

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

1. PUBLIC RECORDS.
2. COMPREHENSIVE PLAN.
3. LIABILITY INSURANCE.
4. IDENTITY THEFT POLICY.
5. WILDLIFE HABITAT.

**CHAPTER 1**

**PUBLIC RECORDS**

**SECTION**

- 20-101. Records management.
- 20-102. Records disposal.
- 20-103. Public access.
- 20-104. Fees and charges.
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- 20-107. Confidential records.

**20-101. Records management.** (1) Records management responsibility rests with the city recorder under the supervision of the city manager as provided by the city charter, *Tennessee Code Annotated*, § 6-21-404 - Records; custody and preservation.

(2) The following positions are charged with establishing and maintaining up-to-date, efficient, and effective records systems: city manager, city recorder, city court clerk, police chief, fire chief, parks and recreation director, planning commissioner, roads commissioner, and others as may be authorized by the board of commissioners or the city manager.

(3) All city records shall be classified and handled as either: working papers, temporary records, or permanent records as detailed in § 20-106.

(4) To the maximum extent possible, records shall be grouped, maintained and stored by fiscal year, excluding those records that are bound in a continuous chronological or sequential order such as ordinances, resolutions, minutes, financials, or records that require alternative or unique filing methods to fulfill their daily or routine use requirements.

(5) All city records deemed "confidential" shall be stored in envelopes or file folders so marked; and kept in a locked, file storage except when in use.

(a) Any record that is classified or designated as confidential must be treated as confidential throughout the maintenance, storage and disposition of the record.

(b) Confidential records shall not be left unattended and unsecured.

(c) Confidential records, if eligible for destruction, shall be destroyed in such a manner that the record cannot be read, interpreted or reconstructed.

(d) Information that would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential, (e.g., contingency and security plans, security codes, passwords, combinations, records directly relate to the security of government buildings, etc.)

(e) *Tennessee Code Annotated*, § 47-18-2901 requires municipalities to create safeguards to ensure the security of personal information on laptop computers. Failure to comply with this requirement creates a cause of action against the municipality if identity theft results.

(f) *Tennessee Code Annotated*, § 47-18-2107 requires any holder of computerized personal information that is confidential to disclose any breach of the security of the system to any resident of Tennessee whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

If the information holder does not own the personal data, the holder must also notify the owner or licensee of the breach immediately following the discovery. Disclosures must be made without unreasonable delay.

(g) Section 20-107 provides a partial listing of records deemed by the state to be "confidential." If in doubt, records managers shall seek classification assistance from the applicable state office, the Municipal Technical Advisory Service (MTAS), or the city attorney.

(6) All records shall be tagged or marked, prior to filing, storage, or disposal with an applicable retention date or status as defined in the most current edition of *Tennessee's Record Retention Schedules*, published and provided by the Municipal Technical Advisory Service (MTAS) in accordance with *Tennessee Code Annotated*, § 10-7-701.

(7) All records that have become inactive shall be boxed, labeled, and moved to the inactive records storage area in city hall.

(a) Determination of how long office records remain in "active" use is based upon usage history; available active storage resources; and the operating procedures of the office, department, commission, etc.

(b) Prior to moving records to inactive storage, the authorized records manager shall remove and properly dispose of records that do not

require long term or permanent retention in accordance with the Tennessee retention schedules.

(8) All ratified (i.e., officially accepted, signed and dated) meeting minutes of all city departments, commissions and special/ad hoc work groups shall be bound chronologically and retained in separate "collections" and retained in Baneberry's city hall. These are "permanent records" and should be the original signed document.

(9) All ratified (i.e., officially read, accepted, signed and dated) city ordinances and resolutions of the Baneberry Board of Commissioners shall be bound chronologically and retained in Baneberry's city hall offices. These are "permanent records." Ordinances and resolutions shall be bound in separate "collections."

(10) All permanent city records, not currently available in a readable digital format, should be scanned, digitally archived and stored in a board of commissioner's authorized facility that provides safety and environmental security for such storage, (e.g., off-site fireproof safe; off-site fireproof filing cabinet; safety deposit box, etc.)

(11) The city recorder and/or city manager shall ensure that all Baneberry employees, authorized volunteers, and city officials responsible for city records are indoctrinated on this policy and trained to properly create, use, manage, file, and dispose of city records. (Ord. #215-1, June 2015)

**20-102. Records disposal.** Records disposition authorization:

(1) The city recorder and/or city manager are charged with authorizing and approving the disposition and destruction of records that no longer have administrative, fiscal, legal, or historical value in accordance with state retention schedules.

(a) The following city offices/officials are authorized the disposition and/or destruction of records: city manager, city recorder, city court clerk, police chief, fire chief, parks and recreation director, planning commissioner, roads commissioner, and others as may be authorized by the board of commissioners or the city manager.

(b) Prior to dispositioning of records, whether destructive or archival, all records managers shall obtain authorization for the proposed dispositioning from the city manager.

(2) The positions described above are authorized to dispose of any permanent paper record when the record has been photocopied, photostatted, filmed, microfilmed, preserved by micro-photographic process, or reproduced onto an approved computer or removable computer media, in accordance with *Tennessee Code Annotated*, § 10-7-121.

(3) The disposition of records shall be in accordance with the most current record retention schedule provided by the University of Tennessee's Municipal Technical Advisory Service (MTAS), pursuant to the authority granted in *Tennessee Code Annotated*, § 10-7-702. However, records may be

retained for longer periods when it would be advisable or otherwise helpful to do so. (Ord. #215-1, June 2015)

**20-103. Public access.** Procedures regarding access and inspection of public records:

(1) Consistent with the Public Records Act of the State of Tennessee, *Tennessee Code Annotated*, § 39-16-602, authorized personnel of the City of Baneberry shall provide full access and assistance in a timely and efficient manner to citizens of the State of Tennessee who request access to open public records.

(2) Employees of the City of Baneberry shall protect the integrity and organization of public records with respect to the manner in which such records are inspected and copied. All inspections or copying of records shall be performed by, or under the supervision of, employees, authorized staff volunteers, or officials of the City of Baneberry.

(3) All copying of public records shall only be accomplished by employees, authorized staff volunteers, or officials of the City of Baneberry.

(4) Employees, authorized staff volunteers, and officials with the City of Baneberry shall prevent excessive disruption of their essential functions and duties while seeking to provide responsive access to records at the earliest possible time.

(5) Requests for inspection or copying of records shall be made in writing on Form 2015-1; Request for Public Records provided by the City of Baneberry. Form 2015-1 shall be completed by the person requesting the record.

(6) Baneberry city employees, authorized staff volunteers, or officials of the City of Baneberry may request reasonable identification of any person requesting a record.

(7) Hours for making requests for inspection or copying of records shall be the regular office hours of city hall.

(8) Removal of records from city hall shall not be permitted.

(9) Reproduction of records shall not be undertaken when, in the judgment of personnel of the City of Baneberry, such reproduction would cause damage to the record.

(10) City employees, authorized staff volunteers, and city officials shall not engage in research projects for requestors. (Ord. #215-1, June 2015, modified)

**20-104. Fees and charges.** Costs for inspection and copying of public records:

(1) The city may establish reasonable fees to cover the direct cost of the reproduction of records. Such fees shall include the actual cost of reproduction, plus labor costs when applicable.

(a) Fifteen cents (15¢) per page shall be charged for each standard eight and one-half by eleven inch (8-1/2" x 11") or eight and

one-half by fourteen inch (8-1/2" x 14") black and white copy, produced. An amount equivalent to the charge for two (2) separate copies (thirty cents (30¢) per page) will be charged for duplex copies if city equipment supports this function.

(b) If a public record is maintained in color, color copies may be produced if the custodian's department has color copying capabilities. If color copies can be produced, the records custodian shall advise the requestor that the record can be produced in color if the requestor is willing to pay a charge higher than the fifteen cents (15¢) per page charge for black and white copies. If the requestor requests a color copy, a charge of fifty cents (50¢) per page will be assessed for each eight and one-half by eleven inch (8-1/2" x 11") or eight and one-half by fourteen inch (8-1/2" x 14") color copy produced.

(c) If actual costs are higher than those listed above, or if the requested records are produced in a medium other than eight and one-half by eleven inch (8-1/2" x 11") or eight and one-half by fourteen inch (8-1/2" x 14") paper, the records custodian may assess higher charges based on actual cost. If higher charges based on actual cost are charged, they will be based on a schedule of charges documenting the city's actual cost and enumerating the calculation and reasoning for the charges.

(d) New fee schedules based on actual costs may be published by city resolution, a copy of which shall be maintained with the ratified copy of this section.

(2) The city may establish reasonable fees to cover labor costs for copies in addition to the direct cost for copies. Labor costs shall be assessed as follows:

(a) There will be no charge for the first hour of labor incurred in producing material for copying.

(b) After the first hour, the requestor shall be charged the hourly wage of the employee's time reasonably needed to produce the requested records. The hourly wage shall be based upon the base salary of the employee and does not include benefits. If an employee is not paid on an hourly basis, the hourly wage shall be determined by dividing the employee's annual salary by the required hours to be worked per year.

(c) The records custodian shall utilize the most cost efficient method of producing the requested records.

(d) There will be no labor charge, if the city representative making the copies is an authorized volunteer or an unpaid city official.

(3) All fees for purposes identified in § 20-104(1) shall be due at the time such costs are incurred.

(4) No fees shall be assessed against employees, authorized staff volunteers, or city officials who make requests which are reasonably necessary to the performance of their official duties.

(5) No reproduction fee shall be assessed when an employee, authorized staff volunteer, or city official determines that the cost of charging and handling the fee exceeds the cost of providing a copy without charge.

(6) If the requested records exist electronically, but not in the format requested or a new or modified computer program or application is necessary to convert or put the records in a readable and reproducible format or it is necessary to access backup files, the records custodian shall charge the requesting party the actual costs incurred in producing the records in the format requested or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format or in accessing backup files.

(7) Electronic records will only be produced in a "read only" format. (Ord. #215-1, June 2015)

**20-105. Applicability.** (1) Applicability. This chapter cannot and does not cover all of the details regarding safe, efficient and effective records management. Applicable state and federal regulations must be applied by all involved in the preparation, filing and management of city records.

(2) Severability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

(3) Conflicts. All other Baneberry city ordinances or resolutions or parts of either found to be in conflict herewith are hereby repealed. Be it further ordained that this chapter shall take effect fifteen (15) days from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the City of Baneberry requiring it. (Ord. #215-1, June 2015)

**20-106. Definitions.** As provided in *Tennessee Code Annotated*, § 10-7-301 - Part Definitions.

(1) "Agency" means any department, division, board, bureau, commission, or other separate unit of government created by law or pursuant to law, including the legislative branch and the judicial branch; provided, however, that for purposes of this part only, "agency" does not include the legislative branch.

(2) "Confidential public record" means any public record which has been designated confidential by statute and includes information or matters or records considered to be privileged and any aspect of which access by the general public has been generally denied.

(3) "Disposition" means preservation of the original records in whole or in part, preservation by photographic or other reproduction processes, or outright destruction of the records.

(4) "Essential records" means any public records essential to the resumption or continuation of operations, to the re-creation of the legal and financial status of government in the state or to the protection and fulfillment of obligations to citizens of the state.

(5) "Permanent records" means those records which have permanent administrative, fiscal, historical or legal value.

(6) "Public record" or "records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

(7) "Records creation" means the recording of information on paper, printed forms, punched cards, tape, disk, or any information transmitting media. "Records creation" includes preparation of forms, reports, state publications, and correspondence.

(8) "Records disposition authorization" means the official document utilized by an agency head to request authority for the disposition of records. The public records commission shall determine and order the proper disposition of state records through the approval of records disposition authorizations.

(9) "Records management" means the application of management techniques to the creation, utilization, maintenance, retention, preservation, and disposal of records in order to reduce costs and improve efficiency of recordkeeping. "Records management" includes records retention schedule development, essential records protection, files management and information retrieval systems, microfilm information systems, correspondence and word processing management, records center, forms management, analysis, and design, and reports and publications management.

(10) "Records of archival value" means any public record which may promote or contribute toward the preservation and understanding of historical, cultural, or natural resources of the State of Tennessee.

(11) "Records officer" means an individual designated by an agency head to assume responsibility for implementation of the agency's records management program.

(12) "Section and division" means the division of records management of the department of state.

(13) "Temporary records" means material which can be disposed of in a short period of time as being without value in documenting the functions of an agency. Temporary records will be scheduled for disposal by requesting approval from the public records commission utilizing a records disposition authorization.

(14) "Working papers" means those records created to serve as input for final reporting documents, including electronic data processed records, and/or computer output microfilm, and those records which become obsolete immediately after agency use or publication. (Ord. #215-1, June 2015)

**20-107. Confidential records.** The following list is not exhaustive and it may not be up-to-date. Users must refer to current and relevant Tennessee and federal code, law, regulation and policy to determine if a record or a portion of a record is confidential. This list is summarized to topics. Refer to current legislation for details.

The following list reflects the records designated as confidential by *Tennessee Code Annotated*, § 10-7-504 at the time of publication (current through the 2014 regular session and amendments approved at the November 4, 2014 general election). *Tennessee Code Annotated*, § 10-7-504 is not exclusive, however, and many other statutes, rules, and the common law dealing with a subject also can make a specific record confidential.

In most cases, the law defines who may and may not see "confidential" records for each of the following:

(1) Adoption. All related records.

(2) Audit/tax records. Business tax statements, reports, audits, and returns. *Tennessee Code Annotated*, § 67-4-722.

Audit working papers of the comptroller of the treasury and state, county and local government internal audit staffs conducting audits as authorized by § 4-3-304.

(3) Computer. Programs, software, software manuals, and other types of information manufactured or marketed by persons or entities under legal right and sold, licensed, or donated to Tennessee state boards, agencies, political subdivisions, or higher education institutions.

(4) Contracting. Proposals received pursuant to personal service, professional service, and consultant service contract regulations, and related records, including evaluations and memoranda are confidential until their purpose has been fulfilled.

Sealed bids for the purchase of goods and services, and leases of real property, and individual purchase records, including evaluations and memoranda relating to the same are confidential until their purpose has been fulfilled.

(5) Employment records. Employment records of state, county, municipal, or other public employees that contain home telephone and personal cell numbers; personal, nongovernment issued, email address; emergency contact information; residential information including the street address, city, state and zip code; bank account information; Social Security numbers; individual health savings account, retirement account, and pension account information; or driver's license information (except where driving or operating a vehicle is part of the employee's job duties). This confidentiality extends to immediate family members, whether or not the immediate family member resides with the employee, or household members.

Note: Under the law, this information in employment records should be redacted whenever possible and not used to limit or deny access to otherwise public information.



(6) Handgun carry permit. Files of the handgun carry permit and the driver license issuance divisions of the department of safety relating to bogus handgun carry permits and bogus driver licenses issued to undercover law enforcement agents.

(7) Historical research. Records of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Tennessee Board of Regents or the University of Tennessee, when the owner or donor of such records requires that the records are kept confidential.

Those parts of a record identifying an individual as a person who has been or may in the future be directly involved in the process of executing a sentence of death.

Credit card numbers, Social Security numbers, account numbers, security codes and other identifying information in the hands of a utility.

Tax returns, audits, letter rulings, and other taxpayer identifying information. *Tennessee Code Annotated*, § 67-1-1702.

(8) Investigative record. Criminal investigative files of the Department of Agriculture and the Department of Environment and Conservation.

Investigative record criminal investigative files of the motor vehicle enforcement division of the department of safety relating to stolen vehicles or parts.

Criminal investigative files and records of the Tennessee Alcoholic Beverage Commission.

Investigative records of the Tennessee Bureau of Investigation and the office of inspector general.

Investigative records and reports of the internal affairs division of the department of correction or of the department of children's services.

(9) Juveniles. Many records regarding juveniles. *Tennessee Code Annotated*, §§ 37-1-153, 37-1-154, 37-1-155, 37-1-409, 37-1-612, 37-1-615, 37-2-408.

Law enforcement photographs and recordings of juveniles. *Tennessee Code Annotated*, § 37-1-155.

(10) Medical record. Medical records of patients in state, county and municipal hospitals and medical facilities.

Medical records containing the source of body parts for transplantation or any information concerning persons donating body parts.

Official health certificates, collected and maintained by the state veterinarian.

Memoranda, work notes or products, case files and communications related to mental health intervention techniques conducted by mental health professionals in a group setting to provide job-related critical incident counseling and therapy to law enforcement officers, county and municipal correctional officers, dispatchers, emergency medical technicians, emergency medical technician-paramedics, and firefighters; both volunteer and professional.

Mental health intervention techniques for municipal correction officers and dispatchers. *Tennessee Code Annotated*, § 10-7-504(a)(13)(A).

(11) Medical records. Records of any employee's identity, diagnosis, treatment, or referral for treatment that are maintained by any state or local government employee assistance program.

Certain records of an employer's drug testing program. *Tennessee Code Annotated*, § 50-9-109. (See Op. Tenn. Atty. Gen. 99-126).

Information or records held by a local health department regarding sexually transmitted diseases. *Tennessee Code Annotated*, § 68-10-113.

Patient medical records of hospitals and local and regional health departments. *Tennessee Code Annotated*, § 68-11-305.

Nursing home patient records. *Tennessee Code Annotated*, § 68-11-804.

Records granting consent to abortion for a minor and other records regarding abortion.

(12) Opinions. State agency records containing opinions of value of real and personal property intended to be acquired for a public purpose.

(13) Pending actions. Certain books, records and other materials in the possession of the Office of the Attorney General relating to any pending or contemplated legal or administrative proceeding.

(14) Personal information. Personal information contained in motor vehicle records.

Unpublished telephone numbers in the possession of emergency communications districts.

The telephone number, address and any other information which could be used to locate the whereabouts of a domestic violence shelter, family safety center or rape crisis center.

Identifying information, such as unlisted telephone numbers, in the possession of a private or public utility service provider that could be used to locate an individual, when the utility has been provided with a copy of a valid protection document and confidentiality has been requested.

Records in paternity proceedings that might be used to locate a victim or alleged victim of domestic violence.

Credit card numbers of persons doing business with the state or political subdivision thereof and any related personal identification numbers (PIN) or authorization codes.

(15) Planning/risk. Capital plans, marketing information, proprietary information and trade secrets submitted to the Tennessee Venture Capital Network.

Riot, escape and emergency transport plans which are incorporated in a policy and procedures manual of county jails and workhouses or prisons operated by the Department of Correction.

Records of a utility that would identify areas of vulnerability or allow disruption of utility service.

Records that identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, the services provided by a utility service provider.

Contingency plans of a governmental entity prepared to respond to or prevent any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident.

(16) Police/fire. Certain personal information of undercover police officers and their immediate family or household members.

Certain personal information relative to law enforcement officers, in addition to that made confidential otherwise, when the information is requested for professional, business or official purpose, and the chief determines there is a reason not to disclose the information.

(17) Proprietary information. Proprietary information provided to the Alcoholic Beverage Commission.

(18) Security. Records, documents and papers in the possession of the military department which involve national or state security.

(19) Students. Records of students in public educational institutions. Certain student information.

(20) Teachers. Records containing the results of individual teacher evaluations administered pursuant to the policies, guidelines, and criteria adopted by the State Board of Education under § 49-1-302.

(21) Utility. The private records of any utility shall be treated as confidential and shall not be open for inspection by members of the public.

(22) Whistleblower. Whistleblowing reports of violations of the Education Trust in Reporting Act. *Tennessee Code Annotated*, § 49-50-1408.

(23) Work product. Memoranda, notes, case files, or work products of victim-offender mediation centers.

Work product of the municipal attorney. (Ord. #215-1, June 2015)

## CHAPTER 2

### COMPREHENSIVE PLAN

#### SECTION

20-201. Comprehensive plan.

**20-201. Comprehensive plan.** The City of Baneberry adopts Envision Baneberry 2025 - A Comprehensive Plan<sup>1</sup> as provided by *Tennessee State Code* in *Tennessee Code Annotated*, § 13-4-201 - General Plan for Physical Development and related code.

This third edition, Envision Baneberry 2025 - A Comprehensive Plan, herein adopted, represents another review and revision of previous plan goals reflecting the needs of a changing and growing community.

The revised plan consists of a text document and a Microsoft® Workbook where the text document describes the plan, outlines Baneberry's plan history, and specifies the city's vision, mission, values, and its planned goals and objectives and the Microsoft® Workbook, "Master Progress Record" to be maintained on the city manager's computers, organizes the plan; specifies strategies for accomplishing the city's goals; assigns responsibilities and timelines; identifies resource requirements; and tracks plan progress.

The adopted plan encompasses, but is not limited to residential and commercial land use and development; open space management; environmental protection; recreation; public and semi-public facilities; utilities; transportation and roads; public safety; police and fire protection; communications; emergency planning; promotion and growth of the city; community character and lifestyle; waste management and recycling; public sanitation; and public services. (Ord. #215-15, July 2015)

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<sup>1</sup>A copy of Envision Baneberry 2025 - A Comprehensive Plan may be found in the recorder's office.

**CHAPTER 3****LIABILITY INSURANCE****SECTION**

20-301. Liability insurance.

**20-301. Liability insurance.** The City of Baneberry shall participate in the agreement between the cities of Athens and Hendersonville and such other municipalities as participate therein, said agreement being to cooperate in creating , establishing, and contracting with the TML Public Entity Partners, a not-for-profit Tennessee corporation organized to provide a method for political subdivisions of the State of Tennessee to obtain risk management, insurance, self-insurance, or any combinations thereof, for any and all areas of liability or insurability. The form, content and provisions of the contract are hereby approved.

The city manager is empowered and directed on behalf of the City of Baneberry to enter into said contract with the TML Public Entity Partners for certain services of risk management and insurance in accordance with chapter 282 of the Tennessee Public Acts of 1979, and to take such steps as may be necessary to implement and carry out the intent of this chapter. (Ord. #215-8, June 2015, modified)

## CHAPTER 4

### IDENTITY THEFT POLICY

#### SECTION

20-401. Background.

20-402. Purpose.

20-403. Scope.

20-404. Sensitive information policy.

20-405. Additional identity theft prevention program.

20-406. Responding to red flags.

20-407. Periodic updates to plan.

20-408. Program administration.

**20-401. Background.** The risk to the municipality, its employees and customers from data loss and identity theft is of significant concern to the municipality and can be reduced only through the combined efforts of every employee and contractor. (Ord #215-10, June 2015)

**20-402. Purpose.** The municipality adopts this sensitive information policy to help protect employees, customers, contractors and the municipality from damages related to the loss or misuse of sensitive information.

(1) This policy will:

(a) Define sensitive information;

(b) Describe the physical security of data when it is printed on paper;

(c) Describe the electronic security of data when stored and distributed; and

(d) Place the municipality in compliance with state and federal law regarding identity theft protection.

(2) This policy enables the municipality to protect existing customers, reducing risk from identity fraud, and minimize potential damage to the municipality from fraudulent new accounts. The program will help the municipality:

(a) Identify risks that signify potentially fraudulent activity within new or existing covered accounts;

(b) Detect risks when they occur in covered accounts;

(c) Respond to risks to determine if fraudulent activity has occurred and act if fraud has been attempted or committed; and

(d) Update the program periodically, including reviewing the accounts that are covered and the identified risks that are part of the program. (Ord. #215-10, June 2015)

**20-403. Scope.** This policy and protection program applies to employees, contractors, consultants, temporary workers, and other workers at the municipality, including all personnel affiliated with third parties. (Ord. #215-10, June 2015)

**20-404. Sensitive information policy.** (1) Definition of “sensitive information.” “Sensitive information” includes the following items whether stored in electronic or printed format:

- (a) Credit card information, including any of the following:
  - (i) Credit card number (in part or whole).
  - (ii) Credit card expiration date.
  - (iii) Cardholder name.
  - (iv) Cardholder address.
- (b) Tax identification numbers, including:
  - (i) Social Security number.
  - (ii) Business identification number.
  - (iii) Employer identification numbers.
- (c) Payroll information, including, among other information:
  - (i) Paychecks.
  - (ii) Pay stubs.
- (d) Cafeteria plan check requests and associated paperwork.
- (e) Medical information for any employee or customer, including but not limited to:
  - (i) Doctor names and claims.
  - (ii) Insurance claims.
  - (iii) Prescriptions.
  - (iv) Any related personal medical information.
- (f) Other personal information belonging to any customer, employee or contractor, examples of which include:
  - (i) Date of birth.
  - (ii) Address.
  - (iii) Phone numbers.
  - (iv) Maiden name.
  - (v) Names.
  - (vi) Customer number.

(g) Municipal personnel are encouraged to use common sense judgment in securing confidential information to the proper extent. Furthermore, this section should be read in conjunction with the Tennessee Public Records Act, *Tennessee Code Annotated*, §§ 10-7-101, *et seq.* and the municipality's open records policy. If an employee is uncertain of the sensitivity of a particular piece of information, he should contact his supervisor. In the event that the municipality cannot resolve a conflict between this policy and the Tennessee Public Records Act, the municipality will contact the Tennessee Office of Open Records.

(2) Hard copy distribution. Each employee and contractor performing work for the municipality will comply with the following policies:

(a) File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.

(b) Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.

(c) Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive information when not in use.

(d) Whiteboards, dry-erase boards, writing tablets, etc., in common shared work areas will be erased, removed, or shredded when not in use.

(e) When documents containing sensitive information are discarded they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut or Department of Defense (DOD)-approved shredding device. Locked shred bins are labeled "Confidential paper shredding and recycling." Municipal records, however, may only be destroyed in accordance with the city's records retention policy.

(3) Electronic distribution. Each employee and contractor performing work for the municipality will comply with the following policies:

(a) Internally, sensitive information may be transmitted using approved municipal e-mail. All sensitive information must be encrypted when stored in an electronic format.

(b) Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail: "This message may contain confidential and/or proprietary information and is intended for the person/entity to whom/which it was originally addressed. Any use by others is strictly prohibited." (Ord. #215-10, June 2015, modified)

**20-405. Additional identity theft prevention program.** If the municipality maintains certain covered accounts pursuant to federal legislation, the municipality may include the additional program details.

(1) Covered accounts. A covered account includes any account that involves or is designed to permit multiple payments or transactions. Every new and existing customer account that meets the following criteria is covered by this program:

(a) Business, personal and household accounts for which there is a reasonably foreseeable risk of identity theft; or

(b) Business, personal and household accounts, for which there is a reasonably foreseeable risk to the safety or soundness of the



municipality from identity theft, including financial, operational, compliance, reputation, or litigation risks.

(2) Red flags. (a) The following red flags are potential indicators of fraud. Anytime a red flag, or a situation closely resembling a red flag, is apparent, it should be investigated for verification.

(i) Alerts, notifications or warnings from a consumer reporting agency;

(ii) A fraud or active duty alert included with a consumer report;

(iii) A notice of credit freeze from a consumer reporting agency in response to a request for a consumer report; or

(iv) A notice of address discrepancy from a consumer reporting agency as defined in § 334.82(b) of the Fairness and Accuracy in Credit Transactions Act, 15 U.S.C. 1681, *et seq.*

(b) Red flags also include consumer reports that indicate a pattern of activity inconsistent with the history and usual pattern of activity of an applicant or customer, such as:

(i) A recent and significant increase in the volume of inquiries;

(ii) An unusual number of recently established credit relationships;

(iii) A material change in the use of credit, especially with respect to recently established credit relationships; or

(iv) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(3) Suspicious documents.

(a) Documents provided for identification that appear to have been altered or forged.

(b) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification,

(c) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.

(d) Other information on the identification is not consistent with readily accessible information that is on file with the municipality, such as a signature card or a recent check.

(e) An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

(4) Suspicious personal identifying information. (a) Personal identifying information provided is inconsistent when compared against external information sources used by the municipality. For example:

(i) The address does not match any address in the consumer report;

(ii) Social Security number (SSN) has not been issued or is listed on the Social Security Administration's death master file; or

(iii) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.

(b) Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the municipality. For example, the address on an application is the same as the address provided on a fraudulent application.

(c) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the municipality. For example:

(i) The address on an application is fictitious, a mail drop, or a prison; or

(ii) The phone number is invalid or is associated with a pager or answering service.

(d) The SSN provided is the same as that submitted by other persons opening an account or other customers.

(e) The address or telephone number provided is the same as or similar to the address or telephone number submitted by an unusually large number of other customers or other persons opening accounts.

(f) The customer or the person opening the covered account fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

(g) Personal identifying information provided is not consistent with personal identifying information that is on file with the municipality.

(h) When using security questions (mother's maiden name, pet's name, etc.), the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(5) Unusual use of, or suspicious activity related to, the covered account. (a) Shortly following the notice of a change of address for a covered account, the municipality receives a request for new, additional, or replacement goods or services, or for the addition of authorized users on the account.

(b) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example, the customer fails to make the first payment or makes an initial payment but no subsequent payments.

(c) A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

(i) Nonpayment when there is no history of late or missed payments; or

(ii) A material change in purchasing or usage patterns.

(d) A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).

(e) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.

(f) The municipality is notified that the customer is not receiving paper account statements.

(g) The municipality is notified of unauthorized charges or transactions in connection with a customer's covered account.

(h) The municipality receives notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible identity theft in connection with covered accounts held by the municipality.

(i) The municipality is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft. (Ord. #215-10, June 2015, modified)

**20-406. Responding to red flags.**

(1) Once potentially fraudulent activity is detected, an employee must act quickly, as a rapid appropriate response can protect customers and the municipality from damages and loss.

(a) Once potentially fraudulent activity is detected, gather all related documentation and write a description of the situation. Present this information to the designated authority for determination.

(b) The designated authority will complete additional authentication to determine whether the attempted transaction was fraudulent or authentic.

(2) If a transaction is determined to be fraudulent, appropriate actions must be taken immediately. Actions may include:

(a) Canceling the transaction;

(b) Notifying and cooperating with appropriate law enforcement;

(c) Determining the extent of liability of the municipality; and

(d) Notifying the actual customer that fraud has been attempted. (Ord. #215-10, June 2015)

**20-407. Periodic updates to plan.** (1) At periodic intervals established in the program, or as required, the program will be re-evaluated to determine whether all aspects of the program are up to date and applicable in the current business environment.

(2) Periodic reviews will include an assessment of which accounts are covered by the program.

(3) As part of the review, red flags may be revised, replaced or eliminated. Defining new red flags may also be appropriate.

(4) Actions to take in the event that fraudulent activity is discovered may also require revision to reduce damage to the municipality and its customers. (Ord. #215-10, June 2015)

**20-408. Program administration.** (1) Involvement of management.

(a) The identity theft prevention program shall not be operated as an extension to existing fraud prevention programs, and its importance warrants the highest level of attention.

(b) The identity theft prevention program is the responsibility of the governing body. Approval of the initial plan must be appropriately documented and maintained.

(c) Operational responsibility of the program is delegated to the city manager.

(2) Staff training. (a) Staff training shall be conducted for all employees, officials and contractors for whom it is reasonably foreseeable that they may come into contact with accounts or personally identifiable information that may constitute a risk to the municipality or its customers.

(b) The city manager is responsible for ensuring identity theft training for all requisite employees and contractors.

(c) Employees must receive annual training in all elements of this policy.

(d) To ensure maximum effectiveness, employees may continue to receive additional training as changes to the program are made.

(3) Oversight of service provider arrangements. (a) It is the responsibility of the municipality to ensure that the activities of all service providers are conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft,

(b) A service provider that maintains its own identity theft prevention program, consistent with the guidance of the red flag rules and validated by appropriate due diligence, may be considered to be meeting these requirements.

(c) Any specific requirements should be specifically addressed in the appropriate contract arrangements. (Ord. #215-10, June 2015)

## CHAPTER 5

### WILDLIFE HABITAT

#### SECTION

20-501. Wildlife habitat.

**20-501. Wildlife habitat.** Notwithstanding any provision of the ordinances of the City of Baneberry to the contrary, a three (3) year pilot/test project is authorized in and upon lots numbered seven (7), eight (8), twelve (12), and thirteen (13) (and more particularly described as parcels seven (7), eight (8), twelve (12), and thirteen (13); Lakemont Subdivision) to establish and maintain a dedicated wildlife habitat utilizing native warm season grasses (hereafter referred to as "NWSG"). The three (3) year pilot/test project described herein shall be extended an additional three (3) years from Jan. 1, 2017, to Jan. 1, 2020.

During the three (3) year pilot/test period described herein, lots eight (8), twelve (12), and thirteen (13) and a portion of lot seven (7) (hereinafter referred to as the "designated property"), which are designated as a part of the pilot/test program, are exempt from the provisions of Baneberry City Ord. #205-10 pertaining to grass height.

During the three (3) year pilot/test period described herein, the designated property shall adhere to the following requirements/restrictions:

(1) A minimum twenty foot (20') buffer zone/fire break will be established separating the wildlife habitat from adjoining properties.

(2) The buffer zone/fire break may be utilized by residents of the City of Baneberry as a walking trail connecting Mountain View Lane with Bonnevista Drive.

(3) During the pilot/test program, proper maintenance shall be performed in and upon the designated property in accordance with the following publications: *A Landowner's Guide to Native Warm-Season Grasses in the Mid-South* (University of Tennessee Extension publication PB 1746) and *Wildlife Management for Tennessee Landowners* (Tennessee Wildlife Resources Agency).

(4) Prescribed burning will only be conducted after approval from all necessary agencies, including, but not limited to the Baneberry City Manager for a burn permit and after notification of the City of White Pine and Baneberry Fire Departments. During the official wildfire season, permits will also be required from the Tennessee Department of Agriculture, Division of Forestry. Any and all burning will only be conducted under appropriate conditions and under the supervision of the state wildlife resources agency and other authorized Jefferson County and state agencies and/or officials. In the event smoke-management becomes an issue, or conditions preclude prescribed burning, habitat management will utilize prescribed disking procedures.

The pilot/test program is a temporary program, and shall cease on the date prescribed herein. At the end of the three (3) year period described herein, the Baneberry City Council shall evaluate the success and progress of the program. The Baneberry City Council may, at the cessation of the pilot/test program, consider amending the City of Baneberry ordinances to establish the designated property and other properties within the city limits of Baneberry as wildlife habitats and to establish additional regulation of such properties.

No provision of this section shall prevent the City of Baneberry from placing further regulations and restrictions upon the designated property as they refer to the pilot/test program. (Ord. #207-5, \_\_ \_\_, as amended by Ord. #217-7, March 2017)