

Memo

To: Blount County Planning Commission
From: Building Commissioner
CC: Other commission members and staff
Date: 9/15/2010
Re: Follow up on TCA 5-1-115

Background:

At the July planning commission I was charged to bring back the difficulties of administering TCA 5-1-115 and my recommendations. Previously I had provided the regulations that we have adopted. I was asked to provide my opinion of what the pitfalls of administering these regulations are. I have provided this information in the past and studied other counties in East Tennessee and I have found that counties that do enforce these regulations normally have more manpower to handle these duties. I found that some actually have inspectors specifically for these violations. The enforcement of this law is time intensive and currently the complete enforcement is left up to my department which consists of me and a secretary that I share with two other departments. The second issue is money, and I know that this is not a popular topic, but it is a matter of fact. The regulations address issues from overgrown vegetation to a burned out house. Currently I am working with an operating budget that has been cut twice in the last four years. I would only have enough money to cover half of what it would cost to have a burnout removed and that would leave my budget empty. This leaves me in a very tough position of only being able to handle the issues that can be afforded in my budget. The law does allow the charges to be collected as a lien on the property and ultimately the county will get the money back, but the down side is that we may not get the money back for years. The liens are not paid until the property is transferred. The current economy has not helped with all the additional foreclosed properties that are being left unattended. It would be a tremendous help if we had an internal means to have the properties cleaned up, but the fact is we don't. To get better performance from the enforcement of this TCA section it will take more of a commitment in the form of personnel and money. I'm not by any means asking to increase my budget or staff. I am just giving my opinion of what it would take to achieve better performance in this area.

I was also charged with bringing you information on how the Cities of Alcoa and Maryville handle these issues. I have included copies of what the two cities have adopted in regards to these issues. I did talk with the City of Alcoa and these regulations are handled through their building codes department that consists of two people. I would like to point out that they have a population of about 9,000. Their regulations are complaint based and upon confirmation of a violation they tag the door of the property and send a letter. If the notice is ignored they contract the job out and send the property owner a bill. If the bill is unpaid then a lien is placed on the property. It was interesting to find out that they have to have a cost of over \$500 in order to place a lien on a property. The City of Maryville's ordinance is very close; however the enforcement is through their fire department. The ordinance reflects that the city manager is charged with having the issues resolved and on their web page these issues are found under the fire department. I have a call in to Maryville, but at this time have not heard back from them. If I have any additional information I will report it at the meeting.

Alcoa

6-54-113. Removal of vegetation and debris from certain lots. —

(a) (1) "Municipality," as used in this section, includes incorporated cities and towns and metropolitan governments.

(2) The authority provided in this section is permissive and not mandatory and may or may not be exercised by a municipality, as each municipality deems appropriate.

(b) If it is determined by the appropriate department or person as designated by the governing body of a municipality that any owner of record of real property has created, maintained or permitted to be maintained on such property the growth of trees, vines, grass, underbrush or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements, so as to endanger the health, safety or welfare of other citizens or to encourage the infestation of rats and other harmful animals, the appropriate department or person shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing. 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 section, 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 in the community; and

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

(c) (1) (A) If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. 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 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 the county in which the property lies, 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 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.

(B) 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 appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable

standards in the community, with these costs to be assessed against the owner of the property. Subdivision (c)(1)(A) 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) 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 subdivision (c)(1)(A) for these charges.

(2) If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten-day period specified in subdivision (a)(1) shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.

(d) (1) The municipal governing body or the appropriate department, or both, may make any rules and regulations necessary for the administration and enforcement of this section. The municipality shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to subsection (b). A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to subsection (b). Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing.

(2) Any person aggrieved by an order or act of the board, agency or commission under the provisions of this subsection may seek judicial review of the order or act. The time period established in subsection (c) shall be stayed during the pendency of a hearing.

(e) [Deleted by 2007 amendment.]

(f) The provisions of this section are in addition and supplemental to, and not in substitution for, similar authority in any municipality's charter or other applicable law.

(g) In the event a privately owned cemetery would otherwise meet the requirements of this section, and if a Boy Scout troop or other organization were to remedy the conditions existing on such property, the municipality shall be prohibited from filing a lien against such property for the value of the work performed by such organization. Such organization shall be immune from any legal action for damages, and no cause of action for civil or criminal liability may be brought by the owner of record of the cemetery or descendants of those buried in the cemetery against such organization, so long as reasonable care is taken by such organization not to violate § 46-2-105, § 46-3-108, or any other provision of law, rule or regulation.

[Acts 1988, ch. 564, § 1; 1989, ch. 100, § 1; 1991, ch. 515, §§ 1, 3; 1993, ch. 210, § 1; 2007, ch. 382, §§ 1, 2.]

Maryville

ORDINANCE NO. 2010-13

AN ORDINANCE TO AMEND CITY CODE 13-104 ADDRESSING WEEDS, RUBBISH, ETC. AND THE COST FOR THE REMOVAL OF ACCUMULATIONS THEREOF.

WHEREAS, the City of Maryville previously enacted City Code 13-104 addressing weeds, rubbish, etc, and the removal of the accumulation of such noxious items on property within the City limits, and

WHEREAS, the City has the authority to enter on each property to remove accumulations of the weeds, rubbish, etc., and

WHEREAS, the City has a right to charge the owner the costs for such removal and impose a lien for such costs pursuant to the City Charter, Article II, Section 1, sub-section 34, and

WHEREAS, the Charter in Article II, Section 1, Sub-section 24 further gives authority to the City to enforce any ordinance by means of fines, forfeiture or penalties, and to impose cost as a part thereof, and

WHEREAS, the penalty for failure to properly maintain a lot and allowing weeds, rubbish, etc. to accumulate thereon requires amendment of City Code 13-104, and

WHEREAS, said ordinance further needs to be amended to allow for the placement of a lien on the property in the Register of Deeds Office for recoupment of the City's costs associated with such properties.

WHEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARYVILLE, TENNESSEE as follows:

SECTION 1. City Code 13-104, Weeds, Rubbish, Etc., is hereby repealed and amended to state as follows:

13-104. Weeds, Rubbish, Etc. It shall be unlawful for any person, firm, or corporation owning, leasing, occupying, or having control of property within the corporate limits other than agricultural property, regardless of whether such property is vacant or contains structures thereon, to permit such property to become overgrown with obnoxious weeds, grass, brush, and other rank or obnoxious vegetation and/or to permit the accumulation thereon of trash, rubbish, refuse, and other noxious or deleterious matter, for such are hereby declared to

be a public nuisance. The failure to cut and/or destroy such weeds, grass, brush, and other rank or noxious vegetation and the failure to clean up and remove such rubbish and refuse shall constitute a violation of this section, and shall be punishable under the general penalty clause of this code.

Upon failure of any such person, firm, or corporation owning, leasing, occupying, or having control of such property to cut and/or destroy such vegetation or to remove such accumulations of trash and refuse as described in this section, it shall be the duty of the city manager to give or cause to be given notice to the owner, lessee, occupier or person, firm, or corporation having control of the property to immediately remedy the condition herein prohibited, and in the event such owner, lessee, occupier or person, firm, or corporation having control of the property shall fail or refuse to do so within three (3) days after such notice, the city shall have the right to enter upon such property and cause such condition to be remedied or removed. Upon completion of such work, the reasonable cost thereof, plus a 25% penalty to defray the City's administrative costs in enforcing this ordinance, shall be paid by the owners or owners of said property. If the bill for such costs is not fully paid within sixty (60) days after the mailing of said bill, a lien shall be placed by the City in the Register of Deeds Office for Blount County, Tennessee, for the amount owed which shall constitute a continuing lien on the property until paid in full.

SECTION 2. That the provisions of this Ordinance shall be effective from and after its final passage, the public welfare requiring it.

ADOPTED this 6th day of April, 2010.


MAYOR

ATTEST:

Deborah P. Caughion
City Recorder

APPROVED AS TO FORM:

Melanie
City Attorney

Passed 1st reading this 2nd day of March, 2010. Deborah P. Caughion
City Recorder

Passed 2nd reading this 6th day of April, 2010. Deborah P. Caughion
City Recorder

CHAPTER 3

ABANDONED OR JUNK VEHICLES

SECTION

- 13-301. Definitions.
13-302. Abandoned motor vehicles declared a public nuisance.
13-303. Removal of abandoned motor vehicles required.
13-304. Notification and authority.
13-305. Violations.

13-301. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

- (1) "Person." Any person, firm, organization, partnership, association, corporation or company of any kind.
(2) "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.
(3) "Property." Any real property within the City of Maryville which is not a street or highway.
(4) "Shall." The word "shall" is always mandatory and not merely directory.
(5) "Antique." Any vehicle over 25 years old.

Exceptions

- (a) Any motor vehicle in operable condition specifically adapted or constructed for racing or operation on privately owned dragstrips or raceways.
(b) Any antique retained and maintained by the owner for collection purposes rather than for salvage or for transportation. Such vehicles shall be maintained in operable condition and at the discretion of the authority having jurisdiction be required to comply with subsection (c) below.
(c) Any junked vehicle kept within a building where it will not be visible from the street.
(d) Any junked motor vehicle on the premises of a business enterprise operated in strict compliance with all state or local zoning ordinances and when necessary to the operation of such business enterprise.
(e) Any junked motor vehicle in an appropriate storage place or depository maintained at a location officially designated and in a manner approved by the City of Maryville. (1985 Code, § 9-601)

13-302. Abandoned motor vehicles declared a public nuisance. In enacting this chapter, the Council of the City of Maryville finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperative motor vehicles on public or private property in the City of Maryville are in the nature of rubbish and unsightly debris, violates, in many instances, the zoning regulations of the city and constitutes a nuisance detrimental to the health, safety and welfare of the community in that, such conditions tend to interfere with the enjoyment of and reduce the value of public and private property and create fire hazards and other safety and health hazards to the citizens of the City of Maryville. (1985 Code, § 9-602)

13-303. Removal of abandoned motor vehicles required. The accumulation and storage of one or more such motor vehicles in violation of the provisions of this chapter shall constitute rubbish and unsightly debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the City of Maryville, and it shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the property upon which such motor vehicle is located whether owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage or to have the vehicle housed within a building where it will not be visible from the street. (1985 Code, § 9-603)

13-304. Notification and authority. Whenever any such public nuisance exists on occupied or unoccupied commercial or residential, private or public, property within the City of Maryville, the owner or owners of said property shall be notified by the chief of the department of inspection or his authorized agent to abate or remove the same. Such order shall:

- (1) Be in writing;
- (2) Specify the public nuisance and its location;
- (3) Specify the corrective measures required; and
- (4) Provide for compliance within five (5) days from the date of notification.

The notification shall be served upon the owner or owners of said premises by serving them personally or by sending said notice by certified mail, return receipt requested, to their address as shown on the current tax rolls of the City of Maryville. If the owner or owners of the premises fail or refuse to comply with the order of the chief of the department of inspection or his duly authorized agent within a five (5) day period after notification thereof, as provided herein, such failure or refusal shall be deemed a violation of the provisions of this chapter and said owner or owners shall be subject to the penalties herein provided. If the owner or owners of the premises fail or refuse to comply with the order of the chief of the department of inspection or his duly authorized agent within a five (5) day period after notification thereof, as provided herein, the chief of the department of inspection or his authorized

agent may enter upon said property, take possession of such junk vehicle or vehicles, remove the same from said property, dispose of same, and cause such unlawful condition to be remedied. Upon completion of such removal and disposition, the reasonable costs thereof, plus 15% for inspection and other incidental costs in connection therewith, shall be paid by the owner or owners of said property to the City of Maryville and said costs shall be billed to the owner or owners of said property. If the bill is not fully paid within sixty (60) days after the mailing of said bill a 10% penalty shall be added, and said costs and penalties shall be placed on the tax roll of the City of Maryville as a lien upon the property and collected in the same manner as other city taxes are collected. (1985 Code, § 9-604, as amended by Ord. #2001-35, Nov. 2001)

13-305. Violations. Any person violating or interfering with the enforcement 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 municipal code. (1985 Code, § 9-605)