

ARTICLE III. LOT CLEANLINESS*

***State law references:** Authority regarding cleaning of property, T.C.A. § 5-1-115.

Sec. 38-66. Short title.

This article may be cited as the "Dirty Lot Ordinance."

(Ord. No. O-91-3-102, § 1, 7-15-91)

Sec. 38-67. Overgrown, littered property declared nuisance.

The existence within the limits of the county of lots and parcels of land overgrown with trees, vines, weeds, and other underbrush or burdened with the accumulation of debris, trash, litter, garbage or refuse, or any combination of the preceding elements, or lots and parcels upon which exists abandoned dwellings or structures, or portions thereof, which are unfit for human habitation, are hereby declared to be a nuisance.

(Ord. No. O-91-3-102, § 2, 7-15-91)

Sec. 38-68. Unlawful acts.

- (a) It shall be unlawful for any person owning, leasing or having control of property in the county to permit or suffer trees, vines, grass, underbrush, or any other vegetation to grow and/or debris, trash, litter, garbage, or refuse to accumulate on such property, or to allow an abandoned structure, or portions thereof, unfit for human habitation, to exist on such property, to such an extent that a nuisance is created injurious to the health, safety and welfare of the inhabitants of the county. Vines, grass, underbrush, or other vegetation which have attained a height of 12 inches or more shall be presumed to be detrimental to the public health and a public nuisance, which presumption may be rebutted by competent evidence.
- (b) It shall be unlawful for any owner, occupant, lessee or anyone having supervision or control of any lot, tract, or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the county to suffer or permit trees, vines, grass, weeds, or any plant that is not cultivated to grow in rank profusion or otherwise, in, along, upon, or across the sidewalk or street adjacent to such property in the area between the property lines, to a height greater than 12 inches on average.
- (c) In complying with article provisions, it shall be unlawful for any person owning, leasing or having control of property in the county to rake upon, cut up, or pile up said vines, grass, underbrush or other vegetation, dead or broken tree limbs, dead trees or debris, trash, litter, garbage, or rubbish or any other natural or manmade material into any ditch or natural drain, or any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct and/or alter the flow of water drainage or change the water course.

(Ord. No. O-91-3-102, §§ 3, 4, 7-15-91; Ord. No. O-98-11-101, § 1, 11-16-98)

Sec. 38-69. Notice to abate nuisance.

- (a) Upon the failure of any owner of property within the limits of the county to cut or have cut a growth of trees, vines, grass, underbrush, and/or other obnoxious vegetation or to remove or have removed an accumulation of debris, trash, litter, garbage or refuse as described in subsections 38-68(a) and (b) or to fail to demolish and completely remove any abandoned dwelling or structure unfit for human habitation which may exist upon such lot, it shall be the duty of the department of codes and administration, or such other persons as are designated by the county executive, to serve a notice on the owner, lessee, occupant or person having control of such property, ordering such person to abate the nuisance within ten days of the service of such notice.
- (b) It shall be the duty of the department of codes and administration, or such other persons as are designated by the county executive, to serve a notice on the owner, lessee, occupant or person having control of property, ordering such person to demolish or have demolished any abandoned dwelling or structure unfit for human habitation which may exist upon the property and to remove or have removed all debris resulting from demolition within 30 days of the serving of such notice.
- (c) The notice provided for in this section may be served by:
 - (1) Personally delivering such notice upon the owner, lessee, occupant, or person having control of such property;
 - (2) Mailing the notice to the last known address of such owner, lessee, occupant or person having control of such property by certified United States mail; or
 - (3) Posting the notice on the property upon which the illegal conditions exist.
- (d) Service of notice by any of the methods provided for in subsection (c) of this section shall be due notice within the meaning of this article; provided, however, that no owner out of possession shall be liable for any penalty or charge imposed under this article unless there shall be personal service of such notice upon him, or such notice mailed to him by certified mail as provided for in subsection (c) of this section.
- (e) The notice required in this section shall state that the owner, lessee, occupant or other person having control of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:
 - (1) A brief statement of this article, which shall contain the consequences of failing to remedy the noted condition.
 - (2) The person, office, address, and telephone number of the department or person giving notice.
 - (3) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost to the community.
 - (4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(Ord. No. O-91-3-102, § 5, 7-15-91; Ord. No. O-98-11-101, § 2, 11-16-98)

Sec. 38-70. Appeals; determination of appeals; extension of hearing.

- (a) Any owner, lessee, occupant or person having control of property which is the subject of a notice under section 38-69 aggrieved by the determination and order of an inspector may appeal therefrom to the county codes enforcement director ("the director"), or such other person as may be designated by the county executive, within ten days from the date of the service of the notice. Such appeal shall be taken by filing with the director a notice of appeal stating in brief and concise form the grounds upon which the appeal is based. The director shall hear and determine such appeal as promptly as practicable, but in all cases the appeal shall be heard and determined within ten calendar days of the date of the filing of the appeal. The appellant may request in writing an extension of time for the hearing, but no such extension shall be granted unless it shall appear to the director that the appellant is suffering from some hardship which would make it unreasonable to have the hearing within a ten-day period.
- (b) The director shall have the power to affirm, reverse, or modify the order of the inspector under this article. His decision, together with the reasons therefor, shall be in writing, and shall be maintained as a public record. An owner, lessee, occupant or person having control of property who fails, refuses, or neglects to comply with the order of the inspector, or who fails, refuses, or neglects to comply with the order as modified by the director, shall be in violation of the provisions of this article. Appeal from the decision of the director shall be by device of common law certiorari.

(Ord. No. O-91-3-102, § 6, 7-15-91)

Sec. 38-71. Procedure upon owner's failure to abate nuisance.

- (a) If the owner or such other person described in section 38-69 shall fail to remedy the condition within the time prescribed in the notice, unless an appeal is made, the inspector shall certify such failure to the codes enforcement director, who shall take such action as necessary to remedy the condition and abate the nuisance including, but limited to, issuance of a citation to general sessions court for assessment of civil penalties for violation of this article.
- (b) Wherever possible, labor needed to abate the nuisances described in this article shall be obtained from the voluntary services of persons incarcerated within the county penal farm. All inmates of the county penal farm who volunteer to perform such labor shall be entitled to all work release credits due them under the provisions of T.C.A. § 41-2-101 et seq. The department of engineering and public works shall provide whatever equipment the director may deem necessary for the abatement of such nuisance.
- (c) An owner, lessee, occupant or person having control of the property shall be notified of the costs of the nuisance abatement by the procedures noted in this article. The director shall assess the cost of cleanup based on payment of the federally mandated minimum wage for each man-hour worked, plus reasonable rental value of any equipment used, plus reasonable administrative costs. In cases where cleanup cannot be performed by the department of engineering and public works, a citation to general sessions court may be issued. A violation of

this article may be punished by assessment of a civil penalty of not less than \$100.00 nor more than \$500.00 per violation. The bill shall be payable by the person charged immediately upon receipt, and failure to pay the bill promptly shall result in the institution of collection proceedings by the county law director's office.

(Ord. No. O-91-3-102, § 7, 7-15-91; Ord. No. O-98-11-101, §§ 3--5, 11-16-98)

Secs. 38-72--38-100. Reserved.