

**ORDINANCE NO. 16-5328**

**AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO AMEND TITLE 13 OF THE LEBANON MUNICIPAL CODE BY REPLACING LMC 13-104 WITH MORE CURRENT LEGAL LANGUAGE REGARDING REMOVAL OF WEEDS, GRASS, AND DEBRIS**

**WHEREAS**, Title 13 of the Lebanon Municipal Code establishes rules regarding property maintenance; and

**WHEREAS**, *Tennessee Code Annotated*, § 6-54-113 grants municipalities the right to require owners to keep their property free of growth of trees, vines, grass, weed, underbrush or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements that would endanger the health, safety or welfare of other citizens, or encourage the infestation of rats and other harmful animals; and

**WHEREAS**, the city desires to amend LMC § 13-104 to exercise its rights granted under *TCA* § 6-54-113 and to set guidelines for enforcement.

**NOW, THEREFORE, BE IT ORDAINED** by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to amend LMC § 13-104 by deleting the current section in its entirety and replacing it with the following new LMC § 13-104:

**13-104. Grass/Weeds and Overgrown and dirty lots.**

1. Prohibition. Pursuant to the authority granted under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass or weeds on residentially zoned property in excess of 8", underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

2. Designation of public officer or department. The Codes Director or his/her designated representative is responsible for the enforcement of this section.

3. Notice to property owner. It shall be the duty of the Codes Director or his/her designated representative to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of

the owner of record, or hand delivered with the deliverer obtaining the owner's signature confirming receipt of the notice. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

a. A brief statement that the owner is in violation of Section 13-104 of the Lebanon Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

b. The person, office, address, and telephone number of the department or person giving the notice;

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

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

4. Notice by Publication. When an attempt at notification by United States mail fails or no valid last known address exists for the owner of record, the Codes Director or his/her designated representative shall publish the notice in a newspaper of general circulation in Wilson County for no less than two (2) consecutive issues. For purposes of this section, such publication shall constitute receipt of notice effective on the date of the second publication of the notice.

5. Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the Codes Director or his/her designated representative shall cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner by:

a. Filing an action for debt filed in any court of competent jurisdiction. The city may bring one action for debt against more than one 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 action shall not be considered by the court as a misjoinder of parties; or

b. By filing a notice of lien against the subject property. Upon the filing of the notice with the office of the register of deeds in Wilson County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

6. Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the Codes Director or his/her designated representative shall cause the condition to be remedied at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality shall wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

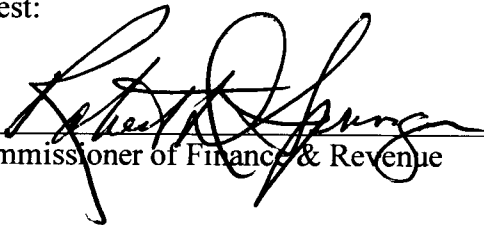
7. Appeal. The owner of record who is aggrieved by the determination and order of the Codes Director or his/her designated representative may appeal the determination and order to the Codes Director or his/her designated representative to hear the appeal. The appeal shall be filed within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

8. Judicial review. Any person aggrieved by an order or act under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

9. 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.

Section 2. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same.

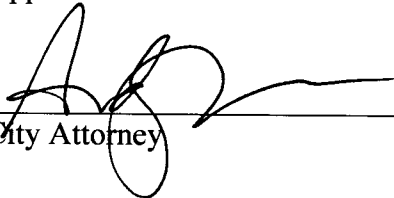
Attest:

  
\_\_\_\_\_  
Commissioner of Finance & Revenue

Approved:

  
\_\_\_\_\_  
Mayor

Approved as to form:

  
\_\_\_\_\_  
City Attorney

Passed first reading: 10/18/16

Passed second reading: 2/07/17