ord. #99-1986, Sept. 1999)

**13-505. Distance between pool and fencing.** No fence shall be located, erected, constructed, or maintained closer to an outdoor pool than three feet (0.91 meters). (Ord. #99-1986, Sept. 1999)

**13-506. Wall may be incorporated into fence.** The wall of the house or building faced to a pool may be incorporated as a portion of such fence. (Ord. #99-1986, Sept. 1999)

**13-507. Fine.** Any person, firm or corporation violating any provision of this chapter shall be fined not less than fifty dollars nor more than five hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues after notification. (Ord. #99-1986, Sept. 1999)

**13-508. Enforcement.** This chapter shall be enforced by the city building inspector, chief codes enforcement officer of the division of codes, or their designated agent. (Ord. #99-1986, Sept. 1999)

**13-509. Severability.** The provisions of this chapter are severable, and if any sentence, section or other part of this chapter should be found to be invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect. (Ord. #99-1986, Sept. 1999)