ORDINANCE NO. 1190

AN ORDINANCE TO AMEND TITLE 13, PROPERTY MAINTENANCE REGULATIONS, OF THE EAST RIDGE CITY CODE, BY AMENDING CHAPTER 1, SECTION 104 TITLED OVERGROWN AND DIRTY LOTS

WHEREAS, the State of Tennessee authorizes municipalities to govern the health, safety and welfare of its citizens by, among other ways, ensuring real property is maintained free of trees, vines, grass, underbrush or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements, which endangers the health, safety or welfare of citizens or encourages the infestation of rats and other harmful animals pursuant to T.C.A. §6-54-103; and

WHEREAS, the City of East Ridge has promulgated laws in Title 13 of the East Ridge City Code titled "Property Maintenance Regulations"; and

WHEREAS, Section 13-104 of the East Ridge City Code limits the regulations set forth therein to non-owner occupied residences; and

WHEREAS, there exists within the City numerous owner-occupied real properties that maintain or permit to be maintained on such properties the growth of trees, vines, grass, underbrush or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements, such that the presence of such elements endanger the health, safety or welfare of other citizens or encourage the infestation of rats and other harmful animals; and

WHEREAS, for the purposes of protecting the citizens and pursuant to T.C.A. § 6-54-113, the City Council desires to amend Section 13-104 of the East Ridge City Code to clarify the application of this Section to both owner-occupied real properties as well as non-owner occupied real properties.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EAST RIDGE, TENNESSEE, that Title 13, Chapter 1, Section 13-104 of the East Ridge City Code is hereby amended as follows:

SECTION 1. Section 13-104 is hereby amended by deleting this section in its entirety and replacing the same with the following:

13-104. Overgrown and dirty lots.[1]

(1) Prohibition. Pursuant to the authority granted to municipalities 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, 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) Application. The provisions of this section shall apply to any parcel of property upon which an owner-occupied property is located within the city limits and to any parcel of property upon which a non-owner occupied property is located within the city limits.

(3) Designation of public officer or department. The governing body of the City designates the East Ridge Building and Code Enforcement Department, together with any other appropriate department or person designated by the city manager from time to time, to enforce the provisions of this section.

(4) Notice to property owner. If it is determined by the designated department or person that any owner of record of real property has or is violating subsection (1) above, 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. When an attempt at notification by United States mail fails or no valid last known address exists for the owner of record, the municipality may publish the notice in a newspaper of general circulation in the county where the property sits for no less than two (2) consecutive issues or personally deliver the notice to the owner of record. For purposes of this subsection, such publication shall constitute receipt of notice effective on the date of the second publication of the notice and personal delivery shall constitute receipt of notice immediately upon delivery. 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:

(a) A brief statement that the owner is in violation of § 13-104 of the East Ridge 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(s), which shall be in conformity with the standards of cost in the community; and

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

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[1] Municipal code reference
Section 13-103 applies to cases where the city wishes to prosecute the offender in city court. Section 13-104 can be used when the city seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in city court.

(5) Clean-up at property owner's expense.

(a) If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice, excluding Saturdays, Sundays and legal holidays (twenty (20) days, excluding Saturdays, Sundays and legal holidays, 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 designated 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 shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Hamilton 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. Additionally, the City may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties.

(b) When the owner of an owner-occupied residential property fails or refuses to remedy the condition within time period set forth in subdivision (a) 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 (a) shall also 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 owner-occupied residential 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 (a) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the designated department or person may appeal the determination and order to the East Ridge housing commission created under Title 13, Chapter 3 of the Code. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to this section, excluding Saturdays, Sundays and legal holidays (twenty (20) days, excluding Saturdays, Sundays and legal holidays, 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 failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the East Ridge housing commission under subsection (6) above may seek judicial review of the order or act pursuant to T.C.A. § 4-5-322. The time period established in subsection (5) above shall be stayed during the pendency of judicial review.

(8) 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 municipal charter, this municipal code of ordinances 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. BE IT FURTHER ORDAINED that all other parts to Title 13, Chapter 1 shall remain unchanged.

SECTION 3. BE IT FURTHER ORDAINED that this Ordinance take effect immediately after its passage, the public welfare of the City requiring it.

Approved on First Reading July 27, 2023.

Approved on Second Reading August 10, 2023.

Brian W. Williams, Mayor

ATTEST:

J. Scott Miller, City Manager

APPROVED AS TO FORM:

Mark W. Litchford, City Attorney