

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
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7. ENERGY CONSERVATION CODE.
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CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations and penalty.

12-101. Building code adopted. A certain document, one (1) copy of which is on file in the office of the South Pittsburg City Recorder being marked and designated as the *International Building Code*,² 2012 edition, including Appendix Chapter B and excluding chapter 16 sections 1613 through 1623 (see *International Building Code*, section 101.2.1, 2006 edition), as published by the International Code Council, be and is hereby adopted as the building code of the City of South Pittsburg, Tennessee for regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other physical things and

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-102 of this chapter. (2005 Code, § 12-101, as amended by Ord. #776, July 2017)

12-102. Modifications. The following sections are hereby revised:

| | |
|-------------------------|--|
| Section 101.1. Insert: | City of South Pittsburg |
| Section 1612.3. Insert: | City of South Pittsburg |
| Section 1612.3. Insert: | (Date of Issuance) |
| Section 3410.2. Insert: | 15 days of final passage, 5 days after publication |

(2005 Code, § 12-102)

12-103. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations and penalty.

12-201. Plumbing code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Plumbing Code*,² 2012 edition, including Appendix Chapter A, as published by the International Code Council, be and is hereby adopted as the plumbing code of the City of South Pittsburg, Tennessee for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-202 of this chapter. (2005 Code, § 12-201, as amended by Ord. #776, July 2017)

12-202. Modifications. The following sections are hereby revised:

- Section 101.1. Insert: City South Pittsburg
- Section 106.6.2. Insert: "South Pittsburg Building Permit Schedule", Appendix A3
- Section 106.6.3. Insert: 50%, 50%
- Section 108.4. Insert: Offense, dollar amount, number of days
- Section 108.5. Insert: \$50, as prescribed by law
- Section 305.6.1. Insert: 12 inches, 12 inches

¹Municipal code references

Cross-connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Section 904.1. Insert: 6 inches
(2005 Code, § 12-202)

12-203. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

FUEL GAS CODE¹

SECTION

- 12-301. Fuel gas code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violations and penalty.

12-301. Fuel gas code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Fuel Gas Code*,² 2012 edition, including Appendix Chapter B and excluding _____, as published by the International Code Council, be and is hereby adopted as the fuel gas code of the City of South Pittsburg, Tennessee for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said fuel gas code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-302 of this chapter. (2005 Code, § 12-301, as amended by Ord. #776, July 2017)

12-302. Modifications. The following sections are hereby revised:

Section 101.1. Insert: City of South Pittsburg

Section 106.5.2. Insert: Appropriate Schedule

Section 106.5.3. Insert: 50%, 50%

Section 108.4. Insert: Specify offense, dollar amount, number of days

Section 108.5. Insert: \$50, as prescribed by law

(2005 Code, § 12-302)

12-303. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the gas code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

¹Municipal code reference

Gas system administration: title 19, chapter 1.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-304. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable under the general penalty provision of this code, or the license of such person may be revoked, or both fine and revocation of license may be imposed. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

RESIDENTIAL CODE

SECTION

- 12-401. Residential code adopted.
- 12-402. Modifications.
- 12-403. Available in recorder's office.
- 12-404. Violations and penalty.

12-401. Residential code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Residential Code*,¹ 2012 edition, as published by the International Code Council, be and is hereby adopted as the residential code of the City of South Pittsburg, Tennessee for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three (3) stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said residential code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions, and changes, if any, presented in § 12-402 of this chapter. (2005 Code, § 12-401, as amended by Ord. #776, July 2017)

12-402. Modifications. The following sections are hereby revised:

| | |
|----------------------------|---|
| Section R101.1. Insert: | City of South Pittsburg |
| Section R301.2(I). Insert: | Climatic and Geographic Design Criteria, as specified |
| Section R313.2 | Deleted |
| Section P2603.6.1. Insert: | All open vent pipes which extend through a roof shall be terminated at least 6 inches above the roof or 3 inches above the anticipated snow accumulation. Building sewers that connect to private sewage disposal systems shall be a |

¹Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

minimum of 12 inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches below grade.

Section P3103.1. Insert:

All open vent pipes which extend through a roof shall be terminated at least 6 inches above the roof or 3 inches above the anticipated snow accumulation ...

Section 3410.2. Insert:

15 days of final passage, 5 days after publication

(2005 Code, § 12-402, as amended by Ord. #776, July 2017)

12-403. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code.. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 5

MECHANICAL CODE¹

SECTION

- 12-501. Mechanical code adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Violations and penalty.

12-501. Mechanical code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Mechanical Code*,² 2012 edition, as published by the International Code Council, be and is hereby adopted as the mechanical code of the City of South Pittsburg, Tennessee for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use, or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said mechanical code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-502 of this chapter. (2005 Code, § 12-501, as amended by Ord. #776, July 2017)

12-502. Modifications. The following sections are hereby revised:

- Section 101.1. Insert: City of South Pittsburg
- Section 106.5.2. Insert: "South Pittsburg Building Permit Schedule ", Appendix A
- Section 106.5.3. Insert: 50%, 50%
- Section 108.4. Insert: Offense, dollar amount, number of days
- Section 108.5. Insert: \$50, as prescribed law

(2005 Code, § 12-502)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-503. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-504. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 6

ELECTRICAL CODE¹

SECTION

- 12-601. Electrical code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violations and penalty.

12-601. Electrical code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *ICC Electrical Code – Administrative Provisions*,² 2012 edition, as published by the International Code Council, be and is hereby adopted as the electrical code of the City of South Pittsburg, Tennessee for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said electrical code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-702 of this chapter. (2005 Code, § 12-701, as amended by Ord. #776, July 2017)

12-602. Modifications. The following sections are hereby revised:

- Section 101.1. Insert: City of South Pittsburg
- Section 404.2. Insert: Appropriate Schedule

(2005 Code, § 12-702)

12-603. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-604. Violations and penalty. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 7

ENERGY CONSERVATION CODE

SECTION

- 12-701. Energy conservation code adopted.
- 12-702. Modifications.
- 12-703. Available in recorder's office.
- 12-704. Violations and penalty.

12-701. Energy conservation code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Energy Conservation Code*,¹ 2012 edition, as published by the International Code Council, be and is hereby adopted as the energy conservation code of the City of South Pittsburg, Tennessee for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting, and power systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said energy conservation code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-802 of this chapter. (2005 Code, § 12-801, as amended by Ord. #776, July 2017)

12-702. Modifications. The following sections are hereby revised:
Section 101.1. Insert: City of South Pittsburg
(2005 Code, § 12-802)

12-703. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the energy conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-704. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 8

PROPERTY MAINTENANCE CODE**SECTION**

- 12-801. Property maintenance code adopted.
- 12-802. Modifications.
- 12-803. Available in recorder's office.
- 12-804. Violations and penalty.

12-801. Property maintenance code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said *International Property Maintenance Code*,¹ 2012 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the property maintenance code.

12-802. Modifications. The following sections are hereby revised to read as follows:

Definitions. Whenever the words "Building Official" are used in the property maintenance code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the property maintenance code.

12-803. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the property maintenance code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-804. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as

¹Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 9

ADMINISTRATIVE HEARING OFFICER

SECTION

- 12-901. Municipal administrative hearing officer.
- 12-902. Communication by administrative hearing officer and parties.
- 12-903. Appearance by parties and/or counsel.
- 12-904. Pre-hearing conference and orders.
- 12-905. Appointment of administrative hearing officer/administrative law judge.
- 12-906. Training and continuing education.
- 12-907. Jurisdiction not exclusive.
- 12-908. Citations for violations - written notice.
- 12-909. Review of citation - levy of fines.
- 12-910. Party in default.
- 12-911. Petitions for intervention.
- 12-912. Regulating course of proceedings - hearing open to public.
- 12-913. Evidence and affidavits; notice.
- 12-914. Final orders.
- 12-915. Final order effective date.
- 12-916. Collection of fines, judgments and debts.
- 12-917. Judicial review of final order.
- 12-918. Appeal to court of appeals.

12-901. Municipal administrative hearing officer. (1) In accordance with *Tennessee Code Annotated*, title 6, chapter 54, part 10, there is hereby created the office of administrative hearing officer to hear violations of any of the provisions codified in the South Pittsburg Municipal Code relating to building and property maintenance including:

- (a) Building codes found at § 12-101;
- (b) Residential codes found at § 12-401;
- (c) Plumbing codes found at § 12-201;
- (d) Electrical codes § 12-701;
- (e) Gas codes § 12-301;
- (f) Mechanical codes § 12-501;
- (g) Energy codes § 12-801;
- (h) Property maintenance codes § 12-601; and
- (i) All ordinances regulating any subject matter commonly

found in the above-described codes.

The administrative hearing officer is not authorized to hear violation of codes adopted by the state fire marshal pursuant to *Tennessee Code Annotated*, § 68-120-101(a) enforced by deputy building inspector pursuant to *Tennessee Code Annotated*, § 68-120-101(f).

The utilization of the administrative hearing officer shall be at the discretion of the city administrator and shall be an alternative to the enforcement in the City of South Pittsburg Municipal Court.

(2) There is hereby created one (1) administrative hearing officer position to be appointed pursuant to § 12-905 below.

(3) The amount of compensation for the administrative hearing officer shall be approved by the board of mayor and commissioners.

(4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city administrator.

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in title 6, chapter 54, § 1001, *et seq.*, of the *Tennessee Code Annotated*. (Ord. #783, Nov. 2017)

12-902. Communication by administrative hearing officer and parties. (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.

(2) Notwithstanding subsection (1), an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the city attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.

(3) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.

(4) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5).

(5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring

to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (Ord. #783, Nov. 2017)

12-903. Appearance by parties and/or counsel. (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel, or unless prohibited by any provision of law, other representative. (Ord. #783, Nov. 2017)

12-904. Pre-hearing conference and orders. (1) (a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:

- (i) The simplification of issues;
- (ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
- (iii) The limitation of the number of witnesses; and
- (iv) Such other matters as may aid in the disposition of the action.

(b) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.

(2) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, on any question of law.

(3) In the discretion of the administrative hearing officer, all or part of the pre-hearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(4) If a pre-hearing conference is not held, the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (Ord. # 783, Nov. 2017)

12-905. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall

be appointed by the board of mayor and commissioners and serve at the pleasure of the board. Such administrative hearing officer may be hired on a part-time or full-time basis, by contract or by interlocal agreement with one (1) or more eligible municipalities.

- (2) An administrative hearing officer shall be one (1) of the following:
- (a) Licensed building inspector;
 - (b) Licensed plumbing inspector;
 - (c) Licensed electrical inspector;
 - (d) Licensed attorney;
 - (e) Licensed architect;
 - (f) Licensed engineer; or

(3) The city may also contract with the administrative procedures division, office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the training or continuing education requirements of § 6-54-1007(a) and (b). (Ord. #783, Nov. 2017)

12-906. Training and continuing education. (1) Each person appointed to serve as an administrative hearing officer shall, within the six (6) month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Service (MTAS), or its designee(s). MTAS shall issue a certificate of participation to each person whose attendance is satisfactory.

(2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the administrative hearing officer(s). No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year. (Ord. #783, Nov. 2017)

12-907. Jurisdiction not exclusive. The power and authority vested in the office of administrative hearing is not exclusive and does not terminate or diminish any other existing municipal power or authority. The board of mayor and commissioners may direct a municipal officer or employee to develop criteria for determining when to exercise administrative enforcement. (Ord. #783, Nov. 2017)

12-908. Citations for violations-written notice. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the city's administrative hearing ordinance, the issuing officer shall provide written notice of:

(a) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, upon timely, written application a more definite and detailed statement shall be furnished ten (10) business days prior to the time set for the hearing;

(b) A short and plain description of the city's administrative hearing process including references to state and local statutory authority;

(c) Contact information for the city's administrative hearing office; and

(d) Time frame in which the hearing officer will review the citation and determine the fine and remedial period, if any.

(2) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not admission of guilt.

(3) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.

(4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (Ord. #783, Nov. 2017)

12-909. Review of citation - levy of fines. (1) Upon receipt of a citation issued pursuant to § 12-908, the administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.

(a) For violations occurring upon residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For purposes of the administrative hearing officer program, "residential property" means a single family dwelling principally used as the property owner's primary residence and the real property upon which it sits.

(b) For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. For purposes of the administrative hearing officer program, "non-residential property" means all real property, structures, buildings and dwellings that are not residential property.

(2) If a fine is levied pursuant to subsection (1), the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) or greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.

(3) Upon the levy of a fine pursuant to subsection (1), the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:

(a) The fine and remedial period established pursuant to subsections (1) and (2);

(b) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and

(c) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.

(4) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the hearing officer within seven (7) business days of receipt of the notice required in subsection (3).

(5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled. (Ord. #783, Nov. 2017)

12-910. Party in default. (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

(2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default. (Ord. #783, Nov. 2017)

12-911. Petitions for intervention. (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

(a) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;

(b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(c) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(2) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

(b) Limiting the intervenor's participation so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two (2) or more intervenors to combine their participation in the proceedings.

(3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (Ord. #783, Nov. 2017)

12-912. Regulating course of proceedings - hearing open to public.

(1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the pre-hearing order.

(3) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.

(4) The hearing shall be open to public observation pursuant to title 8, chapter 44 of the *Tennessee Code Annotated*, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall

be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (Ord. #783, Nov. 2017)

12-913. Evidence and affidavits; notice. (1) In an administrative hearing:

(a) The administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious;

(b) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in subsection (2). Unless the opposing party, within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affiant, the opposing party's right to cross-examination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as provided in this subdivision (b), the affidavit shall not be admitted into evidence. "Delivery," for purposes of this section, means actual receipt;

(c) The administrative hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice;

(d) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the municipality. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available; and

(e) (i) Official notice may be taken of:

(A) Any fact that could be judicially noticed in the courts of this state;

(B) The record of other proceedings before the agency; or

(C) Technical or scientific matters within the administrative hearing officer's specialized knowledge; and

(ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or

in part on facts or material notice, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

(2) The notice referred to in subdivision (b) shall contain the following information and be substantially in the following form:

The accompanying affidavit of _____ (here insert name of affiant) will be introduced as evidence at the hearing in _____ (here insert title of proceeding). _____ (here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify _____ (here insert name of the proponent or the proponent's attorney) at _____ (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to _____ (here insert name of proponent or the proponent's attorney) on or before _____ (here insert a date seven (7) business days after the date of mailing or delivering the affidavit to the opposing party). (Ord. #783, Nov. 2017)

12-914. Final orders. (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.

(2) A final order shall include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.

(3) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

(4) If an individual serving or designated to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any existing record and may conduct any further proceedings as is appropriate in the interest of justice.

(5) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(6) A final order rendered pursuant to subsection (1) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after

submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.

(7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party. (Ord. #783, Nov. 2017)

12-915. Final order effective date. (1) All final orders shall state when the order is entered and effective.

(2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (Ord. #783, Nov. 2017)

12-916. Collection of fines, judgments and debts. The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (Ord. #783, Nov. 2017)

12-917. Judicial review of final order. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to *Tennessee Code Annotated*, title 6, chapter 54, part 10, which shall be the only available method of judicial review.

(2) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court in the county where the municipality lies. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.

(3) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.

(4) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order

that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

(6) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this chapter. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.

(7) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.

(8) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the administrative hearing officer;
- (c) Made upon unlawful procedure;
- (d) Arbitrarily or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (e) Unsupported by evidence that is both substantial and material in the light of the entire record.

In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

(9) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

(10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (Ord. #783, Nov. 2017)

12-918. Appeal to court of appeals. (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the court of appeals of Tennessee.

(2) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to title 24 shall become a part of the record.

(3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (Ord. #783, Nov. 2017)