

**THE  
ATOKA  
MUNICIPAL  
CODE**

Prepared by the

**MUNICIPAL TECHNICAL ADVISORY SERVICE  
INSTITUTE FOR PUBLIC SERVICE  
THE UNIVERSITY OF TENNESSEE**

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

December, 1992

Change 8, February 13, 2018

**TOWN OF ATOKA, TENNESSEE**

**MAYOR**

W. Daryl Walker

**VICE MAYOR**

Darry Marshall

**ALDERMEN**

Walker Adams  
Barry Akin  
Danny Feldmayer  
Brett Giannini

**TOWN ADMINISTRATOR**

(Interim)  
Kasey Culbreath

**RECORDER**

Debbie Pickard

## Preface

The Atoka Municipal Code contains the codification and revision of the ordinances of the Town of Atoka, Tennessee. By referring to the historical citation appearing at the end of each section, the user can determine the origin of each particular section. The absence of a historical citation means that the section was added by the codifier. The word "modified" in the historical citation indicates significant modification of the original ordinance.

The code is arranged into titles, chapters, and sections. Related matter is kept together, so far as possible, within the same title. Each section number is complete within itself, containing the title number, the chapter number, and the section of the chapter of which it is a part. Specifically, the first digit, followed by a hyphen, identifies the title number. The second digit identifies the chapter number, and the last two digits identify the section number. For example, title 2, chapter 1, section 6, is designated as section 2-106.

By utilizing the table of contents and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc...) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the town's ordinance book or the town recorder for a comprehensive and up to date review of the town's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the town's charter.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide updating service under the following conditions:

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the town agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such

ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

Mark Pullen  
Legal Consultant

TITLE 1

GENERAL ADMINISTRATION<sup>1</sup>

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.
5. TOWN ADMINISTRATOR.
6. MUNICIPAL ELECTIONS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN<sup>2</sup>

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. Compensation of aldermen.
- 1-104. General rules of order.
- 1-105. Passage of ordinances.
- 1-106. Holding additional elected office.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M. on the second Tuesday of each month at the Atoka Town Hall. (as amended by Ord. #14-12-01, Dec. 2014)

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<sup>1</sup>Charter references

See the charter index, the charter itself, and footnote references to the charter in the front of this code.

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

<sup>2</sup>For elections and qualifications see sections 3, 4, 5, 6, 7 and 8 of the Charter. For salaries see section 9. For powers and duties see sections 10, 11, 12, 13 and 17.

1-102. Order of business. At each meeting of the board of mayor and aldermen, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Approval of the minutes of the previous meeting.
- (4) Financial reports
- (5) Old business.
- (6) New business.
- (7) Departmental reports.
- (8) Items from the mayor, aldermen and town administrator.
- (9) Citizen concerns.
- (10) Adjournment. (as amended by Ord. #12-07-01, July 2012)

1-103. Compensation of aldermen. Each alderman of the Town of Atoka shall be paid the sum of two hundred dollars (\$200.00) per month. Payment shall be made quarterly. (Ord. #17, as amended by Ord. #32, and replaced by Ord. #01-05-01, May 2001, and Ord. #12-07-02, July 2012)

1-104. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code.

1-105. Passage of ordinances. Every ordinance must be approved on two readings, not less than one week apart, and shall become effective upon final approval unless the terms of the ordinance provide a later effective date. Every ordinance, except codes adopted by reference, shall be read in full on the first reading except that this requirement may be waived by a two-thirds (2/3) vote of the board of mayor and aldermen. The second reading of any ordinance may be by title only. (Ord. No. 92-06-01)

1-106. Holding additional elected office. No elected official of the Town of Atoka shall be prohibited by the Town of Atoka from seeking or holding any other elected office to which they are eligible for election or appointment. (as added by Ord. #12-03-01, March 2012)

CHAPTER 2

MAYOR<sup>1</sup>

SECTION

1-201. Generally supervises town's affairs.

1-202. Executes town's contracts.

1-203. Salary.

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities.

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen.

1-203. Salary. The salary of the mayor of the Town of Atoka is hereby set at eighteen thousand dollars (\$18,000.00) per year, payable monthly. (Ord. #17, as amended by Ord. #32, and replaced by Ord. #01-05-01, May 2001, and Ord. #10-11-01, Nov. 2010)

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<sup>1</sup>For mayor's election and qualifications see sections 4,5,6,7 and 8 of the Charter. For salary see section 9. For powers and duties see sections 10, 11, 12, 13 and 19.

## CHAPTER 3

RECORDER<sup>1</sup>

## SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

1-303. To perform general administrative duties, etc.

1-304. Compensation.

1-301. To be bonded. The recorder shall be bonded in the amount of \$5000. Such officers or persons who may also be charged with the collection or disbursement of corporate revenue shall also be bonded in the same amount. (Ord. No. 1)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book.

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. The recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers.

1-304. Compensation. The recorder shall be paid according to appropriate resolution of the board of mayor and aldermen.

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<sup>1</sup>For duties of the recorder see sections 14, 15, 16, 17 and 18 of the Charter.

Ord. #97-07-01, Aug. 1997, adopts Priv. Acts 1994, ch. 648 which requires the city recorder to be certified.



CHAPTER 4

CODE OF ETHICS

SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in nonvoting matters.
- 1-405. Acceptance of gratuities, et cetera.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, et cetera.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #07-04-01, April 2007)

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

(a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised. (as added by Ord. #07-04-01, April 2007)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer

that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #07-04-01, April 2007)

1-404. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #07-04-01, April 2007)

1-405. Acceptance of gratuities, et cetera. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #07-04-01, April 2007)

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #07-04-01, April 2007)

1-407. Use of municipal time, facilities, et cetera. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #07-04-01, April 2007)

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #07-04-01, April 2007)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #07-04-01, April 2007)

1-410. Ethics complaints. (1) The town attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the town attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The town attorney may request that the governing body hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the town attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation the violation shall be dealt with as a violation of the personnel provisions rather than as a violation of this code of ethics. (as added by Ord. #07-04-01, April 2007)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to

punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #07-04-01, April 2007)

CHAPTER 5

TOWN ADMINISTRATOR

SECTION

1-501. Appointment.

1-502. Duties.

1-503. Compensation.

1-501. Appointment. The board may appoint a town administrator who shall be under the control and direction of the board. The town administrator shall report and be responsible to the board and serve at the pleasure of the board subject to any contract between the board and the town administrator. (as added by Ord. #12-07-03, July 2012)

1-502. Duties. The town administrator shall perform the following duties:

- (1) Administer the business of the town;
- (2) Employ, promote, discipline, suspend and discharge all employees, in accordance with personnel policies and procedures adopted by the board, provided however, department heads shall be appointed or terminated only by the board;
- (3) Act as purchasing agent for the town in the purchase of all materials, supplies and equipment for the proper conduct of the town's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the board;
- (4) Make recommendations to the board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the town;
- (5) Keep the board fully advised as to the conditions and needs of the town;
- (6) Report to the board the condition of all property, real and personal, owned by the town and recommend repairs or replacements as needed;
- (7) Recommend to the board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the town;
- (8) Recommend specific personnel positions, as may be required for the needs and operations of the town, and propose personnel policies and procedures for approval of the board; and
- (9) Perform such other duties as may from time to time be designated or required by the board. (as added by Ord. #12-07-03, July 2012)

1-503. Compensation. The town administrator shall be paid according to appropriate resolution of the board of mayor and aldermen. (as added by Ord. #12-07-03, July 2012)

CHAPTER 6

MUNICIPAL ELECTIONS

SECTION

1-601. Nonresident property owner voting.

1-601. Nonresident property owner voting. In accordance with Tennessee Code Annotated, § 2-6-205, nonresident property owners qualified to vote in Atoka municipal elections shall cast their municipal ballots as absentee mail ballots. (as added by Ord. #14-08-01, Aug. 2014)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. SPECIAL COMMITTEES.
2. PARKS AND RECREATION ADVISORY BOARD.

CHAPTER 1

SPECIAL COMMITTEES

SECTION

- 2-101. Mayor to appoint committee members.
- 2-102. Mayor to provide compensation for committee members.

2-101. Mayor to appoint committee members. The mayor of the Town of Atoka is hereby authorized, empowered and directed to appoint special committee persons for any activities for which special or additional assistance is necessary for the general welfare of the town. (Ord. No. 33)

2-102. Mayor to provide compensation for committee members. The mayor of the Town of Atoka is hereby authorized, empowered and directed to provide a reasonable salary for said special committee persons. (Ord. No. 33)



CHAPTER 2

PARKS AND RECREATION ADVISORY BOARD

SECTION

- 2-201. Creation authority, purpose, and title.
- 2-202. Membership and terms.
- 2-203. Officers.
- 2-204. Function.
- 2-205. Administration.
- 2-206. Compensation and funding.

2-201. Creation authority, purpose, and title. The authority to fund, create, operate, and maintain parks and recreation facilities and to conduct recreation programs shall be retained by the board of mayor and aldermen; however, pursuant to Tennessee Code Annotated, § 11-24-102(b)(1), there shall be and is hereby created an advisory body for the purpose of providing the Board of Mayor and Aldermen of the Town of Atoka, Tennessee, advice and guidance, and to provide a conduit for input from the general population as to the effective creation, operation, and maintenance of parks and recreation facilities and/or recreation programs of the Town of Atoka. This body shall be named and known as the "Town of Atoka Parks and Recreation Advisory Board" (Parks and Recreation Advisory Board). (as added by Ord. #06-01-01, Feb. 2006, and replaced by Ord. #12-01-01, Jan. 2012)

2-202. Membership and terms.<sup>1</sup> The membership of the parks and recreation advisory board shall consist of seven (7) members, appointed by the board of mayor and aldermen. These members will serve a term of three (3) years before re-appointment consideration.

(1) The membership of the parks and recreation advisory board shall be representative of all sections of the community.

(2) The serving mayor or his designee shall serve as member ex-officio during his respective term.

(3) The initial board members shall be appointed to serve staggered terms, with two (2) members serving a one (1) year initial term, two (2) members serving a two (2) year initial term and three (3) members serving a three (3) year initial term. All board members appointed after the initial terms shall serve full three (3) year terms. (as added by Ord. #06-01-01, Feb. 2006, and replaced by Ord. #12-01-01, Jan. 2012)

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<sup>1</sup>Recreation advisory board members (as amended from time to time) are of record in the recorder's office.

2-203. Officers. The members of the parks and recreation advisory board shall elect from the membership a chairman, vice-chairman, and secretary to serve for one (1) year. (as added by Ord. #06-01-01, Feb. 2006, and replaced by Ord. #12-01-01, Jan. 2012)

2-204. Function. The affairs of the parks and recreation advisory board shall be conducted using Robert's Rules of Order. The parks and recreation advisory board shall not be responsible for the supervision of staff, the hiring or dismissal of staff, the expenditure of public funds, or the promulgation or enforcement of rules and regulations governing parks and recreation facilities or programs; however, the recreation advisory board may advise the board of mayor and aldermen on any of these matters and act on behalf of the board of mayor and aldermen, on a case by case basis, if so authorized by the board of mayor and aldermen. (as added by Ord. #06-01-01, Feb. 2006, and replaced by Ord. #12-01-01, Jan. 2012)

2-205. Administration. The parks and recreation advisory board shall set its own by-laws and meeting schedule in accordance with the open meeting laws of the state. Official minutes shall be recorded for each meeting, a copy of which shall be furnished to the board of mayor and aldermen at their next subsequent meeting. The Town of Atoka shall provide the parks and recreation advisory board such administrative support as it may need, within the limits of its capabilities. (as added by Ord. #06-01-01, Feb. 2006, and replaced by Ord. #12-01-01, Jan. 2012)

2-206. Compensation and funding. All members of the parks and recreation advisory board shall serve without pay; however, with prior approval of the mayor, members may be reimbursed for actual expenses involved in the discharge of their official duties on behalf of the town pursuant with the town's comprehensive travel regulations. Incidental funding for operations of the parks and recreation advisory board may be provided by the board of mayor and aldermen in the town's normal budgeting process. (as added by Ord. #06-01-01, Feb. 2006, and replaced by Ord. #12-01-01, Jan. 2012)

TITLE 3

MUNICIPAL COURT

CHAPTER

1. MUNICIPAL COURT.
2. COURT ADMINISTRATION.

CHAPTER 1

MUNICIPAL COURT

SECTION

3-101. Municipal court.

3-101. Municipal court. The Town of Atoka, Tennessee shall have a town court. Said court shall have jurisdiction over all offenses against the ordinances of the town. The court shall meet in session at such time and place as the board may by resolution provide. The judge of said court shall be appointed by the board of mayor and aldermen and shall serve at the pleasure of said board. (as replaced by Ord. #97-04-03, May 1997)

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

3-202. Imposition of penalties and costs.

3-203. Disposition and report of penalties and costs.

3-204. Disturbance of proceedings.

3-201. Maintenance of docket. The town judge, or his designee, shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant. (as added by Ord. #05-07-05, Aug. 2005)

3-202. Imposition of penalties and costs. (1) Court costs. All penalties and costs shall be imposed and recorded by the town judge, or his designee, on the town court docket in open court. In all cases heard or determined by him, the municipal judge may tax an amount of eighty-seven dollars (\$87.00) for court costs.

(2) Electronic citation regulations and fees.

(a) As used in this section, "electronic citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(b) Pursuant to and in accordance with state statutory requirements found in Tennessee Code Annotated, § 55-10-207(e), each court clerk shall charge and collect an electronic citation fee of five dollars (\$5.00) for each citation which results in a conviction.

(c) Pursuant to and in accordance with state statutory requirements found in Tennessee Code Annotated, § 55-10-207(e)(4), the collection of this electronic citation fee shall expire five (5) years from the date on which the ordinance is adopted. (as added by Ord. #05-07-05, Aug. 2005, amended by Ord. #12-08-01, Aug. 2012, and Ord. #16-12-02, Dec. 2016)

3-203. Disposition and report of penalties and costs. All funds coming into the hands of the town judge in the form of penalties, costs, and forfeitures shall be recorded by him, or his designee, and paid over daily to the town. At the end of each month he, or his designee, shall submit to the board of mayor and aldermen a report accounting for the collection of all penalties and costs imposed

by his court during the current month and to date for the current fiscal year.  
(as added by Ord. #05-07-05, Aug. 2005)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (as added by Ord. #05-07-05, Aug. 2005)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL REGULATIONS.
2. TRAVEL REIMBURSEMENT REGULATIONS.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. EMPLOYMENT OF RELATIVES.

CHAPTER 1

PERSONNEL REGULATIONS

SECTION

- 4-101. Adoption of regulations.
- 4-102. Civil Rights Act of 1964.

4-101. Adoption of regulations. The board of mayor and aldermen of the Town of Atoka is hereby authorized to adopt by ordinance whatever personnel regulations may be necessary for the employment of municipal personnel and to insure the orderly disposition of town business.

4-102. Civil Rights Act of 1964. (1) The Board of Mayor and Aldermen of the Town of Atoka, Tennessee hereby adopts the Title VI Compliance Policy as if fully set out herein.<sup>1</sup>

(2) The following statement shall be deemed as the Town of Atoka's Title VI policy statement: "It is the policy of the Town of Atoka to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (as added by Ord. #12-11-01, Nov. 2012)

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<sup>1</sup>The Town of Atoka Title VI compliance policy is available for review in the recorder's office.

## CHAPTER 2

TRAVEL REIMBURSEMENT REGULATIONS

## SECTION

4-201. Enforcement.

4-202. Travel policy.

4-203. Travel reimbursement rate schedules.

4-204. Administrative procedures.

4-201. Enforcement. The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these regulations. (Ord. #93-08-01, Sept. 1993)

4-202. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

(a) directly related to the conduct of the city business for which travel was authorized, and

(b) actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #93-08-01, Sept. 1993)

4-203. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #93-08-01, Sept. 1993)

4-204. Administrative procedures. The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #93-08-01, Sept. 1993)



CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-301. Creation and title.
- 4-302. Purpose and coverage.
- 4-303. Funding the program.
- 4-304. Definitions.
- 4-305. Employer's rights and duties.
- 4-306. Employees' rights and duties.
- 4-307. Administration.
- 4-308. Standards authorized.
- 4-309. Variances from standards authorized.
- 4-310. Variance procedure.
- 4-311. Recordkeeping and reporting.
- 4-312. Employee complaint procedure.
- 4-313. Education and training.
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4-301. Creation and title. There is hereby created an occupational safety and health program for the employees of the Town of Atoka. This section shall provide authority for establishing and administering the occupational safety and health program for the employees of the town. (as added by Ord. #04-02-01, March 2004)

4-302. Purpose and coverage. (1) Purpose. The Town of Atoka in electing to update and maintain an effective occupational safety and health program for its employees shall:

- (a) Provide a safe and healthful place and condition of employment that includes:
  - (i) Include top management commitment and employee involvement;
  - (ii) Continually analyze the worksite to identify all hazards and potential hazards;

(iii) Develop and maintain methods for preventing or controlling existing or potential hazards; and

(iv) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(b) Acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees.

(c) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the department of labor and workforce development to whom such responsibilities have been delegated, including the director of the division of occupational safety and health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(d) Consult with the state commissioner of labor and workforce development or his designated representative with regard to the adequacy of the form and content of such records.

(e) Consult with the commissioner of labor and workforce development, as appropriate, regarding safety and health problems of the agency which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health program promulgated by the state.

(f) Assist the commissioner of labor and workforce development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.

(g) Make a report to the commissioner of labor and workforce development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.

(h) Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employee safety and health.

(i) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program.

(2) Coverage. The provisions of the occupational safety and health program plan for the employees of the Town of Atoka shall apply to all employees of each administrative department, commission, board, division, or

other agency of the town whether part-time or full-time, seasonal or permanent. (as added by Ord. #04-02-01, March 2004)

4-303. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Town of Atoka. (as added by Ord. #04-02-01, March 2004)

4-304. Definitions. For the purposes of this program, the following definitions apply:

(1) "Act" or "TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.

(2) "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.

(3) "Chief executive officer" means the chief administrative official, mayor, city manager, etc., as may be applicable.

(4) "Commissioner of labor and workforce development" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor and workforce development.

(5) "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for employees of the town.

(6) "Employee" means any person performing services for the Town of Atoka and listed on the payroll of the town, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

(7) "Employer" means the Town of Atoka, and includes each administrative department, board, commission, division, or other agency of the town.

(8) "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

(9) "Governing body" means the Board of Mayor and Aldermen of the Town of Atoka.

(10) "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the

imminence of such hazard can be eliminated through normal compliance enforcement procedures.

(11) "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.

(12) "Person" means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.

(13) "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:

(a) A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

(b) A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency; (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

(14) "Standard" means an occupational safety and health standard promulgated by the commissioner of labor and workforce development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment. (as added by Ord. #04-02-01, March 2004)

4-305. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:

(1) Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

(2) Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.

(3) Employer shall refrain from any unreasonable restraint on the right of the commissioner of labor and workforce development to inspect the employers place(s) of business. Employer shall assist the commissioner of labor and workforce development in the performance of their monitoring duties by

supplying or making available information, personnel, or aids reasonable necessary to the effective conduct of the monitoring activity.

(4) Employer is entitled to participate in the development of standards by submissions of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

(5) Employer is entitled to request an order granting a variance from an occupational safety and health standard.

(6) Employer is entitled to protection of its legally privileged communication.

(7) Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.

(8) Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard, of corrective action being taken.

(9) Employer shall notify all employees of their rights and duties under this program. (as added by Ord. #04-02-01, March 2004)

4-306. Employees' rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:

(1) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

(2) Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the act.

(3) Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the act.

(4) Any employee who may be adversely affected by a standard or variance issued pursuant to the act or this program may file a petition with the commissioner of labor and workforce development or whoever is responsible for the promulgation of the standard or the granting of the variance.

(5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

(6) Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.

(7) Any employee may bring to the attention of the director any violation or suspected violation of the standards or any other health or safety hazards.

(8) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.

(9) Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (8) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the commissioner of labor and workforce development alleging such discrimination.

(10) Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specified job.

(11) Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence. (as added by Ord. #04-02-01, May 2004)

4-307. Administration. (1) The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

(a) The director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.

(b) The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.

(c) The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.

(d) The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.



(e) The director shall prepare the report to the commissioner of labor and workforce development required by subsection (1)(g) of § 4-302 of this chapter.

(f) The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.

(g) The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

(h) The director shall maintain or cause to be maintained records required under § 4-311 of this chapter.

(i) The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the commissioner of labor and workforce development receives notification of the occurrence within eight (8) hours.

(2) The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas. (a) The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this chapter.

(b) The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.

(c) The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

(d) The administrative or operational head shall investigate all occupational accidents, injuries or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with § 4-322 of this chapter. (as added by Ord. #04-02-01, March 2004)

4-308. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body that body may deem necessary for the safety and health of employees. (as added by Ord. #04-02-01, March 2004)

4-309. Variations from standards authorized. The director may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the director shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the director shall be deemed sufficient notice to employees. (as added by Ord. #04-02-01, March 2004)

4-310. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the commissioner of labor and workforce development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

(1) The application for a variance shall be prepared in writing and shall contain:

(a) A specification of the standard or portion thereof from which the variance is sought.

(b) A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.

(c) A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.

(d) A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.

(e) A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the commissioner of labor and workforce development for a hearing.

(2) The application for a variance should be sent to the commissioner of labor and workforce development by registered or certified mail.



(3) The commissioner of labor and workforce development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

(a) The employer

(i) Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.

(ii) Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.

(iii) Has an effective program for coming into compliance with the standard as quickly as possible.

(b) The employee is engaged in an experimental program as described in subsection (b), section 13 of the act.

(4) A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

(5) Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.

(6) The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (1)(e) of this section). (as added by Ord. #04-02-01, March 2004)

4-311. Record keeping and reporting. (1) Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970 (Revised 2003) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.

(2) The position responsible for recordkeeping is shown on the safety and health organizational chart, § 4-323 of this chapter.

(3) Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by accident reporting procedures, § 4-322 of this chapter. (as added by Ord. #04-02-01, March 2004)

4-312. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health. (1) The complaint should be in the form of a letter and give details on the condition(s) and how the

employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (1)(h) of 5 4-302 of this chapter.

(2) Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

(3) If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

(4) The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.

(5) After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the commissioner of labor and workforce development. Any complaint filed with the commissioner of labor and workforce development in such cases shall include copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.

(6) Copies of all complaints and answers thereto will be filed by the director who shall make them available to the commissioner of labor and workforce development or his designated representative upon request. (as added by Ord. #04-02-01, March 2004)

4-313. Education. (1) Director and/or compliance inspector(s):

(a) Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.

(b) Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors,

and employees of the existence of safety and health hazards will be furnished.

(2) All employees (including managers and supervisory personnel):  
A suitable safety and health training program for employees will be established. This program will, as a minimum:

(a) Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury (such as falls, electrocution, crushing injuries (e.g., trench cave-ins), and being struck by material or equipment).

(b) Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.

(c) Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

(d) Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHAct standards (1910 and/or 1926).

(e) Instruct employees on hazards and dangers of confined or enclosed spaces. (i) Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.

(ii) Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

(iii) The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on the danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into

such an area and shall require use of appropriate personal protective equipment. (as added by Ord. #04-02-01, March 2004)

4-314. General inspection procedures. It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days. (1) In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:

(a) To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;

(b) To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

(2) If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with § 4-315 of this chapter before inspecting the remaining portions of the establishment, facility, or worksite.

(3) An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

(4) The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

(5) The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

(6) Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

(7) Advance notice of inspections. (a) Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.

(b) There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or

investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.

(8) The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:

(a) Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.

(b) Records are made of the inspections and of any discrepancies found and are forwarded to the director.

(9) The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the commissioner of labor and workforce development or his authorized representative. (as added by Ord. #04-02-01, March 2004)

4-315. Imminent danger procedures. (1) Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

(a) The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.

(b) If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.

(c) As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

(d) The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.

(e) The imminent danger shall be deemed abated if:

(i) The imminence of the danger has been eliminated by removal of the employees from the area of danger.

(ii) Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.



(f) A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (9) of § 4-314 of this chapter.

(2) Refusal to abate:

(a) Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.

(b) The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (as added by Ord. #04-02-01, March 2004)

4-316. Abatement orders and hearings. (1) Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:

(a) Issue an abatement order to the head of the worksite.

(b) Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

(2) Abatement orders shall contain the following information:

(a) The standard, rule, or regulation which was found to be violated.

(b) A description of the nature and location of the violation.

(c) A description of what is required to abate or correct the violation.

(d) A reasonable period of time during which the violation must be abated or corrected.

(3) At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (as added by Ord. #04-02-01, March 2004)

4-317. Penalties. (1) No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.

(2) Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the

appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:

- (a) Oral reprimand.
- (b) Written reprimand.
- (c) Suspension for three (3) or more working days.
- (d) Termination of employment. (as added by Ord. #04-02-01, March 2004)

4-318. Confidentiality of privileged information. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the commissioner of labor and workforce development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (as added by Ord. #04-02-01, March 2004)

4-319. Compliance with other laws not excused. (1) Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

(2) Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (as added by Ord. #04-02-01, March 2004)

4-320. Notice to employees.

#### NOTICE TO ALL EMPLOYEES OF THE TOWN OF ATOKA

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, the government, as an employer, is responsible for administering the act to its employees. Safety and health standards are the same as state standards and jobsite inspections will be conducted to insure compliance with the act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage, of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director or board of mayor and aldermen.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the board for assistance in obtaining relief or to file a complaint with the commissioner of workforce development alleging such discrimination.

A copy of the occupational safety and health program for the employees of the City of Atoka is available for inspection by any employee in the city recorder's office during regular office hours. (as added by Ord. #04-02-01, March 2004)



4-321. Program budget. The budget for the occupational safety and health program shall include the following:

- (1) Prorated portion of wages, salaries, etc., for program administration and support.
- (2) Office space and office supplies.
- (3) Safety and health educational materials and support for education and training.
- (4) Safety devices for personnel safety and health.
- (5) Equipment modifications.
- (6) Equipment additions (facilities).
- (7) Protective clothing and equipment (personnel).
- (8) Safety and health instruments.
- (9) Funding for projects to correct hazardous conditions.
- (10) Reserve fund for the program.
- (11) Contingencies and miscellaneous.

**TOTAL ESTIMATED PROGRAM FUNDING:**

**ESTIMATE OF TOTAL BUDGET FOR:**

(as added by Ord. #04-02-01, March 2004)

4-322. Accident reporting procedures. Note: All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported by phone to the commissioner of labor and workforce development within eight (8) hours.

There are six important steps required by the OSHA recordkeeping system:

- (1) Obtain a report on every injury/illness requiring medical treatment (other than first aid).
- (2) Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
- (3) Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on worker's compensation reports giving the same information.
- (4) Every year, prepare the annual summary (OSHA Form No. 300A); post it no later than February 1, and keep it posted until April 30.
- (5) Retain these records for at least 5 years.
- (6) Complete the Survey of Occupational Injuries/Illness and mail it to Labor Research and Statistics, when requested.

The four (4) procedures listed below are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and

(251-Plus), and the figures relate to the total number of employees including the chief executive officer but excluding the governing body.

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The director will insure completion of required reports and records in accordance with § 4-311 of this chapter.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours, after their occurrence. The supervisor will provide the director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the director or compliance inspector, if necessary) and will complete a written report on

the accident or illness and forward it to the director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.

- (251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head is to be notified of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three or more employees.)

Since a Worker's Compensation Form C20 or OSHA No. 301 form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

- (1) Accident location, if different from employers mailing address and state whether accident occurred on premises owned or operated by employer.
- (2) Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
- (3) Title of the department or division in which the injured or ill employee is normally employed
- (4) Specific description of what the employee was doing when injured.
- (5) Specific description of how the accident occurred.
- (6) A description of the injury or illness in detail and the part of the body affected.
- (7) Name of the object or substance which directly injured the employee.
- (8) Date and time of injury or diagnosis of illness.
- (9) Name and address of physician, if applicable.
- (10) If employee was hospitalized, name and address of hospital.
- (11) Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy item Number 6 listed under PROGRAM PLAN in Chapter IV, Part IV of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. (as added by Ord. #04-02-01, March 2004)

4-323. Organizational chart. (For this section make a list of each work location wherein city employees work, such as city hall, water plant, police department, city garage, etc., the address for the workplace, phone number at that workplace, and number of employees who work there.)

Example:

City Hall - 3 employees  
334 Atoka-Munford Ave  
Atoka, TN 38004  
(901) 837-5300

Munford-Atoka Fire Dept. 3 employees  
334 Atoka-Munford Ave Sta #2  
681 Walker Parkway Sta #3

Police Department - 16 employees  
334 Atoka-Munford Ave  
Atoka, TN 38004  
(901) 837-5302

Public Works Dept. 1 employee  
334 Atoka-Munford Ave  
Atoka, TN 38004  
(901) 837-5300

Building Inspector 1 employee  
334 Atoka-Munford Ave  
Atoka, TN 38004  
(901) 837-5308

TOTAL NUMBER OF EMPLOYEES: 24

(Once each work location has been listed, record the total number of employees that the city employs.) (as added by Ord. #04-02-01, March 2004)

CHAPTER 4

EMPLOYMENT OF RELATIVES

SECTION

4-401. Definitions.

4-402. Elected/appointed officials.

4-403. Staff members.

4-404. Seasonal/temporary employees.

4-401. Definitions. For the purpose of this chapter, immediate family members are defined to include a spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent, stepparent, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparent or grandchildren, first cousins, aunts, uncles, nieces and nephews. (as added by Ord. #12-10-01, Oct. 2012)

4-402. Elected/appointed officials. Any department governed by the town personnel regulations shall not hire a member of the immediate family of the mayor, an alderman or the town administrator except as authorized in § 4-404.

An employee who is in the immediate family of the mayor, an alderman or the town administrator and who was employed prior to the elected/appointed official taking office may retain employment with the town. (as added by Ord. #12-10-01, Oct. 2012)

4-403. Staff members. No person shall be hired, transferred or otherwise appointed who is a member of the immediate family of an employee in the same department. The provisions of this section shall not be retroactive, and no action shall be taken concerning any members of the same family employed at the time of the adoption of this section. (as added by Ord. #12-10-01, Oct. 2012)

4-404. Seasonal/temporary employees. The prohibition against employing immediate family members does not apply to temporary, seasonal employees so long as the applicant is not a member of the immediate family of a full-time employee in the same department. (as added by Ord. #12-10-01, Oct. 2012)

TITLE 5

MUNICIPAL FINANCE AND TAXATION<sup>1</sup>

CHAPTER

1. PURCHASING.
2. REAL AND PERSONAL PROPERTY TAXES.
3. WHOLESALE BEER TAX.
4. PRIVILEGE TAXES.
5. MUNICIPAL DEBT POLICY.

CHAPTER 1

PURCHASING

SECTION

- 5-101. Purchases not exceeding \$10,000.00.
- 5-102. Purchases in excess of \$10,000.00.
- 5-103. Exceptions to bidding requirement.

5-101. Purchases not exceeding \$10,000.00. The town administrator is authorized to make the following purchases whose estimated costs do not exceed ten thousand dollars (\$10,000.00) without formal sealed bids and written specifications: commonly used items of material, supplies, equipment, and services used in the ordinary course of maintaining and repairing the town's real or personal property; building or maintaining stocks of town material, supplies and equipment used in the ordinary course of town operations; and minor construction, repair or maintenance services. However a record of all such purchases shall be maintained describing the material, supplies, equipment or service purchased, the person or business from whom it was purchased, the date it was purchased, the purchase cost, and any other information from which the general public can easily determine the full details of the purchase. Each purchase shall be supported by invoices and/or receipts and any other appropriate documentation signed by the person receiving payment. (as added by Ord. #96-12-01, Jan. 1997, and replaced by Ord. #03-04-01, May 2003, and Ord. #12-02-01, Feb. 2012)

5-102. Purchases in excess of \$10,000.00. The town administrator is required to make purchases in excess of ten thousand dollars (\$10,000.00) based on written specifications, awarded by written contract let to the lowest responsive and responsible bidder following advertisement for, and the

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<sup>1</sup>For authority to tax see section 10 of the Charter.

submission of, sealed bids. (as added by Ord. #03-04-01, May 2003, and replaced by Ord. #12-02-01, Feb. 2012)

5-103. Exceptions to bidding requirement. The town administrator is authorized to make the following purchases whose estimated cost is in excess of ten thousand dollars (\$10,000.00) without written specifications or bids:

(1) Emergency purchases of material, supplies, equipment, or services. However, a report of the emergency purchase, including the nature of the emergency, the material, supplies, equipment, or services purchased, and the appropriate documentation similar to that required under the first subsection above shall be filed with the board of mayor and aldermen at its next regular meeting.

(2) The purchase of unique, special, or proprietary material, supplies, equipment, or services the town administrator determines is in the best interest of the town to acquire. However, a report of the purchase, including a full description of the material, supplies, equipment, or services purchased, the reason the same is unique, special, or proprietary, the interest of the town served by the purchase, and from whom the purchase will be made shall be filed with the board of mayor and aldermen at its regular meeting prior to purchase.

(3) Purchases of equipment which, by reason of training of town personnel or an inventory of replacement parts maintained by the town, are compatible with the existing equipment owned by the town. However, a full report of the purchase, including a full description of the equipment, an outline of the municipal training or parts inventory factors that made the purchase economically advantageous to the town, and from whom the purchase will be made shall be filed with the board of mayor and aldermen at its regular meeting prior to purchase.

(4) Purchases which can be made only from a sole source. The minimum geography for determining the "sole source" shall be the municipal limits. However, the town administrator shall have the discretion to enlarge the geography of the sole source to whatever extent he determines is in the economic interest of the town. However, a full report of the purchase, including a full description of the purchase, evidence that the purchase was made legitimately a sole source purchase, and from whom the purchase will be made shall be filed with the board of mayor and aldermen at its regular meeting prior to purchase. (as added by Ord. #03-04-01, May 2003, and replaced by Ord. #12-02-01, Feb. 2012)



## CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES

## SECTION

5-201. When due and payable.

5-202. When delinquent; penalty and interest.

5-201. When due and payable.<sup>1</sup> Taxes levied by the town against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied.

5-202. When delinquent; penalty and interest.<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March next after they

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<sup>1</sup>State law reference

Tennessee Code Annotated, sections 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

<sup>2</sup>State law reference

Tennessee Code Annotated, section 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March following the tax due date, and on the first day of each succeeding month.



become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.<sup>1</sup>

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<sup>1</sup>Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, sections 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, section 67-5-2005.

## CHAPTER 3

WHOLESALE BEER TAX

## SECTION

5-301. To be collected.

5-301. To be collected. The town recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup>

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

Municipal code reference

Alcohol and beer regulations: title 8.

## CHAPTER 4

PRIVILEGE TAXES

## SECTION

5-401. Tax levied.

5-402. License required.

5-401. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) Are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (as added by Ord. #02-05-02, June 2002)

5-402. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. Violations of this section shall be punished under the general penalty provisions of this code of ordinances. (as added by Ord. #02-05-02, June 2002)

CHAPTER 5

MUNICIPAL DEBT POLICY<sup>1</sup>

SECTION

- 5-501. Purpose.
- 5-502. Definition of debt.
- 5-503. Transparency.
- 5-504. Role of debt.
- 5-505. Types and limits of debt.
- 5-506. Costs of debt.
- 5-507. Refinancing outstanding debt.
- 5-508. Professional services.
- 5-509. Conflicts.
- 5-510. Review of policy.
- 5-511. Compliance.

5-501. Purpose. The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the Town of Atoka, Tennessee. This policy reinforces the commitment of the town and its officials to manage the financial affairs of the town so as to minimize risk, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the town. A debt management policy signals to the public and the rating agencies that the town is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing and managing debt obligations by providing clear direction as to the steps, substance and outcomes desired. In addition, greater stability over the long-term will be generated by the use of consistent guidelines in issuing debt. (as added by Ord. #11-11-03, Dec. 2011)

5-502. Definition of debt. All obligations of the town to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of town resources. This includes but is not limited to notes, bond issues, capital leases, and loans of any

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<sup>1</sup>State law references

Tennessee Code Annotated, 7, part 9 - Contracts, Leases, and Lease Purchase Agreements.

Tennessee Code Annotated, 9, part 21 - Local Government Public Obligations Law.

type - whether from an outside source such as a bank or from another internal fund.

Approval of debt. Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office and the board of aldermen prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the board of aldermen; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (as added by Ord. #11-11-03, Dec. 2011)

5-503. Transparency. (1) The town shall comply with legal requirements for notice and for public meetings related to debt issuance.

(2) All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and websites.

(3) All costs (including principal, interest, issuance, continuing, and one-time) shall be clearly presented and disclosed to the citizens, board of aldermen, and other stakeholders in a timely manner.

(4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, board of aldermen, and other stakeholders in a timely manner.

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, board of aldermen, and other stakeholders in a timely manner. (as added by Ord. #11-11-03, Dec. 2011)

5-504. Role of debt. (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; the town will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.

(2) In accordance with Generally Accepted Accounting Principles (GAAP) and state law:

(a) The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed thirty (30) years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices.

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #11-11-03, Dec. 2011)

5-505. Types and limits of debt. (1) The town will seek to limit total outstanding debt obligations to no more than eight percent (8%) of total assessed valuation, excluding overlapping debt, enterprise debt, and revenue debt.

(2) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.

(3) The town's total outstanding debt obligation will be monitored and reported to the board of aldermen as a part of the annual budget process. The town administrator shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The town administrator shall also report to the board of aldermen any matter that adversely affects the credit or financial integrity of the town.

(4) The town is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes and other debt allowed by law.

(5) The town will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.

(6) As a rule, the town will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the town may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a public meeting and the board of aldermen must determine such use is justified and in the best interest of the town.

(7) The town may use capital leases to finance short-term projects.

(8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The town may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the town. The board of aldermen and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the town's general fund.

(a) Use of variable rate debt. (i) The town recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

(ii) The town also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks, including:

(A) The town will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.

(B) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the board of aldermen shall be informed

of the potential effect on rates as well as any additional costs that might be incurred should the insurance fail.

(C) Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the board of aldermen shall be informed of the potential effect on rates as well as any additional costs that might be incurred should the letter of credit fail.

(D) Prior to entering into any variable rate debt obligation, the board of aldermen will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.

(E) The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation.

(b) Use of derivatives. (i) The town chooses not to use derivative or other exotic financial structures in the management of the town's debt portfolio.

(ii) Prior to any reversal of this provision:

(A) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the board of aldermen; and

(B) The board of aldermen must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (as added by Ord. #11-11-03, Dec. 2011)

5-506. Costs of debt. (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the board of aldermen in accordance with the notice requirements stated above.

(2) In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e., general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes). (as added by Ord. #11-11-03, Dec. 2011)

5-507. Refinancing outstanding debt. (1) The town will refund debt when it is in the best financial interest of the town to do so, and the town administrator shall have the responsibility to analyze outstanding bond issues

for refunding opportunities. The decision to refinance must be explicitly approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.

(2) The town administrator will consider the following issues when analyzing possible refunding opportunities:

(a) Onerous restrictions. Debt may be refinanced to eliminate onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.

(b) Restructuring for economic purposes. The town will refund debt when it is in the best financial interest of the town to do so. Such refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the town administrator if the refunding generates positive present value savings, and the chief financial officer must establish a minimum present value savings threshold for any refinancing.

(c) Term of refunding issues. The town will refund bonds within the term of the originally issued debt. However, the town administrator may consider maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The town administrator may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.

(d) Escrow structuring. The town shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the town from its own account.

(e) Arbitrage. The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (as added by Ord. #11-11-03, Dec. 2011)

5-508. Professional services. The town shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the town and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

(1) Counsel. The town shall enter into an engagement letter agreement with each lawyer or law firm representing the town in a debt transaction. No engagement letter is required for any lawyer who is an employee of the town or lawyer or law firm which is under a general appointment or contract to serve as counsel to the town. The town does not need



an engagement letter with counsel not representing the town, such as underwriters' counsel.

(2) Financial advisor. If the town chooses to hire financial advisors, the town shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions.

Whether in a competitive sale or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance or broker any other debt transactions for the town.

(3) Underwriter. If there is an underwriter, the town shall require the underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the town with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the entity. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the town in advance of the pricing of the debt. (as added by Ord. #11-11-03, Dec. 2011)

5-509. Conflicts. (1) Professionals involved in a debt transaction hired or compensated by the town shall be required to disclose to the town existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the town to appreciate the significance of the relationships.

(2) Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (as added by Ord. #11-11-03, Dec. 2011)

5-510. Review of policy. This policy shall be reviewed annually by the board of aldermen with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input. (as added by Ord. #11-11-03, Dec. 2011)

5-511. Compliance. The town administrator is responsible for ensuring compliance with this policy. (as added by Ord. #11-11-03, Dec. 2011)

TITLE 6

LAW ENFORCEMENT<sup>1</sup>

CHAPTER

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.
3. CITATIONS, WARRANTS, AND SUMMONSES.

CHAPTER 1

POLICE DEPARTMENT

SECTION

- 6-101. Policemen subject to chief's orders.  
6-102. Policemen to preserve law and order, etc.  
6-103. Police department records.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (as replaced by Ord. #02-12-01, Jan. 2003)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (as added by Ord. #02-12-01, Jan. 2003)

6-103. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing at a minimum:

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by policemen.
- (3) All police investigations made, funerals, convoyed, fire calls answered, and other miscellaneous activities of the police department.
- (4) Any other records required to be kept by the board of mayor and aldermen or by law.

The police chief shall be responsible for insuring that the police department complies with this section. (as added by Ord. #02-12-01, Jan. 2003)

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<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

## CHAPTER 2

ARREST PROCEDURES

## SECTION

6-201. When policemen to make arrests.

6-202. Disposition of persons arrested.

6-201. When policemen to make arrests.<sup>1</sup> Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it.

6-202. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinance, shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond with the town court clerk, or, if the town court clerk is not available, with the ranking police officer on duty. If the arrested person fails or refuses to post bond, he shall be confined pending his release by the town judge. In addition, if the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender.

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<sup>1</sup>Municipal code reference

Issuance of citation in lieu of arrest in traffic cases: title 15, chapter 7.

## CHAPTER 3

CITATIONS, WARRANTS, AND SUMMONSES

## SECTION

6-301. Citations in lieu of arrest in non-traffic cases.

6-302. Summonses in lieu of arrest.

6-301. Citations in lieu of arrest in non-traffic cases.<sup>1</sup> Pursuant to Tennessee Code Annotated, section 7-63-101 et seq., the board of mayor and aldermen appoints the chief in the fire department and the building inspector in the building department special police officers having the authority to issue citations in lieu of arrest. The chief in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The building inspector in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with Tennessee Code Annotated, section 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

6-302. Summonses in lieu of arrest. Pursuant to Tennessee Code Annotated, section 7-63-201 et seq., which authorizes the board of mayor and aldermen to designate certain town enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the recorder to issue ordinance summonses in those areas. This enforcement officer may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or

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<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may (1) have a summons issued by the clerk of the town court, or (2) may seek the assistance of a police officer to witness the violation. The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in section 6-301 above.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued.

## TITLE 7

FIRE PROTECTION AND FIREWORKS<sup>1</sup>

## CHAPTER

1. FIRE CODE.
2. VOLUNTEER FIRE DEPARTMENT.
3. FIRE SERVICE OUTSIDE TOWN LIMITS.

## CHAPTER 1

FIRE CODE<sup>2</sup>

## SECTION

- 7-101. Fire code adopted.
- 7-102. Enforcement.
- 7-103. Definition of "municipality."
- 7-104. Storage of explosives, flammable liquids, etc.
- 7-105. Gasoline trucks.
- 7-106. Variances.
- 7-107. Violations and penalties.

7-101. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, sections 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Standard Fire Prevention Code,<sup>3</sup> \_\_\_\_ edition with \_\_\_\_ amendments as recommended by the Southern Standard Building Code Congress International, Inc. is hereby adopted by reference and included as a part of this code. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits.

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>2</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>3</sup>Copies of this code are available from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.

7-102. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal.

7-103. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Atoka, Tennessee.

7-104. Storage of explosives, flammable liquids, etc. (1) The district referred to in section 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the fire district as set out in section 7-101 of this code.

(2) The district referred to in section 902.1.1 of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, is hereby declared to be the fire district as set out in section 7-101 of this code.

(3) The district referred to in section 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the fire district as set out in section 7-101 of this code.

(4) The district referred to in section 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire district as set out in section 7-101 of this code.

7-105. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline.

7-106. Variations. The chief of the fire department may recommend to the board of mayor and aldermen variations from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variations when granted or allowed shall be contained in a resolution of the board of mayor and aldermen.

7-107. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard Fire Prevention Code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the

time fixed herein. The application of a penalty under the general penalty clause for this municipal code shall not be held to prevent the enforced removal of prohibited conditions.



CHAPTER 2

VOLUNTEER FIRE DEPARTMENT<sup>1</sup>

SECTION

7-201. Establishment, equipment, and membership.

7-202. Objectives.

7-203. Organization, rules, and regulations.

7-204. Records and reports.

7-205. Tenure and compensation of members.

7-206. Chief responsible for training and maintenance.

7-207. Chief to be assistant to state officer.

7-208. Key lock box system.

7-201. Establishment, equipment, and membership. The fire department of the Town of Atoka shall be run as an operational department of the town pursuant to all duly authorized automatic and mutual aid agreements. The department shall employ full-time employees and supplement its force with reserve firefighters. (Ord. no. 22, as replaced by Ord. #15-01-01, Oct. 2015)

7-202. Objectives. The fire department shall have as its objectives:

(1) To prevent uncontrolled fires from starting.

(2) To prevent the loss of life and property because of fires.

(3) To confine fires to their places of origin.

(4) To extinguish uncontrolled fires.

(5) To respond to medical emergencies and vehicular accidents to provide the highest level of care possible.

(6) To prevent loss of life from fire and medical emergencies.

(7) To provide education to the community regarding fire safety and preparedness.

(8) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (as replaced by Ord. #15-01-01, Oct. 2015)

7-203. Organization, rules, and regulations. The fire chief shall set up the organization of the department, make assignments to individuals and formulate and enforce rules and regulations as shall be necessary for the orderly and efficient operation of the department. Rules and regulations of the department may not be in conflict with general provisions of the Town charter,

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<sup>1</sup>Municipal code reference

Special privileges with respect to traffic: title 15, chapter 2.

code of ordinances or personnel regulations. (as replaced by Ord. #15-01-01, Oct. 2015)

7-204. Records and reports. The fire chief shall keep adequate records of all fires, inspections, medical calls, emergency runs, apparatus, equipment, personnel and work of the department. He shall submit such written reports on those matters to the board of mayor and aldermen as they may require. (as replaced by Ord. #15-01-01, Oct. 2015)

7-205. Tenure and compensation of members. The fire chief shall have the authority, consistent with the personnel regulations, to suspend or discharge any member of the department when he deems such action to be necessary for the good of the department. The fire chief shall be permanently appointed and permanently removed only by the board of mayor and aldermen.

All personnel of the department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe through budget allocation. (as replaced by Ord. #15-01-01, Oct. 2015)

7-206. Chief responsible for training and maintenance. The fire chief shall be fully responsible for the training of all subordinate staff and for maintenance of all property and equipment of the fire department under the direction of the town administrator. (as replaced by Ord. #15-01-01, Oct. 2015)

7-207. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated § 68-17-108, the fire chief is designated as an assistant to the State Commissioner of Insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 17, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (as replaced by Ord. #15-01-01, Oct. 2015)

7-208. Key lock box system. The Town of Atoka shall require key lock boxes on certain newly constructed and renovated structures.

(1) The following structures shall be equipped with a key lock box at or near the main entrance or such other location as required by the fire chief:

(a) Commercial, industrial and institutional structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency.

(b) Multi-family residential structures that have restricted access through locked doors and have a common corridor for access to the living units.

(c) Governmental structures and nursing care facilities.

(2) All newly constructed structures subject to this section shall have the key lock box installed and operational prior to the issuance of an occupancy

permit. All existing structures subject to this section shall, upon addition, alteration or repair that would otherwise be subject to current building codes of the town and require the issuance of a permit for addition or alteration, comply with this section.

(3) The fire chief shall designate the type of key lock box system to be implemented with the town and shall have the authority to require use of the designated system in accordance with this section.

(4) The owner or operator of a structure required to have a key lock box shall, at all times, keep a key in the lock box that will allow for access to the structure. The owner or operator shall notify the fire chief of any changes to the key lock box system. (as added by Ord. #16-07-01, July 2016)

## CHAPTER 3

FIRE SERVICE OUTSIDE TOWN LIMITS

## SECTION

7-301. Restrictions on fire service outside town limits.

7-301. Restrictions on fire service outside town limits. No personnel or equipment of the fire department shall be used for fighting any fire more than three miles from the town limits or pursuant to the contract between the Town of Atoka and the City of Munford under the authority of Tennessee Code Annotated, section 12-9-101 et seq.

TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definitions.
- 8-102. Scope of chapter.
- 8-103. State laws to be complied with.
- 8-104. Classes of permits.
- 8-105. Restrictions.
- 8-106. Certificate of compliance.
- 8-107. Inspection fees.
- 8-108. Penalties.
- 8-109. Specific rules governing retail package stores.
- 8-110. Specific rules governing on-premise consumption.

8-101. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Alcoholic beverage" or "beverage" means and includes all alcohol, spirits, liquor, wine, high alcohol content beer and other liquids included in the definition of "alcoholic beverage" contained in Tennessee Code Annotated, § 57-3-101(a), as the same may be amended, supplemented or replaced.

(2) "Certificate" or "certificate of compliance" means the certificate required pursuant to Tennessee Code Annotated, §§ 57-3-208 or 57-3-806, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this article for issuance of such a certificate.

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<sup>1</sup>Municipal code references

Driving under the influence: section 15-104.

Minors in beer places, public drunkenness, etc.: title 11 chapter 2.

State law reference

Tennessee Code Annotated, title 57.

(3) "License" means a license issued by the alcoholic beverage commission of the state pursuant to Tennessee Code Annotated, §§ 57-3-204 or 57-3-803, as the same may be amended, supplemented or replaced, provided that the issuance of licenses shall be subject to the restrictions set forth in this article.

(4) "Licensee" means any person to whom a license has been issued.

(5) "Majority owner" means any person who owns fifty-one percent (51%) or more of the business.

(6) "Manufacturer of intoxicating liquors" means one who employs a minimum of twenty-five (25) full-time employees in the manufacturing of alcoholic beverages.

(7) "Near" means any portion of the property containing the business, any portion of another property which adjoins the property containing the business, or any portion of another property which is located within two hundred feet (200') of the property which contains the business.

(8) "Retail sale" means a sale to a consumer or to any person for any purpose other than for resale.

(9) "Retail food store" means an establishment which is eligible for the issuance of a retail food store wine license by the alcoholic beverage commission of the state, pursuant to Tennessee Code Annotated, title 57, chapter 3, part 8.

(10) "Retail liquor store" or "retail package store" means any business which is required to have a license for the retail sale of alcoholic spirituous beverages, including beer and malt beverages, under the provisions of Tennessee Code Annotated, title 57, chapter 3, part 2.

(11) "Wholesale" means a sale to any person for purposes of resale, except that sales by a person licensed under Tennessee Code Annotated, § 57-3-204 to a charitable, nonprofit or political organization possessing a valid special occasion license for resale by such organizations pursuant to their special occasion license shall not be construed as such a sale.

(12) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57, chapter 3.

(13) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, as further defined by Tennessee Code Annotated, §§ 57-3-101 and 57-3-802, as the same may be amended, supplemented or replaced. (as replaced by Ord. #05-08-05, Oct. 2005, and Ord. #16-03-02, March 2016)

8-102. Scope of chapter. This chapter shall govern the manufacture of intoxicating liquor, retail package stores, retail food stores and consumption on-premises (liquor-by-the-drink) of alcoholic beverages in the Town of Atoka.

Nothing in this chapter regulates the distribution, possession, receipt of, sale, storage, tax upon, or transportation upon any beverage of alcoholic content of five (5) percent by weight or less, and no ordinance related thereto is modified

by this chapter. (as added by Ord. #05-08-05, Oct. 2005, and amended by Ord. #16-03-02, March 2016)

8-103. State laws to be complied with. No association, corporation, firm, partnership, or person shall engage in the wholesale or retail sales unless all the necessary state licenses and permits have been obtained. (as added by Ord. #05-08-05, Oct. 2005, and amended by Ord. #16-03-02, March 2016)

8-104. Classes of permits. It shall be unlawful for any corporation, firm, partnership, or person to distribute, sell, or manufacture any intoxicating liquor without first making an application to and obtaining a permit from the Town of Atoka. This application shall be made to the town recorder on such form as the town shall prescribe and shall be accompanied by a non-refundable deposit of two hundred fifty dollars (\$250.00). Each applicant shall be of good moral character and certify that he has read and is familiar with the provisions of this chapter.

There shall be three (3) classes of permits issued by the board of mayor and alderman.

(1) Class A. A manufacturer's permit to any association, corporation, firm, partnership, or person engaged in the manufacturer of intoxicating liquors to distribute, manufacture, possess, sell, store, and transport the product of the manufacturer. The product may not be consumed by the purchaser upon or near the premises of such manufacturer.

(2) Class B. A retail package store, retail food store or "off-site" permit where the beverages are not to be consumed by the purchaser or other persons upon or near the premises of such seller.

(3) Class C. A consumption or "on-site" or "liquor-by-the-drink" permit to any association, corporation, firm, partnership, or person engaged in the sale of intoxicating liquors for consumption on the premises. (as added by Ord. #05-08-05, Oct. 2005, and amended by Ord. #16-03-02, March 2016)

8-105. Restrictions. (1) Zoning. It shall be lawful to distribute, manufacture, sell, or store for resale intoxicating liquors in the Town of Atoka provided that permits authorized under this chapter shall be issued for locations that are zoned as follows:

- (a) Class A permits: Zoning district M.
- (b) Class B permits: Zoning districts M and G-C.
- (c) Class C permits: Zoning districts M, G-C, and N-C.

(2) Proximity restrictions. No retail package store or retail food store shall be permitted except on property in an industrial or general commercial zone within the Town of Atoka, Tennessee. No retail package store or retail food store shall be allowed when it is two hundred feet (200') or nearer from of any church or school. The distance shall be measured in a straight line from the nearest corner of each structure. If any property applying for a retail license

shall be contiguous to another property classified as a hospital, school, church, or other place of public gathering, but meets the distance requirement of two hundred feet (200') feet, then before the permit may be issued, a solid fence of eight feet (8') in height must be erected and properly maintained along the adjoining property line at the expense of the applicant for the retail liquor license. The fence shall be substantially opaque and serve as a visual barrier between the adjoining properties. The fence shall be constructed of masonry, durable hardwoods, or a combination of masonry and durable woods.

(3) Limitation on number of retail package stores. There shall be no more than one (1) retail liquor license issued under this chapter for every five thousand (5,000) persons within the town, according to the last federal or official supplementary census.

(4) Hours for the sale of alcoholic beverages. There shall not be any alcoholic beverages sold on any Sunday between the hours of 3:00 A.M. and 12:00 P.M.

(5) Inspection. The town administrator or his designee shall have the right to inspect the premises of any licensee under this chapter any time the building is occupied. (as added by Ord. #05-08-05, Oct. 2005, and replaced by Ord. #16-03-02, March 2016)

8-106. Certificate of compliance. A certificate of compliance is required for all retail package stores and retail food stores prior to the issuance or renewal of a license by the state alcoholic beverage commission.

(1) Requirements. (a) An application for certificate of compliance must be submitted by all owners, partners, stockholders or directors of the store, whether same is a firm, partnership or corporation and the failure to reveal the financial interest of any person or corporation shall be grounds for the denial of the certificate of compliance and/or the revocation of the certificate of compliance. No applicant shall apply individually, as a member of a partnership, nor as a stockholder, officer or director on more than one (1) application, nor hold more than one (1) permit at the same time.

(b) A copy of each application form, questionnaire, partnership agreements or any other form of material required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with this same application, shall be attached to the town application form and shall become a permanent part thereof as if copied verbatim therein. The town recorder shall review the applications and notify the applicants and the board of mayor and aldermen of any errors and insufficiencies based on the application. The application shall be signed and verified as to all owners, partners, stockholders, directors, or otherwise and shall reflect the names of all persons having any financial interest in and to the proposed liquor store. No sale, transfer or gift of any interest of any nature, either financial or otherwise, shall be made without first



obtaining a permit from the Town of Atoka and the State of Tennessee Alcoholic Beverage Commission.

(2) Issuance. Before any certificate as required by Tennessee Code Annotated, §§ 57-3-208 and 57-3-806 or a renewal as required by § 57-3-213 shall be signed by the mayor or by any aldermen, an application in writing shall be filed with the town recorder on a form to be provided by the town, giving the following information:

- (a) Name, age and address of the applicant.
- (b) Number of years residence in the town.
- (c) Occupation or business and length of time engaged in such occupation or business.

(d) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any town ordinance, and the details of any such conviction. If a corporation, then whether or not the executive officers or those in control have been convicted of a violation of any state or federal law or of the violation of this code or any town ordinance, and the details of any such conviction.

(e) The location of the proposed store for the sale of alcoholic and verification that said location complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business

(f) The name and address of the owner of the property.

(g) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

(3) Filing and processing. All applications submitted in accordance with this chapter shall be filed with the town recorder at least ten (10) days prior to a regular or special called meeting. The board of mayor and aldermen shall receive the applications and take appropriate action in accordance with this chapter.

(4) Investigation fee. All applications for issuance of a certificate of compliance shall be accompanied by a non-refundable fee of two hundred fifty dollars (\$250.00).

(5) Certificate approval. A certificate of compliance shall be authenticated as any other resolution of the board of mayor and aldermen if the board of mayor and aldermen, while in session, shall find that the applicant fulfills the following requirements:

(a) The applicant or applicants who are to be in actual charge of the business are of good moral character and are personally known to the board of mayor and aldermen, or it is found that the applicant's general character is good.

(b) The applicant has not violated any of the provisions of this chapter or the laws of the State of Tennessee and of the United States

which regulate the control of intoxicating liquors, within ten (10) years prior to the date of this application.

(c) The applicant has not been convicted of a felony within ten (10) years prior to the date of application.

(d) In the opinion of the board of mayor and aldermen the applicant is not likely to violate the law regarding sales of alcoholic beverages.

(e) The applicant or applicants meets all the other requirements of this chapter.

Should the board of mayor and aldermen fail to grant or deny the certificate within sixty (60) days of the filing of the application with the town recorder, the certificate shall be deemed as granted under Tennessee Code Annotated, §§ 57-3-208 or 57-3-806. (as added by Ord. #05-08-05, Oct. 2005, amended by Ord. #13-09-01, Sept. 2013, and replaced by Ord. #16-03-02, March 2016)

8-107. Inspection fees. (1) Inspection fee. There is hereby levied and imposed an inspection fee of five percent (5%) on all purchases of alcoholic beverages by the retailer.

(2) Collection by wholesaler from retailer. The inspection fee shall be collected by the wholesaler from the retailer at the time of the sale or at the time the retailer makes payment for delivery of the alcoholic beverages.

(3) Fees to be held until paid to town. Every such wholesaler shall hold the fees imposed under the authority of this section until paid to the Town of Atoka as hereinafter provided.

(4) Monthly report and payment. Each wholesaler making sales to retailers located within the corporate limits of the Town of Atoka shall furnish the Town of Atoka a report monthly, which report shall contain the following:

- (a) The name and address of the retailer;
- (b) The wholesale price of the alcoholic beverages sold to such retailer;
- (c) The amount of tax due under this section; and
- (d) Such other information as may be required by the town recorder.

The monthly report shall be furnished to the town recorder not later than the twentieth (20th) of the month following which the sales were made; and the inspection fees collected by the wholesaler from the retailers located within the town shall be paid to the Town of Atoka at the time the monthly report is made. Wholesalers collecting and remitting the inspecting fee to the Town of Atoka shall be entitled to reimbursement for this collection service a sum not to exceed five percent (5%) of the total amount of inspection fees collected and remitted such reimbursement to be deducted and shown on the monthly report to the town.

(5) Failure to report and remit fees. Each wholesaler who fails to collect and/or remit the inspection fee imposed hereunder shall be liable in addition to the tax for a penalty of ten percent (10%) of the fee due the town which shall be payable to the town.

The Town of Atoka shall have the authority to audit the records of all wholesalers subject to the provisions of this section in order to determine the accuracy of the monthly report.

(6) Disposition of fee. The town recorder shall deposit all funds collected hereunder in the general fund. (as added by Ord. #05-08-05, Oct. 2005, amended by Ord. #13-09-01, Sept. 2013, and replaced by Ord. #16-03-02, March 2016)

8-108. Penalties. The license holders are responsible at all times for the conduct of their business and are at all times directly responsible for the conduct of all employees. Any violation of any section of this chapter, upon conviction, shall be punished according to Tennessee Code Annotated, § 57-3-412. The board of mayor and alderman, at the time it imposes a revocation or suspension request to the alcoholic beverage commission, may offer a permit holder the alternative of paying civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense. This alternative is at the sole discretion of the mayor and board of alderman. If a civil penalty is offered as an alternative to revocation or suspension, the license holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension request is sent to the alcoholic beverage commission. (as added by Ord. #05-08-05, Oct. 2005)

8-109. Specific rules governing retail package stores. (1) Store requirements. No retail liquor store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereinafter provided. When a retail store is located on the corner of two (2) streets, such retail store may maintain a door opening on each of the public streets. In addition, to the fullest extent consistent with the nature of the establishment, full, free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of the sale or dispensing of alcoholic beverages there sold or dispensed. Said building shall be of a permanent type of construction and no store shall be located in a mobile home or other moveable type building. The store shall have night lighting surrounding the outside of the premises of at least two (2) foot candles, shall be equipped with a monitored burglar alarm system and panic alarm system on the inside of the premises, shall be equipped with an operating twenty-four (24) hour color video recording system on the inside and outside of the premises, and shall be of a minimum size of one thousand (1,000) square feet. All retail sales shall be confined to the premises of the structure and no curbside service or drive-through window service shall be permitted.

(2) Residency requirement. No association, corporation, firm, partnership, or person may obtain a retail liquor license unless the majority owner is a citizen of the United States of America and has been a full-time resident of Tipton County, Tennessee for a minimum of two (2) years. The majority owner of the liquor license must submit to the Town of Atoka proof of residency on an annual basis. If the majority owner moves out of the corporate limits of Tipton County, he must notify the town immediately and surrender his license.

(3) Government employees prohibited from obtaining permit. No person, member of a corporation, firm, or partnership shall operate a retail store for the sale of alcoholic beverages herein defined if he is a holder of a public office, either appointed or elected, or who is a public employee of either a national, state, county, or town government except uncompensated appointed members of boards of commissioners who have no duties covering the regulation of permit holders under this chapter. It shall be unlawful for any such person to have any interest in such retail business directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(4) Employees. No retailer shall employ in the distribution, sale, or storage of alcoholic beverage any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony or of any law regulating intoxicating liquors, controlled substances, or moral turpitude and in case an employee should be so convicted after becoming employed he shall immediately be discharged.

(5) Transfer or sale of license prohibited. The holder of a license may not sell, assign, or transfer such license to any other person, and the license shall be good and valid only for the calendar year in which the same was issued and at the location specified in the license.

(6) Undisclosed interest prohibited. It shall be unlawful for any person to have ownership in or to be a director, officer, partner, or stockholder, or to participate directly or indirectly in the profits of any business for which a license is granted hereunder, unless his interest in the business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of the license unless it shall have been fully disclosed in writing by supplement to the application filed with the commissioner of finance and revenue and approved in writing by him before such interest is acquired. Where such interest is owned by any person on or before the application for a license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of the required disclosure of the proposed acquisition of the interest shall be upon both the seller and the purchaser. (as added by Ord. #05-08-05, Oct. 2005, amended by Ord. #07-09-01,

Oct. 2007, Ord. #10-02-01, May 2010, and Ord. #11-10-01, Nov. 2011, and replaced by Ord. #16-03-02, March 2016)

8-110. Specific rules governing on-premise consumption. Privilege license required. (1) Before any person shall engage in the sale of alcoholic beverages, a privilege license must be obtained from the town recorder. There shall be a five hundred dollar (\$500.00) fee for said license. The town recorder shall not issue said license until the applicant has qualified as the licensee under the state statutes and state rules and regulations and has exhibited to the town recorder the state retailer's license issued to the applicant by the alcohol beverage commission.

The board of mayor and aldermen may alter this fee at any time.

(2) It shall be unlawful for any person to engage in the retail sale of alcoholic beverages for on-premise consumption in the Town of Atoka without having first obtained a permit evidencing payment of the aforesaid privilege fee which shall be renewed annually. (as added by Ord. #05-08-05, Oct. 2005)

CHAPTER 2

BEER<sup>1</sup>

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Classes of permits.
- 8-209. Sale of beer permitted only in specified zones.
- 8-210. Publication notice.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Issuance of permits.
- 8-213. Prohibited conduct or activities by beer permit holders.
- 8-214. Restriction on hours for the sale of beer.
- 8-215. Suspension and revocation of beer permits.
- 8-216. Privilege tax.
- 8-217. Civil penalty in lieu of suspension.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. (Ord. No. 89-11A, sec. 2-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. No. 89-11A, sec. 2-202)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record

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<sup>1</sup>Municipal code references

Public drunkenness, minors in beer places, etc.: title 11, chapter 2.

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. No. 89-11A, sec. 2-203 as amended Code 1992)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. (Ord. No. 89-11A, sec. 2-204)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this town in accordance with the provisions of this chapter. (Ord. No. 89-11A, sec. 2-205)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. No. 89-11A, sec. 2-206)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to T.C.A. 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Atoka. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. No. 89-11A, sec. 2-207, as replaced by Ord. #93-11-01, § 1, Dec. 1993)

8-208. Classes of permits. There shall be three (3) classes of permits issued by the beer board, as follows:

(1) Class A. A manufacturer's permit to a manufacturer of beer for the manufacture, possession, storage, sale, distribution and transportation of the product of such manufacturer, not to be consumed by the purchaser upon or near the premises of such manufacturer. A manufacturer of beer shall be defined as one who employs a minimum of twenty-five (25) full-time employees in the manufacturing of beer.

(2) Class B. An "off-site" permit to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser or other persons upon or near the premises of such seller.

(3) Class C. An "on-site" permit to any person or legal organization engaged in the operation of a restaurant wherein the sale of beer is for consumption on the premises. A restaurant shall be defined as a business establishment whose primary business is the sale of prepared food to be consumed on the premises and less than thirty percent (30%) of its income is from the sale of beer and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least thirty (30) people at tables, and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

An "on-site" permit to any person or legal organization that has been granted a liquor by the drink license by the State of Tennessee.

(4) No manufacturer, legal organization or person may hold more than one class of permit at the same location. (Ord. #89-11A, § 2-208, as replaced by Ord. #02-05-03, Aug. 2002, and amended by Ord. #03-03-01, April 2003)

8-209. Sale of beer permitted only in specified zones. It shall hereafter be lawful to sell, store for resale, distribute or manufacture beer in the Town of Atoka, Tennessee, provided that permits authorized by this chapter shall be issued for locations that are now zoned or may be in the future zoned as follows:

- (1) Class A Permits: Zoning Districts M.
- (2) Class B Permits: Zoning Districts GC and NC.
- (3) Class C Permits: Zoning Districts GC and NC. (Ord. #89-11A, § 2-209, deleted by Ord. #98-10-02, Nov. 1998, and replaced by Ord. #02-05-03, Aug. 2002)

8-210. Publication notice. Before the beer board shall issue a permit, it shall cause to be published in a newspaper of general circulation a notice in which the name of the applicant and the address of the location for such permit and the date and the time of its meeting at which such application shall be considered. The notice shall be published not less than ten (10) days prior to such meeting. Such meeting shall be a published hearing for the purpose of hearing the statement of any person or his attorney on any application for license or permit. (Ord. No. 89-11A, sec. 2-210)

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the sale of beer within two hundred (200) feet of any hospital, school, church or



other place of public gathering. The distances shall be measured in a straight line<sup>1</sup> from the nearest corner of the school or church and the nearest corner of the structure where the beer is sold, manufactured or stored. If any property applying for a beer permit shall adjoin another property that is classified as a hospital, school, church, or other place of public gathering, but meets the distance requirement of 200 feet, then before the permit may be issued, a solid fence of eight feet in height shall be erected along the adjoining property line at the expense of the applicant for the beer permit. The fence which shall be substantially opaque and serve as a visual barrier between the adjoining properties shall be composed of masonry, durable woods, or combination of masonry and durable woods. (Ord. #89-11A, § 2-212, as replaced by Ord. #00-04-01, April 2000, and Ord. #05-02-01, Feb. 2005)

8-212. Issuance of permits to persons convicted of certain crimes prohibited. (1) No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) All individuals holding at least a five percent (5%) ownership interest in the applicant must present proof that they have been citizens or lawful residents of the United States for not less than one (1) year immediately preceding the date upon which application is made to the Town Recorder. Applicants may satisfy this requirement by presenting any of the following official documents for inspection by the town recorder:

- (a) A U.S. Passport or Passport Card;
- (b) A Permanent Resident Card ("Green Card"); or
- (c) A birth certificate issued by:
  - (i) The United States government; or
  - (ii) The government of any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States. This requirement shall not apply where no individual holds at least a five percent (5%) ownership interest in the applicant. (Ord. No. 89-11A, sec. 2-211, as replaced by Ord. #15-10-02, Oct. 2015)

8-213. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

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<sup>1</sup>State law reference

See Watkins v. Naifeh, 625 S. W. 2d 104 (1982) and other cases cited therein which establish the straight line method of measurement.

(2) Allow any loud, unusual, or obnoxious noises to emanate from his premises or from any adjacent buildings or property owned, leased, controlled, or in the possession of the beer permit holder.

(3) Make or allow any sale or gift of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person, or any person under twenty-one (21) years of age.

(4) Allow intoxicated persons to loiter about his premises.

(5) Serve, sell, give away, or allow the consumption on his premises or in adjacent buildings of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(6) Allow gambling on his premises.

(7) Allow consumption of any alcoholic beverage on the premises or in or on adjacent buildings or property owned, leased, controlled or in the possession of the beer permit holder.

(8) Allow any open beer to be carried from the building. (Ord. No. 89-11A, sec. 2-214)

8-214. Restriction on hours for the sale of beer. No beer shall be sold within the corporate limits of the Town of Atoka, on Monday through Saturday between the hours of 3:00 a.m. and 5:00 a.m. No beer shall be sold in the Town of Atoka on Sundays between the hours of 3:00 a.m. and 12:00 noon. (Ord. #89-11A, § 2-215, as amended by Ord. #02-05-03, Aug. 2002, and Ord. #11-11-01, Dec. 2011)

8-215. Suspension and revocation of beer permits. The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter or state law or whenever it shall satisfactorily appear that the premises of any person, firm, or corporation holding a permit under this chapter are being maintained and operated in such manner as to be detrimental to public health, safety, and morals. Except as hereinafter provided, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by any member of the beer board. The foregoing shall be in addition to any punishment imposed upon such holder by a court of law. (Ord. #89-11A, § 2-216, as amended by Ord. #02-05-03, Aug. 2002)

8-216. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the Town of Atoka, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the

privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #93-11-01, § 1, Dec. 1993)

8-217. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (Ord. #93-11-01, § 1, Dec. 1993)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. YARD SALES.
3. CABLE TELEVISION.
4. DEFINITIONS FOR SEXUALLY ORIENTED BUSINESSES.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.

(RESERVED FOR FUTURE USE)

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<sup>1</sup>Municipal code references

Building, plumbing, wiring and housing regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

YARD SALES

(RESERVED FOR FUTURE USE)

## CHAPTER 3

CABLE TELEVISION

## SECTION

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television shall be furnished to the Town of Atoka and its inhabitants under franchise granted to Millington CATV, Inc. by the board of mayor and aldermen of the Town of Atoka, Tennessee. The rights, powers, duties and obligations of the Town of Atoka and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see ordinance dated March 12, 1983 in the office of the town recorder.

## CHAPTER 4

DEFINITIONS FOR SEXUALLY ORIENTED BUSINESSES

## SECTION

9-401. Purpose and findings.

9-402. Definitions.

9-401. Purpose and findings. (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the town. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

(2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the board of mayor and aldermen, and on findings incorporated in the cases of *Town of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. Town of Newport, Ky*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. Town of Chattanooga*, 107 F.3d 403 (6<sup>th</sup> Cir. 1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9<sup>th</sup> Cir. 1986); *Hang On, Inc., v. Town of Arlington*, 65 F.3d 1248 (5<sup>th</sup> Cir. 1995); and *South Florida Free Beaches, Inc. v. Town of Miami*, 734 F. 2d 608 (11<sup>th</sup> Cir. 1984), as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma Town, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the board of mayor and aldermen finds that:

(a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.

(b) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g., Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.

(c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. See, e.g., *California v. LaRue*, 409 U.S. 109, 111 (1972); See also Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(d) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

(e) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses. See, e.g., *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 698 (1986); see also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

(f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. See, e.g., Study of Fort Meyers, Florida.

(g) For the period 1985 through 1995, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 523,056. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(h) As of February, 1994, there have been 3,755 reported cases of AIDS in the State of Tennessee.

(i) Since 1981 and to the present, there has been an increasing cumulative number of persons testing positive for HIV antibody test in Tennessee.

(j) The total number of cases of early (less than one year) syphilis in the United States reported during the ten year period



1985-1995 was 367,796. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(k) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,250,581 cases reported during the period 1993-1995. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(l) The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to the newborn.

(m) According to the best scientific, evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g. Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(n) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(o) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented firms. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(p) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. See, e.g., *Barnes v. Glen Theatre*, 501 U.S. 560, 583 (1991).

(q) Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use. See, e.g., *Kev, Inc. v. Kitsap County*, 793 F.2d 1053, 1056 (9<sup>th</sup> Cir. 1986)

(r) The findings noted in paragraphs numbered (a) through (q) raise substantial governmental concerns.

(s) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(t) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore non-existent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and

employees, as well as the citizens of the town. It is appropriate to require reasonable assurances that the license is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(u) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult establishments.

(v) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.

(w) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct this chapter is designed to prevent or who are likely to be witnesses to such activity.

(x) The fact that an applicant for a sexually oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this chapter.

(y) The barring of such individuals from operation or employment in sexually oriented businesses for a period of ten (10) years for a previous felony conviction serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(z) The general welfare, health, morals, and safety of the citizens of this town will be promoted by the enactment of this chapter. (as added by Ord. #00-01-02, March 2000)

9-402. Definitions. (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore" or "adult video store" means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or

(b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

(a) Persons who appear in a state of nudity or semi-nudity; or

(b) Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(d) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

(4) "Adult motel" means a hotel, motel or similar commercial establishment that:

(a) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

(c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.

(5) "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(6) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(7) "Director" means the chief of police and such employee(s) of the police department as he may designate to perform the duties of the director under this chapter.

(8) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

(9) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(10) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(11) "Establishment" means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(c) The additions of any sexually oriented business to any other existing sexually oriented business; or

(d) The relocation of any sexually oriented business; or

(e) A sexually oriented business or premises on which the sexually oriented business is located.

(12) "Licensed day-care center" means a facility licensed by the State of Tennessee, whether situated within the town or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

(13) "Licensee" means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

(14) "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons for consideration.

(15) "Nudity" or "state of nudity" means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the nipple; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(16) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(17) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section IV of this chapter.

(18) "Semi-nude or semi-nudity" means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(19) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

(20) "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or any other business primarily dealing with nude entertainment.

(21) "Specified anatomical areas" means:

(a) The human male genitals in a discernibly turgid state, even if fully and opaquely covered;

(b) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

(22) "Specified criminal activity" means any of the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries.

(b) For which:

(i) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than ten (10) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

(iii) Less than ten (10) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period;

(c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

(23) "Specified sexual activities" means and includes any of the following:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

(b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(c) Masturbation, actual or simulated; or

(d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

(24) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas exist on January 31, 2000.

(25) "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer or securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (as added by Ord. #00-01-02, March 2000)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. County enforcement of animal control ordinances.
- 10-108. Animal waste to be removed.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-102. Keeping near a residence or business restricted. (1) Swine are prohibited within the corporate limits.

(2) Backyard hens are permitted on property zoned for single-family residential use within the corporate limits subject to the following restrictions.

(a) It shall be unlawful for any person to engage in any form of commercial poultry or egg business within the corporate limits of the Town of Atoka.

(b) It shall be unlawful for any household to keep at any time more than three (3) hens per permanent household member or a total of twelve (12) hens, whichever is less. Roosters are not permitted.

(c) No coop or other yard structure where hens are kept shall be maintained closer than fifty feet (50') to any house, or residence other



than that occupied by the owner or occupant of the premises upon which said hens are kept.

(d) It shall be unlawful to violate any other section of this chapter in the keeping of backyard hens within the corporate limits of the Town of Atoka.

(3) Except as permitted in § 10-102(2), no person shall keep or allow any other animal or fowl enumerated in § 10-101 to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line. (as amended by Ord. #12-12-01, Dec. 2012)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition.

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason.

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any animal or fowl.

10-107. County enforcement of animal control ordinances. The Animal Control Department of the County of Tipton shall have the authority to enforce the preceding ordinances within the corporate limits of the Town of Atoka. (as amended by Ord. #11-02-01, Feb. 2011)

10-108. Animal waste to be removed. It shall be unlawful for the owner of any animal to allow such animal to leave a deposit of excreta on any public walks, recreation areas, public parks, other public property, or private property without removing such excreta.

(1) Violation. The owner of any animal shall remove any excreta deposited by such animal on public walks, recreation areas, public parks, or private property other than the premises of the owner(s) of the animal(s).

(2) Proper removal. The removal and disposal of excreta shall be done in a safe and healthful manner. The means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing

such excreta, unexposed to such person or the public. Disposal shall be accomplished by transporting such excreta to a place suitable and regularly reserved for the disposal of human excreta, specifically reserved for the disposal of human excreta, specifically reserved for the disposal of animal excreta, or as otherwise designated as appropriate by the health department.

(3) Possession of means of removal. No person who owns, possesses, or controls any animal shall appear with such animal on any public walks, recreation areas, public parks, other public property, or private property, neither owned nor occupied by such person, without the means of removal of any excreta left by such animal(s).

(4) Exemptions. The requirements for removing animal excreta under this section shall not apply to:

(a) Private property where the owner(s) of an animal(s) own, inhabit, or otherwise exercise control over.

(b) Private property where the owner(s) of an animal(s) have permission of the property owner(s) to leave the excreta.

(c) Where attendants are employed for the purpose of removing the deposits, such as would be the case in a parade, organized animal show (dog show, horse show, etc.), a private animal boarding facility, a riding stable, or other such establishment(s) or event(s).

(d) Any handicapped person, who, by reason of the handicap, is physically unable to comply with the requirements of this section.

(5) Enforcement. Violation of this section shall be enforced(able) in accordance with law by the Atoka Police Department, Atoka Code Enforcement Department, Tipton County Animal Control, Tipton County Health Department, or any other designee of the town administrator.

(6) Penalties. Violators will be subject to a fifty dollar (\$50.00) fine for each occurrence. (as added by Ord. #10-05-01, June 2010)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Running at large prohibited.
- 10-203. Vicious dogs to be securely restrained.
- 10-204. Noisy dogs prohibited.
- 10-205. Confinement of dogs suspected of being rabid.
- 10-206. County enforcement of ordinances.
- 10-207. Destruction of vicious or infected dogs running at large.
- 10-208. Number of dogs, acreage restrictions.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, sections 68-8-101 through 68-8-114) or other applicable law.

10-202. Running at large prohibited.<sup>1</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-203. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons.

10-204. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood.

10-205. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly

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<sup>1</sup>State law reference

Tennessee Code Annotated, sections 68-8-108 and 68-8-109.

designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

10-206. County enforcement of ordinances. The Animal Control Department of Tipton County shall have the power to enforce all ordinances appearing within this chapter. Seizure and disposition of all dogs seized pursuant to this chapter shall be in accordance with the policies of the Health Department of Tipton County. (as amended by Ord. #11-02-01, Feb. 2011)

10-207. Destruction of vicious or infected dogs running at large. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.<sup>1</sup>

10-208. Number of dogs, acreage restrictions. (1) The following prescribes the total number of dogs allowed per specified acreage restrictions:

- (a) Less than one and one-half (1.5) acres - Up to four (4) dogs.
- (b) Between one and one-half (1.5) and five (5) acres - Up to ten (10) dogs.
- (c) More than five (5) acres - No restriction on the total number of dogs

(2) For the purpose of this section, references to dogs shall only refer to dogs older than four (4) months. There are no restrictions on the number of dogs younger than four (4) months old that can be on the property.

(3) This section shall not apply to licensed and permitted veterinarian clinics, kennels, boarding facilities, pet shops or pet dealers authorized to do business in the town. (as added by Ord. #15-01-01, Jan. 2015)

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<sup>1</sup>State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1927).

## TITLE 11

MUNICIPAL OFFENSES<sup>1</sup>

## CHAPTER

1. MISDEMEANORS OF THE STATE ADOPTED.
2. ALCOHOL.
3. GAMBLING, FORTUNE TELLING, ETC.
4. OFFENSES AGAINST THE PERSON.
5. OFFENSES AGAINST THE PEACE AND QUIET.
6. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
7. FIREARMS, WEAPONS AND MISSILES.
8. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
9. OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY, WELFARE.
10. MISCELLANEOUS.

## CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

## SECTION

11-101. Misdemeanors of the state adopted.

11-101. Misdemeanors of the state adopted.<sup>2</sup> All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the Common Law to be misdemeanors are hereby designated and declared to be offenses against this town also. Any violation of any such law within the corporate limits is also a violation of this section. (Ord. No. 16)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

Streets and sidewalks (non-traffic): title 16.

<sup>2</sup>State law reference

For the definition of "misdemeanor," see Tennessee Code Annotated, sections 39-11-110 and 39-11-111.

## CHAPTER 2

ALCOHOL<sup>1</sup>

## SECTION

11-201. Public drunkenness.

11-202. Drinking alcoholic beverages in public, etc.

11-203. Minors in beer places.

11-201. Public drunkenness. See Tennessee Code Annotated, section 39-17-310; see also title 33, chapter 8.

11-202. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place. (Ord. No. 89-11B, sec. 1)

11-203. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption.

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<sup>1</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated section 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

## CHAPTER 3

GAMBLING, FORTUNE TELLING, ETC.

## SECTION

11-301. Gambling prohibited.

11-302. Fortune telling, etc.

11-301. Gambling prohibited. See Tennessee Code Annotated, section 39-17-501 et seq.

11-302. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers.

CHAPTER 4

OFFENSES AGAINST THE PERSON

SECTION

11-401. Assault and battery.

11-401. Assault and battery. It shall be unlawful for any person to commit an assault and battery upon another person.



## CHAPTER 5

OFFENSES AGAINST THE PEACE AND QUIET

## SECTION

11-501. Disturbing the peace.

11-502. Anti-noise regulations.

11-501. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

11-502. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns. The sounding of any horn or other device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of person in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper town authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(1) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Town vehicles. Any vehicle of the town while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the town, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit.

## CHAPTER 6

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

## SECTION

11-601. Escape from custody or confinement.

11-602. Impersonating a government officer or employee.

11-603. False emergency alarms.

11-601. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement.

11-602. Impersonating a government officer or employee. No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee.

11-603. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act.

CHAPTER 7

FIREARMS, WEAPONS AND MISSILES

SECTION

11-701. Air rifles, etc.

11-702. Throwing missiles.

11-703. Discharge of firearms.

11-701. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method.

11-702. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person.

11-703. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the municipality, provided, however, it shall be lawful for any individual to discharge a firearm while engaged in hunting where authorized by state law and/or regulation of the Tennessee Wildlife Resources Agency. (as replaced by Ord. #18-02-01, Feb. 2018)

## CHAPTER 8

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

## SECTION

11-801. Trespassing.

11-802. Malicious mischief.

11-803. Interference with traffic.

11-801. Trespassing.<sup>1</sup> (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.<sup>2</sup>

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<sup>1</sup>State law reference

Subsections (1) through (4) of this section were taken substantially from Tennessee Code Annotated, section 39-14-405.

<sup>2</sup>Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

11-802. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him.

11-803. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

CHAPTER 9

OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY, WELFARE

SECTION

11-901. Abandoned refrigerators, etc.

11-902. Caves, wells, cisterns, etc.

11-903. Blowing grass and debris into public streets.

11-901. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door or otherwise sealing the door in such a manner that it cannot be opened by any child.

11-902. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard.

11-903. Blowing grass and debris into public streets. (1) It shall be unlawful for any person to blow or otherwise place grass clippings, leaves or other yard debris on to any public street or alley where the street or alley has curbing, guttering and storm water inlets.

(2) Any violation of this section shall be punishable by a fine of fifty dollars (\$50.00). (as added by Ord. #16-12-01, Dec. 2016)



CHAPTER 10

MISCELLANEOUS

SECTION

11-1001. Curfew for minors.

11-1001. Curfew for minors. It shall be unlawful for any person under the age of eighteen (18) years to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, or any other adult person having lawful custody of such minor. (as added by Ord. #97-11-05, Dec. 1997)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. MECHANICAL CODE.
4. RESIDENTIAL CODE.
5. CODE ADMINISTRATION.

CHAPTER 1

BUILDING CODE<sup>1</sup>

SECTION

- 12-101. Building code adopted.  
12-102. Modifications.  
12-103. Available in recorder's office.  
12-104. Violations.  
12-105.--12-109. Deleted.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,<sup>2</sup> 2012 edition, as prepared and adopted by the International Code Council, Inc. is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code.(as replaced by Ord. #05-04-01, May 2005, Ord. #11-05-01, Aug. 2011, and Ord. #16-03-03, March 2016)

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<sup>1</sup>Municipal 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.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-102. Modifications. The following sections of the International Building Code, 2012 edition, are hereby revised as follows:

(1) The Town of Atoka shall be inserted in all blanks referring to the name of the jurisdiction.

(2) Add the following text to Section 105.5 "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) In Section 1612.3 "June 7, 2011" is to be inserted in the date of issuance blank.

(4) Chapter 11, relating to accessibility, is deleted in its entirety

(5) In Section 34.12.2 "May, 2005" is to be inserted in the date blank.

(6) All engineered drawings of multi-family, commercial or industrial structures to be built in the Town of Atoka are subject to code enforcement review.

(7) Permit fees required to be collected under the building code shall be established from time to time by resolution adopted by the Board of Mayor and Aldermen. (as amended by Ord. #03-08-05, Sept. 2003, and replaced by Ord. #16-03-03, March 2016)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, section 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. 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.

12-105.--12-109. Deleted. (as deleted by Ord. 16-03-03, March 2016)

CHAPTER 2

PLUMBING CODE<sup>1</sup>

SECTION

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

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the International Plumbing Code,<sup>2</sup> 2012 edition with all amendments as prepared and adopted by the International Code Council, Inc. is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (as replaced by Ord. #16-03-04, March 2016)

12-202. Modifications. The following sections of the International Plumbing Code, 2012 edition, are hereby revised as follows:

- (1) The Town of Atoka shall be inserted in the blanks referring to the name of the jurisdiction.
- (2) Add the following text to Section 106.5.3: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."
- (3) In Section 106.6.3, paragraphs #2 and #3 shall be deleted.
- (4) In Section 108.4, the blanks referring to violations shall be inserted with "misdemeanor" and "fifty dollars" (\$50.00) as appropriate; and all references to imprisonment shall be deleted.

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(5) In Section 305.6.1, "18 inches" shall be inserted into the blanks referring to minimum depths for underground sanitary sewer installations.

(6) In Section 603.2, Exception #2 shall be deleted.

(7) In Section 904.1 "12 inches" shall be inserted into the blanks referring to minimum heights for roof vents.

(8) Permit fees required to be collected under the building code shall be established from time to time by resolution adopted by the Board of Mayor and Aldermen. (as replaced by Ord. #16-03-04, March 2016)

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. 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.

CHAPTER 3

MECHANICAL CODE

SECTION

- 12-301. Mechanical code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violations.

12-301. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516 and for purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the International Mechanical Code,<sup>1</sup> 2012 edition, as prepared and adopted by the International Code Council, Inc. is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (as added by Ord. #16-03-05, March 2016)

12-302. Modifications. The following sections of the International Plumbing Code, 2012 edition, are hereby revised as follows:

(1) The Town of Atoka shall be inserted in the blanks referring to the name of the jurisdiction.

(2) Add the following text to Section 106.5.3: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) The fee schedule specified in Sections 106.6 and 106.6.2 shall be as periodically set by the Board of Mayor and Aldermen.

(4) In Section 108.4, the blanks referring to violations shall be inserted with "misdemeanor" and "fifty dollars" (\$50.00) as appropriate; and all references to imprisonment shall be deleted.

(5) In Section 108.5, "\$50.00" shall be inserted into the blanks specifying the maximum fine for violation of the code. (as added by Ord. #16-03-05, March 2016)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-303. 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. (as added by Ord. #16-03-05, March 2016)

12-304. Violations. 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. (as added by Ord. #16-03-05, March 2016)

CHAPTER 4

RESIDENTIAL CODE

SECTION

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

12-401. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Residential Code,<sup>1</sup> 2012 edition, as prepared and adopted by the International Code Council, Inc. is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the residential code. (as added by Ord. #16-03-06, March 2016)

12-402. Modifications. The following sections of the International Residential Code, 2012 edition, are hereby revised as follows:

(1) The Town of Atoka shall be inserted in the blanks referring to the name of the jurisdiction.

(2) Add the following text to Section R105.5: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) The following design criteria will be inserted in the blanks for design criteria of Table R301.2 (1).

- a. Ground Snow Load - 10
- b. Wind Speed - 90
- c. Topographic effects - No
- d. Seismic Design Category - D1
- e. Weathering Index for Concrete - Moderate
- f. Frost Line Depth - 15"
- g. Termite Infestation Probability - Moderate to Heavy
- h. Ice Barrier Underlayment Requirement - No

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.



- i. Flood Hazard - FIRM Map 47167C0310F dated 12/19/2006 and FIRM Map 47167C0320G dated 05/04/2009
  - j. Air Freeze Index - 393 per 100 year value
  - k. Mean Annual Temp - 59 degrees
- (4) Delete the following text from Section R302.2 "Exception: A common 1-hour fire-resistant wall" and substitute the following: "Exception: A common 2-hour fire-resistant wall"
- (5) Section R313 "Automatic Sprinkler Systems" shall be deleted in its entirety.
- (6) Chapter 11, relating to energy conservation, shall be deleted in its entirety.
- (7) In Section P2603.6.1 insert the words "18 inches" into the appropriate spaces for establishing sewer depths.
- (8) Chapters 34 through 43, inclusively, shall be deleted in their entirety.
- (9) That any building constructed for the purposes of residential occupancy and use, regardless of the zoning classification, shall have all floor joists, wall studs, ceiling joists, rafters, and trusses be installed at sixteen inches (16") on center. (as added by Ord. #16-03-06, March 2016)

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. (as added by Ord. #16-03-06, March 2016)

12-404. Violations. 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. (as added by Ord. #16-03-06, March 2016)

CHAPTER 5

CODE ADMINISTRATION

SECTION

12-501. Building inspector.

12-502. Necessity of building permit.

12-503. Application for permit.

12-504. Occupancy permit.

12-505. Permit fees.

12-505. Penalty for violations.

12-501. Building inspector. The provisions of this title shall be administered and enforced by the building inspector, appointed by the board of mayor and aldermen, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this title. (as added by Ord. #16-03-07, March 2016)

12-502. Necessity of building permit. It shall be unlawful to commence excavation for the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued a building permit for such work. (as added by Ord. #16-03-07, March 2016)

12-503. Application for permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, height and location on the lot of all buildings to be erected, altered or moved and of any building already on lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector for determining whether the provisions of this section or any other applicable sections are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this and other applicable sections of the Town of Atoka, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with the cause. The issuance of a building permit shall in no case be construed as waiving any provision of this section or any other applicable section. A building permit shall become void six months from the date of issuance unless substantial progress has been made by that date on the project described therein. No building permit shall be issued until the building inspector receives written approval of the proposed use from the Tipton County Health Department. A complete record of all such applications, sketches and plans shall be maintained in the town hall. (as added by Ord. #16-03-07, March 2016)

12-504. Occupancy permit. No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the building inspector shall have issued a certificate of occupancy stating that such land, building, or part thereof and the proposed use thereof are found to be in conformity of the provisions of this chapter and other applicable ordinances. Within two days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the building inspector to make a final inspections thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this chapter and other applicable ordinances; or if such certificate is refused, to state such refusal in writing with the cause. (as added by Ord. #16-03-07, March 2016)

12-505. Permit fees. The following fees shall be charged for permits issued by the Town. Unless otherwise noted below, the total valuation shall be based on seventy dollars (\$70.00) per square foot under roof. Under roof shall consist of all heated and unheated space.

Total Valuation	Permit Fee
\$1,000.00 and less	\$20.00
\$1,001 to \$50,000	\$20.00 for the first \$1,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$50,000.00
\$50,001 to \$100,000	\$167.00 for the first \$50,000.00 plus \$2.50 for each additional thousand or fraction thereof, to and including \$100,000.00
\$100,001 to \$500,000	\$292.00 for the first \$1,000.00 plus \$2.00 for each additional thousand or fraction thereof, to and including \$500,000.00
\$500,001 and above	\$1,092.00 for the first \$500,000.00 plus \$1.50 for each additional thousand or fraction thereof.

- Re-inspection fee shall be twenty-five dollars (\$25.00) for each failed inspection for a permit.

- All accessory structures, including but not limited to sheds, freestanding garages and carports shall be permitted at a flat fee of one hundred dollars (\$100.00).
- All manufactured homes, mobile homes, commercial, industrial, institutional and other construction shall be permitted at the same rate as listed in the schedule of permit fees in this section.
- Swimming pools shall be permitted at seventy-five dollars (\$75.00) or at the rate determined under the Schedule of Permit Fees in this section based upon the actual construction value, whichever is greater.
- Cellular communication towers shall be permitted at two percent (2%) of the total contracted cost for construction or upgrade.
- Temporary permits shall be permitted at one hundred and fifty dollars (\$150.00) each. Temporary permits shall be valid for up to thirty (30) days.
- Signs shall be permitted at a rate of fifty dollars (\$50.00) plus one dollar (\$1.00) per square foot of sign face. In the event of a double-sided sign, the square footage calculation shall include both sides of the sign. (as added by Ord. #16-03-07, March 2016, and replaced by Ord. #17-06-04, June 2017)

12-506. Penalty for violations. Any person violating this title shall be guilty of a misdemeanor, and conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall constitute a separate offense. (as added by Ord. #16-03-07, March 2016)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. AUTOMOBILE GRAVEYARD REGULATION.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds, grass and dirty lots.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

13-103. Weeds, grass and dirty lots. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the code enforcement officer to cut such vegetation when it has

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: section 16-107.

Toilet facilities in beer places: section 8-213(12).

Wastewater treatment: title 18, chapter 2.

reached a height of over one foot (1'). It shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals. (as replaced by Ord. #11-11-02, Dec. 2011)

13-104. Overgrown and dirty lots.<sup>1</sup> (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, section 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The board of commissioners shall designate an appropriate department or person to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of commissioners to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of section 13-104 of the Atoka Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, section 6-54-113, and that the

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<sup>1</sup>Municipal code reference

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

This title, chapter 2.

property of such owner may be cleaned-up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and

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

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Tipton County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These cost shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the town recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of board of commissioners under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds,

underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the town recorder and dispose of such animal in such manner as the town recorder shall direct.

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.

13-107. Violations and penalty. Violations of this chapter shall be punished in accordance with the general penalty provision of this municipal code of ordinances except that violations of section 13-104 shall be handled in accordance with the provisions of that section.



## CHAPTER 2

SLUM CLEARANCE<sup>1</sup>

## SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, section 13-21-101 et seq., if the board of mayor and aldermen of the Town of Atoka finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town then they may take whatever measures authorized under this chapter to alleviate the condition.

13-202. Definitions. (1) "Municipality" shall mean the Town of Atoka, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(3) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, section 13-21-101 et seq.

(4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

state relating to health, fire, building regulations, or other activities concerning structures in the town.

(5) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order: (a) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or (b) if the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed

fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful."

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the office of the register of deeds of Tipton County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed upon the tax rolls of the town of Atoka as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Tipton County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the Town of Atoka to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other

residents of the Town of Atoka; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness.

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Tipton County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such suit in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

- (1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

## CHAPTER 3

JUNKYARDS

## SECTION

## 13-301. Junkyards.

13-301. Junkyards.<sup>1</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

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<sup>1</sup>State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

## CHAPTER 4

AUTOMOBILE GRAVEYARD REGULATION

## SECTION

- 13-401. Automobile graveyards declared a public nuisance.
- 13-402. Definitions.
- 13-403. Violations a civil offense.
- 13-404. Order of removal.
- 13-405. Exceptions.
- 13-406. Enforcement.
- 13-407. Penalty for violations.
- 13-408. Procedure under other law.

13-401. Automobile graveyards declared a public nuisance. The accumulation or storage of junk vehicles on public and private property is hereby found to create an unsightly condition upon the property tending to reduce the value thereof, to invite plundering, to create fire and safety hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. The accumulation or storage of junk vehicles on public and private property creates an automobile graveyard, and is further found to promote urban blight and deterioration in the city and to violate the zoning regulations of the city in many instances, particularly where such vehicles are maintained in the required yard areas of residential property. Such junk vehicles are in the nature of rubbish, litter, and unsightly debris in violation of health and sanitation laws. Therefore, the storage of junk vehicle, or the accumulation of an automobile junkyard, on public and private property, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in this code. (as added by Ord. #99-01-01, March 1999)

13-402. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

- (1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.
- (2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.
- (3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street which vehicles ordinarily use for travel.
- (4) "Automobile graveyard" means any structure, establishment, or place of business which is maintained, used or operated for refurbishing, storing,



keeping, buying, or selling wrecked, scrapped ruined, or dismantled motor vehicles or motor vehicle parts. Four (4) or more such vehicles will constitute an automobile graveyard.

(5) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, buggies, wagons, and earth-moving equipment, and any part of such machines.

(6) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one, or in a combination of any two or more, of the following ways, that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public street and highways, under it's own power if self-propelled, or while being towed or pushed if not self-propelled:

(a) Flat tire, missing tire, missing wheel, or missing or partially or totally disassembled tire and wheel;

(b) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including but not limited to engine, transmission, transaxle, drive shaft, differential or axle;

(c) Extensive exterior body damage, or missing or partially or totally disassembled essential body parts, including but not limited to fenders, doors, engine hood, bumpers, windshield, or windows;

(d) Missing, or partially or totally disassembled essential interior parts, including but not limited to driver's seat, steering wheel, instrument panel, clutch, brake or gear shift lever;

(e) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including but not limited to starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator;

(f) Interior is a container for metal, glass, paper, rags, or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

(g) Vehicle is lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method or;

(h) General environment in which the vehicle sits, including but not limited to vegetation that has grown up around, in or through the vehicle, collection of pools of water in the vehicle, or accumulation of other garbage or debris around the vehicle. (as added by Ord. #99-01-01, March 1999)



13-403. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park, and or in any other manner, place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or abandon the vehicle;

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or abandon the vehicle; or

(3) To park, store, keep, or maintain on private property a junk vehicle for more than thirty (30) days. (as added by Ord. #99-01-01, March 1999)

13-404. Order of removal. Upon the failure, neglect or refusal to abate by any owner-occupant or owner of private property who has been notified at least thirty (30) days in advance, and ordered to abate such public nuisance within the times as set forth below, the Atoka City Police Department is hereby authorized, empowered and directed to order removal of the same and dispose of it.

Such removal shall be the sole responsibility of the owner of such nuisance. The owner shall remove the nuisance within sixty (60) days of notification; any violations to this chapter will comply with § 13-407 below. (as added by Ord. #99-01-01, March 1999)

13-405. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junk vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance or other regulations governing the building in which such vehicle is enclosed or the property on which such building is located.

(b) A junk vehicle may be repaired or maintained in a carport or other covered but open structure as long as repairs are complete within 30 days.

(c) A junk vehicle shall not be present in the front or side yard or within 15 feet of the property line.

(d) The junk vehicle is parked or stored on property lawfully zoned for a business engaged in wrecking, junking, or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, property, maintenance

and other regulations governing businesses engaged in wrecking, junking or repairing vehicles or the property on which any such business is located.

(e) No person shall park, store, keep or maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of any citizens of the city.

(f) It shall be permissible for a person to park, store or keep a vehicle on private property, for a set period of time as set by the board of mayor and alderman for the purpose of repairing and/or refurbishing one vehicle at a time. (as added by Ord. #99-01-01, March 1999)

13-406. Enforcement. (1) This chapter may be enforced in accordance with Tennessee Code Annotated (hereinafter referred to as "T.C.A.") § 54-20-109 and all provisions thereof. (as added by Ord. #99-01-01, March 1999)

13-407. Penalty for violations. Any person determined to be in violation of this chapter shall be subject to a civil penalty of \$50.00 for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as added by Ord. #99-01-01, March 1999, and amended by Ord. #12-04-05, April 2012)

13-408. Procedure under other law. Nothing in this chapter shall prevent the city from taking any action permitted by T.C.A. § 55-16-103 et seq. as to abandoned, immobile, or unattended motor vehicles nonpublic or private property. (as added by Ord. #99-01-01, March 1999)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOMES (TRAILERS).

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.
- 14-104. Compensation of planning commission.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, section 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor or an alderman of his/her designation and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. Pursuant to T.C.A. 13-3-101(d) members of the planning commission shall receive such compensation as may be ordained by the Board of Mayor and Aldermen. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor or his/her designee and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive or designated membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive or designated member at his/her will and pleasure. (Ord. dated November 18, 1986, as amended by Ord. #13-03-01, March 2013)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13.

14-103. Additional powers.<sup>1</sup> Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions.

14-104. Compensation of planning commission. Each member of the Town of Atoka Planning Commission shall be paid the sum of one hundred dollars (\$100.00) for each meeting attended, regular or called. Payment shall be made quarterly. (as added by Ord. #01-05-02, May 2001, and amended by Ord. #14-07-01, July 2014)

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<sup>1</sup>State law reference

To make this section effective the municipality should request the State Planning Office, under authority granted by Tennessee Code Annotated, section 13-3-102 to designate the municipal planning commission as a regional planning commission.

## CHAPTER 2

ZONING ORDINANCE

## SECTION

14-201. Land use to be governed by zoning ordinance.

14-202. Compensation of board of zoning appeals.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Atoka shall be governed by an Ordinance dated March 1979, Titled "Zoning Ordinance, Atoka, Tennessee," and any amendments thereto.<sup>1</sup>

14-202. Compensation of board of zoning appeals. Each member of the Town of Atoka Board of Zoning Appeals shall be paid the sum of twenty-five (\$25.00) dollars for each meeting attended, regular or called. Payment for attendance at meetings shall be quarterly. (as added by Ord. #01-05-02, May 2001)

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<sup>1</sup>Ordinance March 1979, and any amendments thereto, are published as separate documents and are of record in the office of the town recorder.

## CHAPTER 3

MOBILE HOMES (TRAILERS)

## SECTION

- 14-301. Definitions.
- 14-302. Location of mobile homes.
- 14-303. Previous mobile homes "grandfathered."
- 14-304. State tax sticker required.
- 14-305. Permit for mobile home park.
- 14-306. Inspections by town building inspector.
- 14-307. Location and planning.
- 14-308. Minimum size of mobile home park.
- 14-309. Minimum number of spaces.
- 14-310. Minimum mobile home space and spacing of mobile homes.
- 14-311. Water supply.
- 14-312. Sewage disposal.
- 14-313. Refuse.
- 14-314. Electricity.
- 14-315. Streets.
- 14-316. Parking spaces.
- 14-317. Buffer strip.
- 14-318. Permit for mobile home parks.
- 14-319. Permit fees for mobile home parks.
- 14-320. Application for permit.
- 14-323. Enforcement.
- 14-324. Board of appeals.
- 14-325. Appeals from board of appeals.
- 14-326. Violation and penalty.

14-301. Definitions. (1) "Mobile home." A detached single family dwelling unit with any or all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, connection to utilities and the like.

(2) "Mobile home park." The term mobile home park shall mean any plot of ground on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located.

(3) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(4) "Health officer." The director of the town, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(5) "Permit (license)." The permit required for trailer parks and single mobile homes. Fees charged under the license requirement are for inspection and the administration of this chapter. (Ord. No. 19, §1)

14-302. Location of mobile homes. It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the town where the mobile home is outside of any designated and licensed mobile home park after January 6, 1975. (Ord. No. 19, §2.1)

14-303. Previous mobile homes "grandfathered." The owner or occupant of any mobile home already placed on a lot, on or before January 6, 1975 will be permitted to reside at the present location. The mobile home may be replaced by another mobile home of similar size provided that the original mobile home is removed from the lot and either brought into compliance with all provisions of this chapter or properly disposed of. This section is intended to allow for upgrades and/or replacements of existing "grandfathered" mobile homes and is not intended to allow for additional mobile homes on "grandfathered" lots. In the case of a violation of this section, the mobile home owner shall be given a period not to exceed thirty (30) days in which to remove the mobile home and to comply with all provisions of this chapter. (Ord. No. 19, §2.2, as replaced by Ord. #12-06-03, June 2012)

14-304. State tax sticker required. No mobile home shall be used, placed, stored or serviced by utilities within any mobile home park in the town unless there is posted near the door of the mobile home a valid Tennessee State Tax Sticker. (Ord. No. 19, §2.3)

14-305. Permit for mobile home park. No place or site within the town shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the town builder inspector in the names of such person or persons for the specific mobile home park. The town building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

14-306. Inspections by town building inspector. The town building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The town building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of

inspecting and investigating conditions relating to the enforcement of this chapter.

14-307. Location and planning. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the town planning commission and town building inspector. The town planning commission and building inspector may promulgate regulations for mobile home park location and plan approval, which shall provide for adequate space, lighting, drainage, sanitary facilities, safety features, and service buildings as may be necessary to protect the public health, prevent nuisances, and provide for the convenience and welfare of the mobile home park occupants.

14-308. Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than two (2) acres. The tract of land shall consist of a single plat so dimensioned and related as to facilitate efficient design and management. (Ord. No. 19, §3.6)

14-309. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is three (3). (Ord. No. 19, §3.7)

14-310. Minimum mobile homes space and spacing of mobile homes. All mobile home parks developed in the Town of Atoka shall meet certain development requirements. A site plan drawn by a licensed engineer bearing a certificate that the final plan as shown is true and correct and shows the development requirements will be met and will be submitted to the planning commission as described in section 14-318 of this chapter. The site plan shall include the following information:

(1) Exterior yards. No mobile homes or recreation vehicles will be situated in land adjacent to the boundaries of the mobile home park as set forth below.

(a) Mobile homes in the mobile home park will be setback a minimum of thirty-five (35) feet from any public street.

(b) Mobile homes in the mobile home park will be setback a minimum of twenty (20) feet from the side and rear boundary.

(2) Mobile home space. The site plan will show that there is a plot for each mobile home with a minimum size of three thousand (3000) square feet and that each space shall front on a street which is a part of the mobile home park street system. In addition, each mobile home space shall contain:

(a) In no case shall the minimum width be less than forty (40) feet and the minimum depth less than seventy-five (75) feet.

(b) Minimum depth with end parking of an automobile shall be equal to the length of the mobile home plus thirty (30) feet;



(c) Minimum width with side or street parking of an automobile shall be equal to the width of mobile home plus fifteen (15) feet;

(d) A minimum of fifteen (15) feet of open space between mobile homes or any attachment such as a garage or porch. If the construction of additional rooms or covered areas is to be allowed beside the mobile homes the mobile home spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space.

(e) A minimum of fifteen (15) feet end to end spacing between trailers and any building or structure.

(3) Location of mobile homes on spaces. (a) All mobile homes permitted under this section shall be set upon concrete pads and elevated on blocks or steel piers which are constructed upon a concrete footing, and anchored with approved anchors. Each concrete pad shall be a minimum of ten (10) feet wide.

(b) All mobile homes moved into any mobile home park, existing or new after the effective date of this chapter shall be underskirted to prevent the accumulation of refuse and rodents.

(4) Location of accessory buildings. One accessory building not to exceed one hundred fifty (150) square feet may be located at least ten (10) feet from the principal trailer. In addition, the accessory shall conform to the following standards:

(a) No accessory buildings shall be utilized for human occupation.

(b) No accessory building shall extend into the required side yard.

(c) Accessory buildings may extend into the rear yard but shall be located a distance from the rear property line equal to the height of the structure.

(d) No accessory building shall exceed twenty (20) feet in height.  
(Ord. No. 87-03)

14-311. Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least twice every month and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the trailer court operator to provide such treatment as is deemed necessary by the health officer to maintain a safe, potable water supply. Water shall be furnished at the

minimum rate of two hundred fifty (250) gallons per day per mobile home space. An additional water service connection shall be provided for each mobile home space. (Ord. No. 19, §3.9)

14-312. Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Each mobile home space shall be equipped with at least a four (4) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. The sewer connection shall be protected by a concrete collar, at least three (3) inches deep and extending twelve (12) inches from the connection in all directions. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line. Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and sub-surface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home on such a single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate should be determined as outlined in Appendix A of the Tennessee Department of Public Health Bulletin, entitled "Recommended Construction of Large Septic Tank Disposal Systems for Schools, Factories and Institutions". (This bulletin is available on request from the department.) No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used. (Ord. No. 19, §3.10)

14-313. Refuse. The storage, collection and disposal of refuse, in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week. (Ord. No. 19, §3.11)

14-314. Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electric Code and revised

Tennessee Department of Insurance and Banking Regulations, entitled "Regulations Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization. (Ord. No. 19, §3.12)

14-315. Streets. Minimum widths of various streets within mobile home parks shall be:

All streets . . . . . 18 ft.

Streets shall have a compacted gravel base consisting of size (Grade D) stone compacted to six (6) inches and a paved surface of asphaltic concrete (hot mix) -- as specified in the Tennessee Department of Highways Standard Specifications for Road and Bridge Construction, 1968, Section 411 -- compacted to one (1) inch with not less than an average weight of one hundred (100) pounds per square yard. (Ord. No. 87-03, §3.14)

14-316. Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least two (2) car spaces for each mobile home lot. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park. (Ord. No. 19, §3.15)

14-317. Buffer strip. An evergreen buffer strip consisting of trees, shrub or hedge with a minimum planted height of not less than six (6) feet which will grow to a height of not less than ten (10) feet and be spaced not more than ten (10) feet apart shall be planted along all boundaries of the mobile home park. The above requirement is subject to planning commission approval. (Ord. No. 19, §3.16)

14-318. Permit for mobile home parks. It shall be unlawful for any person or persons to maintain or operate within the corporate limits of the town, a mobile home park unless such person or persons shall first obtain a permit therefor. (Ord. No. 19, §4.1)

14-319. Permit fees for mobile home parks. The annual permit fee for mobile home parks shall be twenty-five (25) dollars for the first three (3) spaces approved and ten (10) dollars for each space approved thereafter. (Ord. No. 19, § 5.1)

14-320. Application for permit. Application for a mobile home park shall be filed with and issued by the town building inspector subject to the planning commission's approval of the mobile home park plan. Application shall be in writing and signed by the applicant and shall be accompanied with an approved plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

- (1) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
- (2) Name and address of owner of record;
- (3) Proposed name of park;
- (4) North point and graphic scale and date;
- (5) Vicinity map showing location and acreage of mobile home park;
- (6) Exact boundary lines of the tract by bearing and distance;
- (7) Names of owners of record of adjoining land;
- (8) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
- (9) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;
- (10) Provisions for water supply, sewerage and drainage;
- (11) Such information as may be required by the town to enable it to determine if the proposed park will comply with legal requirements; and
- (12) The applications and all accompanying plans and specifications shall be filed in triplicate. (Ord. No. 19, §6.1)

14-321. Enforcement. It shall be the duty of the county health officer and town building inspector to enforce provisions of this chapter. (Ord. No. 19, Art. VII)

14-322. Board of appeals. The Atoka Board of Zoning Appeals shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, may appeal for and receive a hearing by the Atoka Board of Zoning Appeals for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of this chapter, the Atoka Board of Zoning Appeals may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector. (Ord. No. 19, §8.1)

14-323. Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the town aggrieved by any decision

of the Atoka Board of Zoning Appeals may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee. (Ord. No. 19, §8.2)

14-324. Violation and penalty. Any person or corporation who violates the provisions of the chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the town building inspector or county health officer after receipt of thirty-five (35) days written notice of such requirements, shall be fined not less than twenty-five (\$25) dollars nor more than fifty (\$50) dollars for each offense and each day of continued violation shall constitute a separate offense, subsequent to receipt of said thirty-five (35) day notice. (Ord. No. 19, Art. IX)

## TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

## CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. OPERATION OF HEAVY OR LARGE VEHICLES ON CITY STREETS  
WITHIN RESIDENTIAL NEIGHBORHOODS PROHIBITED.

## CHAPTER 1

MISCELLANEOUS<sup>2</sup>

## SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. Driving under the influence.
- 15-105. One-way streets.
- 15-106. Unlaned streets.
- 15-107. Laned streets.
- 15-108. Yellow lines.
- 15-109. Miscellaneous traffic control signs, etc.
- 15-110. General requirements for traffic control signs, etc.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under Tennessee Code Annotated, section 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, section 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, section 55-10-101 et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, section 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, section 55-10-501.

- 15-111. Unauthorized traffic control signs, etc.
- 15-112. Presumption with respect to traffic control signs, etc.
- 15-113. School safety patrols.
- 15-114. Driving through funerals or other processions.
- 15-115. Clinging to vehicles in motion.
- 15-116. Riding on outside of vehicles.
- 15-117. Backing vehicles.
- 15-118. Projections from the rear of vehicles.
- 15-119. Causing unnecessary noise.
- 15-120. Vehicles and operators to be licensed.
- 15-121. Passing.
- 15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-123. Delivery of vehicle to unlicensed driver, etc.
- 15-124. Duty to drive at safe speed, maintain lookout and keep vehicle under control.
- 15-125. Compliance with financial responsibility law required.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9.

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose.

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property.

15-104. Driving under the influence. (See Tennessee Code Annotated, sections 55-10-401, 55-10-303, and 55-10-307).

15-105. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction.

15-106. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the town for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

15-107. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary.

15-108. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street.

15-109. Miscellaneous traffic control signs, etc.<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer.

15-110. General requirements for traffic control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: sections 15-505--15-509.



of the Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>1</sup> published by the U.S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the town. This section shall not be construed as being mandatory but is merely directive.

15-111. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal.

15-112. Presumption with respect to traffic control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper town authority.

15-113. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals.

15-114. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

15-115. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place.

15-116. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any

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<sup>1</sup>This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks.

15-117. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

15-118. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle.

15-119. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

15-120. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law."

15-121. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.

(1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor capacity that does not exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

15-123. Delivery of vehicle to unlicensed driver, etc. (1) Definitions.

(a) "Adult" shall mean any person eighteen years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Atoka unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless,

careless, or unlawful manner, or in such a manner as to violate the ordinances of the town.

15-124. Duty to drive at safe speed, maintain lookout and keep vehicle under control. Notwithstanding any speed limit or zone in effect at the time, or right of way rules that may be applicable, every driver shall:

- (1) Operate his vehicle at a safe speed.
- (2) Maintain a safe lookout.
- (3) Use due care to keep his vehicle under control. (as added by Ord. #01-01-01, Feb. 2001)

15-125. Compliance with financial responsibility law required. (1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under Title 55, Chapters 8 and 10, parts 1-5, Chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, Chapter 12, Title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, Chapter 12, Title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty

prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #02-03-01, April 2002)

## CHAPTER 2

EMERGENCY VEHICLES

## SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police.

15-202. Operation of authorized emergency vehicles.<sup>1</sup> (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(2) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(3) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

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<sup>1</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
section 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman.



CHAPTER 3

SPEED LIMITS<sup>1</sup>

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. Along Highway 51.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of twenty miles per hour (20 mph) except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (as amended by Ord. #14-02-01, Feb. 2014)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets.

15-303. In school zones. Pursuant to Tennessee Code Annotated, section 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school, or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

15-304. Along Highway 51. The speed limit on Highway 51 shall be forty-five (45) miles per hour for one-half (½) mile north and south of Atoka-Munford Avenue and Munford-Atoka Avenue. (Ord. No. 87-2)

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<sup>1</sup>Ord. #14-02-01, Feb. 2014 (of record in the recorder's office) sets speed limits for specific roads.

## CHAPTER 4

TURNING MOVEMENTS

## SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup>

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway.

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways.

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

15-405. U-turns. U-turns are prohibited.

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<sup>1</sup>State law reference

Tennessee Code Annotated, section 55-8-143.

## CHAPTER 5

STOPPING AND YIELDING

## SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles.

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety.

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted.

15-507. At traffic control signals generally. Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn shall not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal.

15-508. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in section 15-504 of this code.

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the town, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing.

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency.

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<sup>1</sup>State law reference

Tennessee Code Annotated, section 55-8-143.

CHAPTER 6

PARKING

SECTION

15-601. Generally.

15-602. Angle parking.

15-603. Occupancy of more than one space.

15-604. Where prohibited.

15-605. Loading and unloading zones.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this town shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley for more than twelve (12) consecutive hours without the prior approval of the chief of police.

No truck, truck trailer, or tractor or bus having declared maximum gross vehicle weight rating of more than eight thousand (8,000) pounds shall be parked or left unattended on any residential street, except while actively being loaded or unloaded, or while such vehicle is being used in connection with any work or service being performed on adjacent property.

No recreation vehicle shall be parked or left unattended on any residential street or in any residential district, except while actively being loaded or unloaded.

The Atoka Police Department is authorized to remove any vehicle found parked in violation of this section when such vehicle constitutes a traffic hazard or obstruction of traffic. Such vehicle may be impounded by the police department. (as amended by Ord. #01-01-02, Feb. 2001)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet.

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space.

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (a) physically handicapped, or (b) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21.

(14) Within twelve feet of the traffic lanes of U.S. Highway 51 for a distance of three hundred feet north and south of its intersection with the Munford-Atoka Road, Kimbrough Road, Main Street and Michael Drive. (Ordinance No. 35)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone.



CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver license in lieu of bail.

15-701. Issuance of traffic citations.<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address.

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued.

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

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<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 3.

State law reference

Tennessee Code Annotated, section 7-63-101 et seq.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, section 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, sections 55-16-103 through 55-16-109.

15-706. Deposit of driver license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the town court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, section 55-50-801 et seq. (Ord. No. 37)

CHAPTER 8

OPERATION OF HEAVY OR LARGE VEHICLES ON CITY STREETS  
WITHIN RESIDENTIAL NEIGHBORHOODS PROHIBITED

SECTION

15-801. Definition of vehicle.

15-802. Heavy truck traffic prohibited on certain streets.

15-803. Signs posted.

15-804. Penalty.

15-801. Definition of vehicle. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon street, road, highway or public thoroughfares, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (Ord. #00-11-01, Jan. 2001)

15-802. Heavy truck traffic prohibited on certain streets. (1) For the purpose of this section, a heavy truck is defined to be any vehicle whose gross vehicle weight exceeds 12,000 pounds.

(2) All heavy trucks will be prohibited from the following streets: Main Street, Kimbrough Avenue, Atoka McLaughlin Drive.

(3) The following categories are exempt from the prohibition of this section:

(a) The operation of heavy trucks upon any street where necessary to the conduct of business at a destination point within the town provided streets designated as truck routes are used until reaching the intersection nearest the destination point.

(b) The operation of heavy trucks owned or operated by the town, any contractor or materialman, while under contract to the town while engaged in the repair, maintenance, or construction of streets, street improvements, or street utilities within the town.

(c) The operation of school buses and buses used to transport persons to and from a place of worship, which run a designated route.

(d) The operation of emergency vehicles upon any street in the town. (Ord. #00-11-01, Jan. 2001)

15-803. Signs posted. Signs shall be posted on the entrances to each of the streets listed in § 15-802(2) above indicating either by words or by appropriate symbols that heavy trucks are prohibited from traveling upon said streets. (Ord. #00-11-01, Jan. 2001)

15-804. Penalty. Any violation of this chapter shall be punishable by fine not to exceed fifty dollars (\$50). (Ord. #00-11-01, Jan. 2001)

TITLE 16

STREETS AND SIDEWALKS, ETC<sup>1</sup>

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.
3. EMERGENCY ADDRESS SYSTEM.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Basketball goals alongside or within public rights-of-way.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection.

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup>

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign.

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law.

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes.

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way.

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk.

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the town recorder.

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

of its approach as required by state law; nor shall he make such crossing at a speed in excess of twenty-five (25) miles per hour. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (Ord. No. 21)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section.

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk.

16-114. Basketball goals alongside or within public rights-of-way.

(1) No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street within the municipal limits of the Town of Atoka so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right of way or the presence of persons within a public street playing basketball on such a goal shall be a violation of this section.

(2) Any violation of this section shall be punishable by a fine of fifty dollars (\$50.00). (as added by Ord. #03-11-01, Dec. 2003)

## CHAPTER 2

EXCAVATIONS<sup>1</sup>

## SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town recorder is open for business, and the permit shall be retroactive to the date when the work was begun.

16-202. Applications. Applications for such permits shall be made to the town recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the town recorder within twenty-four (24) hours of its filing.

16-203. Fee. The fee for such permits shall be twenty dollars (\$20.00).

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the town recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the town recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the town recorder a surety bond in such form and amount as the town recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration.

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users.

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this town shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the town but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the town recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the



expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel.

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the town recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate.

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the town recorder.

16-209. Supervision. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences.

CHAPTER 3

EMERGENCY ADDRESS SYSTEM

SECTION

16-301. New structures and mobile homes.

16-302. Address numbers must be displayed.

16-301. New structures and mobile homes. (1) All persons, firms, corporations and other legal entities constructing new structures or locating or relocating mobile homes in Atoka, Tennessee, shall obtain an address notification form or serial number, duly issued by the Tipton County Emergency Communications Center, E-911 Address Systems Office.

(2) Any utility company operating in the Town of Atoka, Tennessee, shall advise all customers when requesting service that an address must be obtained from the Tipton County Emergency Communications Center. A "new structure" is defined as a house, apartment or commercial structure newly constructed, being occupied by the applicant for the first time and that will require a utility installation visit to obtain utility service. The subscriber will be required to provide proof that a proper address has been issued. Proof shall consist of providing the assigned street and structure number and the serial number of the address notification form as issued by the Tipton County Emergency Communications Center, E-911 Address Systems Office.

(3) Applicants shall apply for an address from the Tipton County Emergency Communications, E911 Address Systems Office. Application may be made via the telephone or in writing to Tipton County Emergency Communications Center, E911 Address Systems Office. The Tipton County Communications Center, E-911 Address Systems Office shall furnish the applicant with a copy of the address notification form to present to the utility companies and the United States Postal Service, when requested by said utilities and Postal Service. When a request is made for an address, the approximate location will be obtained from the applicant along with any identifying structures or landmarks which may help locate the structure or property requiring the address.

(4) As soon as practically possible after a request is made for an address to the Tipton County Emergency Communications Center, E-911 Address Systems Office, an address shall be issued and the necessary form filled out and a serial number assigned to said form. The Address Systems Office shall maintain a record of all addresses issued. (as added by Ord. #03-07-02, Aug. 2003)

16-302. Address numbers must be displayed. (1) The Tipton County Emergency Communications Center, E-911 Address Systems Office shall advise the applicant to post in a conspicuous place on the structure the address number

which shall be standard numbers at least four (4) inches high. The address numbers shall be posted within thirty (30) days of occupancy of the structure.

(2) The applicant shall remove any numbers which might be mistaken for or confused with the address number assigned to the structure by the issuing authority.

(3) Each principal building or structure shall display the address number assigned to the building on the front wall where the entrance is located. In case the principal building is occupied by more than one business or family dwelling units, each separate front entrance shall display a separate number. Where suite or lot numbers are assigned, the suite or lot number shall also be displayed in the same manner as the building number.

(4) Numerals indicating the official numbers assigned to each principal building, or each front entrance to such building, shall be posted in a manner as to be legible and distinguishable from the street or road on which the property is located with numbers painted or applied, of not less than four inches (4") in height.

(5) Mail boxes shall be marked with the building number as assigned by the Tipton County Emergency Communications Center, E-911 Addressing Office.

(6) If the structure is not visible from the street or road on which it is located, and no mail box is beside the driveway leading to the structure, a sign or number post shall be erected which will allow the numbers to be displayed either vertically from the top down or horizontally.

(7) In the event that the owner or occupant or person in charge of any house or building refuses to comply with the terms of this chapter, failing to affix the number assigned within thirty (30) days after notification, or by failing within thirty (30) days to remove any old number affixed to such house or building, or house or building entrance, or elsewhere, which may be confused with the number assigned thereto, said owner or occupant shall be punished by paying a fine of not less than ten dollars (\$10.00) for every day that the situation is not rectified after receiving a written citation for such failure to comply with the Tipton County Emergency Communications Center, E-911 Address Systems Office. (as added by Ord. #03-07-02, Aug. 2003)

TITLE 17

REFUSE AND TRASH DISPOSAL<sup>1</sup>

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. General collection and storage regulations.
- 17-104. Residential collection.
- 17-105. Commercial collection.
- 17-106. Collection vehicles.
- 17-107. Disposal.
- 17-108. Service user fees – residential collection.
- 17-109. Violations and penalty.
- 17-110. Initial enrollment.

17-101. Definitions. For the purpose of administering this chapter, the following definitions shall apply:

(1) "Bags." Plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top with a total weight of a bag and its contents not to exceed thirty-five (35) pounds.

(2) "Bin." A metal receptacle that can be lifted and emptied mechanically for use at commercial units, commonly referred to as a "dumpster."

(3) "Bulky waste." Used and discarded mattresses and box springs, stoves, refrigerators, water tanks, washing machines, furniture, and other waste materials other than construction debris, dead animals, hazardous waste or yard waste with weights or volumes greater than those allowed for containers.

(4) "Commercial refuse." All bulky waste, construction debris, garbage, and rubbish generated by a producer at a commercial unit.

(5) "Commercial unit." All premises, locations or entities, public or private, require refuse collection within the corporate limits of Atoka, which are not a residential unit.

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

(6) "Construction debris." Waste building materials resulting from construction, remodeling, repair or demolition operations.

(7) "Containers." Strong, durable, and rodent and insect proof receptacles for holding and storing solid wastes prior to collection and disposal by the town, and meeting the following specifications:

(a) Residential: Contractor or town-provided, ninety-six (96) gallon rolling containers with attached lids and in "as new" condition.

(8) "Contractor." The person, firm, corporation, or partnership performing refuse collection and disposal under the terms of a contract with the Town of Atoka.

(9) "Curbside." Refers to that portion of the right-of-way adjacent to paved or traveled town roadways, including alleys.

(10) "Dead animals." Animals or portions thereof equal to or greater than ten (10) pounds that have expired from any cause, except those slaughtered or killed for human use or consumption.

(11) "Garbage." Every accumulation of waste (animal, vegetable, and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including but not limited to used tin cans and other food containers, and all putrescible or easily decomposable animal or vegetable waste matter which is likely to attract flies or rodents), any and all dead animals of less than ten (10) pounds, except those slaughtered for human consumption, except (in all cases) any matter included in the definition of bulky waste, construction debris, dead animals, hazardous waste, rubbish or yard waste.

(12) "Hazardous waste." Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law, or waste, in any amount, which is regulated under federal or state law.

(13) "Producer." An occupant of a residential or commercial unit which generates refuse.

(14) "Recyclable materials." Newsprint, cardboard, plastic containers, etc., which are placed in the recyclable materials containers or in some manner separated from the waste stream.

(15) "Refuse." This term shall refer to residential and commercial garbage, bulky waste, construction debris, and yard waste generated at a residential or commercial unit unless the context otherwise requires.

(16) "Residential refuse." All garbage, rubbish, and yard wastes generated by a producer at a residential unit.

(17) "Residential unit." A dwelling within the corporate limits of Atoka occupied by a person or group of persons. A residential unit shall be deemed occupied when water or domestic light and power services are being supplied thereto. Multi-family units such as apartment or condominium complexes may select to operate as a commercial unit for the purposes of this chapter.

(18) "Rubbish." All waste wood, wood products, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of bulky waste, construction debris, dead animals, garbage, or hazardous waste.

(19) "Storm debris." Limbs, building debris and other materials generated by storms or other disasters.

(20) "White goods." Appliances, including but not limited to, clothes washers, dryers, cook stoves, refrigerators, dishwashers, etc.

(21) "Yard waste." All tree trimmings, dead trees, or branches thereof, grass clippings, garden trimmings, brush trimmings, weeds and roots from which all dirt has been removed. Trees and branches shall be a maximum of five feet (5') in length and no more than five inches (5") in diameter. (as replaced by Ord. #12-10-03, Oct. 2012, and amended by Ord. 17-10-02, Oct. 2017)

17-102. Premises to be kept clean. All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (as replaced by Ord. #12-10-03, Oct. 2012)

17-103. General collection and storage regulations. (1) Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the town where refuse accumulates or is likely to accumulate, shall secure and keep covered an adequate number of refuse containers as defined in this chapter. Furthermore, except for containers which the town or its contractor handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge and brush clippings, and similar materials shall be cut to a length not to exceed five feet (5') and five inches (5") in diameter and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two feet (2') thick before being deposited for collection.

(2) Removal of grass clippings, leaves, and brush and tree trimmings. Reserved for future use.

(3) Removal of yard waste, branches, cuttings, etc. Reserved for future use.

(4) Town employees and those employed by the town's contractor are not authorized to enter garages or to collect from porches. No employee of the town or its contractor is required to enter any area where a vicious animal is harbored.

(5) Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose.

(6) Burning. It shall be unlawful to burn trash or garbage in any container used for garbage pick-up and no such container shall be emptied by the town or its contractor when there is evidence of burning.

(7) The town or its contractor may provide for the special collection of dead animals and hazardous wastes at residential units at its sole discretion and upon such terms and conditions as the town or its contractor shall specify. (as added by Ord. #12-10-03, Oct. 2012, and amended by Ord. #17-10-03, Oct. 2017)

17-104. Residential collection. (1) It is hereby declared to be the exclusive right of the Town of Atoka to engage in the collection, removing, and disposal of residential refuse within the corporate limits of the town. It shall be unlawful for any person other than the town or its authorized contractor to engage in the business of collecting, removing, and disposing of residential refuse in the town, except those private collectors specifically authorized by the town. This does not prohibit establishments from collecting and hauling their own refuse so long as such refuse is stored, collected and hauled as prescribed in this chapter.

(2) Containers shall be placed at curbside by 6:00 A.M. on the designated collection day. Empty containers shall be removed from curbside within twenty-four (24) hours after collection.

(3) Weekly pick-up shall be established according to a schedule approved by the board of mayor and aldermen.

(4) All special collections from residential units shall be collected at the curb. When construction work is being performed in the right-of-way, containers and bags shall be placed as close as practicable to an access point for the collection vehicle. (as added by Ord. #12-10-03, Oct. 2012)

17-105. Commercial collection. Each commercial producer shall have its solid wastes collected at least one (1) time per week by the vendor of their choosing, and may make arrangements for additional collections as needed. (as added by Ord. #12-10-03, Oct. 2012)

17-106. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (as added by Ord. #12-10-03, Oct. 2012)

17-107. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (as added by Ord. #12-10-03, Oct. 2012)

17-108. Service user fees – residential collection. (1) There is hereby established a residential garbage service user fee to be charged to and collected from each household in the Town of Atoka, Tennessee on a monthly basis.

(2) Household is defined, for the purpose of this section, as all residential units within the Town of Atoka, whether occupied or not, to which garbage and refuse pick-up service is furnished by the town, and available for use, whether utilized or not, and for which pick-up service is not otherwise required to be provided as a commercial unit or apartment development in excess of six (6) units.

(3) Fees. The following monthly rates and fees shall be charge to solid waste customers:

Residential Solid Waste (first can)	\$16.00
Each additional can	\$10.00

(4) User fees shall be added to town utility billing whenever possible. The town administrator is authorized and directed to institute collection mechanisms, rules and regulations and means as shall be deemed by the town administrator to be efficient, appropriate and expedient to effect collections.

(5) Residential curbside recycling - \$4.00. (as added by Ord. #12-10-03, Oct. 2012, and amended by Ord. #17-10-01, Oct. 2017, and Ord. #17-10-02, Oct. 2017)

17-109. Violations and penalty. (1) It is unlawful to refuse or neglect to pay the monthly residential garbage service user fee when billed. Each user shall be given ten (10) days from the billing date to make payment to the town. Late fees and penalties for non-payment shall be charged in accordance with the fee schedule established in § 18-403 of the Atoka Municipal Code.

(2) Each thirty (30) day period that the service fee remains unpaid shall subject the owner or the tenant, whichever is the user, to a separate fifty dollar (\$50.00) civil fine for non-payment. (as added by Ord. #12-10-03, Oct. 2012)

17-110. Initial enrollment. (1) Initial enrollment. During the forty-five (45) days following the adoption of this ordinance or by 5:00 P.M. on December 3, 2012, whichever is later, current town residents will have the opportunity to "opt out" of receiving the residential collection service by completing a form that will be provided to all town residents. Persons who decide to opt out will not be billed for this service, but may opt in and receive the service in the future, and will at that time be billed accordingly. After the forty-five (45) day time period expires or 5:00 P.M. on December 3, 2012 has passed,



whichever is later, those residents who do not opt out as provided above and any new residents moving into the town thereafter will be billed for this refuse service, and will not have the ability to opt out.

(2) Initial enrollment for recycling. During the forty-five (45) days following the adoption of this ordinance or by 5:00 P.M. on December 1, 2017, whichever is later, current solid waste customers will have the opportunity to "opt out" of receiving the residential collection service by completing a form that will be provided to all current customers. Persons who decide to opt out will not be billed for this service, but may opt in and receive the service in the future, and will at that time be billed accordingly. After the forty-five (45) day time period expires or 5:00 P.M. on December 1, 2017 has passed, whichever is later, those customers who do not opt out as provided above and any new customer accounts thereafter will be billed for this recycling service, and will not have the ability to opt out. (as added by Ord. #12-10-03, Oct. 2012, and replaced by Ord. #17-10-02, Oct. 2017)

TITLE 18

WATER AND SEWERS<sup>1</sup>

CHAPTER

1. WATER AND SEWER SYSTEM ADMINISTRATION.
2. WASTEWATER REGULATIONS.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
4. MISCELLANEOUS.

CHAPTER 1

WATER AND SEWER SYSTEM ADMINISTRATION

SECTION

18-101. City of Munford to administer system.

18-101. City of Munford to administer system. The administration of the water and sewer system of the Town of Atoka shall be handled by the City of Munford pursuant to the agreement between the parties.<sup>2</sup>

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12

Refuse disposal: title 17

<sup>2</sup>The agreement between the parties is of record in the town recorders office.

CHAPTER 2

WASTEWATER REGULATIONS

SECTION

18-201. City of Munford to set regulations.

18-202. Septic tank effluent pump or grinder pump wastewater systems.

18-201. City of Munford to set regulations. Pursuant to the agreement between the City of Munford and the Town of Atoka the City of Munford shall set the regulations governing the disposition of wastewater within the Town of Atoka.<sup>1</sup>

18-202. Septic tank effluent pump or grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the town.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the town.

(b) Pumps must be approved by the town and shall be maintained by the town.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the town. Installation shall follow design criteria for STEP and GP systems as provided by the town.

(3) Costs. STEP equipment for new construction and GP equipment for new multi-family residential, commercial and industrial construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the town and connection will be made to the town sewer only after inspection and approval of the town. GP equipment for new single-family residential construction shall be purchased from and installed by the town at the developer's, builder's, or homeowner's expense. The fee for GP equipment provided and installed by the town shall be as authorized in § 18-403(3) of the Atoka Municipal Code.

(4) Ownership and easements. Homeowners or developers shall provide the town with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the town to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

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<sup>1</sup>The agreement between the parties is of record in the town recorders office.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users' guide provided by the town.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the town. Any system where pumping is required more frequently than once in a twelve (12) month period shall be billed to the homeowner at a rate of no more than the actual cost of the service call.

(7) Additional charges. The town shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (as added by Ord. #11-09-01, Sept. 2011, and amended by Ord. #15-03-03, March 2015)

CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

SECTION

- 18-301. Definitions.
- 18-302. Standards.
- 18-303. Construction, operation, and supervision.
- 18-304. Statement required.
- 18-305. Inspections required.
- 18-306. Right of entry for inspections.
- 18-307. Correction of existing violations.
- 18-308. Use of protective devices.
- 18-309. Unpotable water to be labeled.
- 18-310. Violations.

18-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the town for general use and which supply is recognized as the public water supply by the Tennessee Department of Health and Environment.

(2) "Cross-connection." Any physical connection whereby the public water supply is connected with any other water supply system, public or private, either inside or outside of any building or buildings, in such manner that flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (Ord. No. 36)

18-302. Standards. The Atoka public water supply is to comply with Tennessee Code Annotated, §§ 68-13-701 through 68-13-719 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with

this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (Ord. No. 36, as amended by Ord. #15-03-01, March 2015)

18-303. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the water works director of the Town of Atoka or his representative. (Ord. No. 36, as amended by Ord. #15-03-01, March 2015)

18-304. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the waterworks superintendent a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (Ord. No. 36)

18-305. Inspections required. It shall be the duty of the Atoka Public Works Department to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the public works director and as approved by the Tennessee Department of Environment and Conservation. (Ord. No. 36, as amended by Ord. #15-03-01, March 2015)

18-306. Right of entry for inspections. The public works director or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (Ord. No. 36, as amended by Ord. #15-03-01, March 2015)

18-307. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Public Works Director of the Town of Atoka.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-13-711, within a reasonable time and within the time limits set by the Public Works Director of the Town of Atoka shall be grounds for denial or disconnection of water service. If proper protection has not been provided after a reasonable time, the public works director shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (Ord. No. 36, as amended by Ord. #15-03-01, March 2015)

18-308. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation.
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected,

The public works director or his/her designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer or a vacuum breaker device approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be

approved by the public works director prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the public works department shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the public works director. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises. Annual inspections shall be provided by the town and assessed a fee as authorized by § 18-403 of this municipal code.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the public works director shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The public works director shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the public works director.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the public works director and paid the fee to restore services as authorized by § 18-403(5). (Ord. No. 36, as amended by Ord. #15-03-01, March 2015)

18-309. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. No. 36)



18-310. Violations. The requirements contained herein shall apply to all premises served by the munford water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the town to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Atoka corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), and each day of continued violation after conviction shall constitute a seperate offense. (Ord. No. 36)

CHAPTER 4

MISCELLANEOUS

SECTION

18-401. Definitions.

18-402. Multiple tenant structures, premises or dwellings to be individually metered.

18-403. Water and sewer rates.

18-404. Non-refundable water and sewer connection fees.

18-401. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

(2) "Water service line" shall consist of the pipe line extending from any water main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and the meter box.

(3) "Sewer service line" shall consist of the pipe line extending from any town sewer main to the dwelling or premise of the customer.

(4) "Dwelling" means any single residential unit or house occupied for residential purposes. Each separate apartment unit, duplex unit or other multiple dwelling unit shall be considered a separate dwelling.

(5) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (as added by Ord. #04-11-02, Dec. 2004)

18-402. Multiple tenant structures, premises or dwellings to be individually metered. No customer shall supply water service to more than one dwelling, premise, apartment or other multiple tenant unit from a single service line. (as added by Ord. #04-11-02, Dec. 2004)

18-403. Water and sewer rates. (1) Water rates. The following rates and fees shall be charged to water customers:

	Inside Atoka	Outside Atoka
Minimum (includes first 1,000 gallons)	\$ 10.00	\$ 12.88
Each additional one thousand gallons	\$ 3.85	\$ 5.17

(2) Sewer rates. The following rates shall be charged to sewer customers:

	Inside Atoka	Outside Atoka
Minimum monthly service charge	\$ 6.88	\$ 8.91
Each one thousand gallons	\$ 3.50	\$ 3.50
Grease tank pumping	\$ 50.00	

(3) Connection/tap fees. The following fees shall be charged to customers for tapping onto the town's water or sewer lines. These fees shall include all materials and labor for the town to complete the connection.

	Inside Atoka	Outside Atoka
Primary water connection	\$ 700.00	\$ 850.00
Sewer connection	\$ 600.00	\$ 600.00
Auxiliary water connection	\$ 400.00	\$ 550.00
Grinder pump installation	\$2,800.00	\$2,800.00
Water service relocation using existing meter	\$ 400.00	\$ 550.00

An auxiliary water connection may only be added to an account where a primary water connection is already in service.

A grinder pump, whenever required or approved for a residential lot, shall be provided and installed by the town for the fee listed above. The pump shall be owned by the town and the maintenance and repair of said pump shall be responsibility of the town. Commercial or institutional use grinder pumps shall be provided and installed by the user as a part of the site and construction approval

(4) Account activation/relocation fee. The following fees shall be charged to customers requesting a new service, a name change on an existing service, or a relocation of service.

	Inside Atoka	Outside Atoka
Water connection - property owner	\$ 35.00	\$ 60.00
Sewer connection - property owner	\$ 40.00	\$ 70.00
Water connection - property renter	\$ 60.00	\$ 60.00
Sewer connection - property renter	\$ 50.00	\$ 50.00

(5) Penalties and service fees. The following fees shall be charged to customers as defined:

Late payment penalty	10% of bill due
Fee to restore service during business hours	\$ 25.00
Fee to activate service after business hours	\$ 40.00
Fee to restore service after business hours	\$ 85.00
Returned check fee	\$ 30.00

(6) Damaged or destroyed equipment fees. The following replacement fees shall be charged to customers who destroy, disable or otherwise damage town equipment.

Water meter box lock	\$ 10.00
Concrete meter box lid	\$ 20.00
Concrete meter box	\$ 50.00
Sewer tank riser	\$ 50.00
Sewer tank lid	\$100.00
Water meter	\$200.00

(7) Multi-unit buildings. Owners or renters of multi-unit buildings shall pay a water tap fee for each unit and shall have a separate water meter for each unit.

(8) Authority for fee adjustments, reductions, or eliminations. The town administrator has the authority to adjust, reduce, or eliminate water rates, sewer rates, penalties, service or equipment fees for extenuating customer circumstances. (as added by Ord. #04-10-04, Oct. 2004, and amended by Ord. #06-04-04, May 2006, Ord. #07-12-03, Feb. 2008, Ord. #10-01-01, Jan. 2010, Ord. #12-03-02, March 2012, Ord. #15-03-02, March 2015, and Ord. #17-06-03, June 2017)

18-404. Non-refundable water and sewer connection fees. The following non-refundable connection fees shall apply:

(1) Water service. (a) Residents. Each prospective water customer who owns property on which they reside within the corporate limits shall pay a twenty-five dollar (\$25.00) non-refundable connection fee and each prospective water customer who rents property within the corporate

limits shall pay a fifty dollar (\$50.00) non-refundable connection fee to secure water service to his or her residence or business.

(b) Non-residents. Each prospective water customer who lives outside the corporate limits shall pay a fifty dollar (\$50.00) non-refundable connection fee to secure water service to his or her residence or business.

(2) Sewer service. (a) Residents. Each prospective sewer customer who owns property on which they reside within the corporate limits shall pay a thirty dollar (\$30.00) non-refundable connection fee and each prospective sewer customer who rents property within the corporate limits shall pay a forty dollar (\$40.00) non-refundable connection fee to secure sewer service to his or her residence or business.

(b) Non-residents. Each prospective sewer customer who lives outside the corporate limits shall pay a forty dollar (\$40.00) non-refundable connection fee to secure sewer service to his or her residence or business. (as added by Ord. #08-02-02, March 2008)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by Southwest Tennessee Electric Co-op.

19-101. To be furnished by Southwest Tennessee Electric Co-op. Electricity shall be provided to the Town of Atoka and its inhabitants by the Southwest Tennessee Electric Co-operative. The rights, powers, duties, and obligations of the Town of Atoka and its inhabitants, are stated in the agreements between the parties.<sup>1</sup>

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<sup>1</sup>The agreements are of record in the office of the recorder.

CHAPTER 2

GAS

SECTION

19-201. To be furnished by the City of Munford.

19-201. To be furnished by the City of Munford. Gas service shall be provided to the Town of Atoka by the City of Munford. The rights, powers, duties, and obligations of the Town of Atoka and its citizens, are stated in the agreements between the parties.<sup>1</sup>

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<sup>1</sup> Said agreements are on record in the office of the town recorder.

TITLE 20

MISCELLANEOUS

(RESERVED FOR FUTURE USE)



ORDINANCE NO. 93-07-02

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION [AND REVISION] OF THE ORDINANCES OF THE TOWN OF ATOKA, TENNESSEE.

WHEREAS some of the ordinances of the Town of Atoka are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Atoka, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Atoka Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF ATOKA, TENNESSEE,\* THAT:

Section 1. Ordinances codified. The ordinances of the Town of Atoka of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Atoka Municipal Code," hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing or authorizing the

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\*The charter may provide for a different ordination clause; use whatever the charter prescribes.

establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified, wherever in the municipal code, including the codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the municipal code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the municipal code shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law.

When any person is fined for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.<sup>1</sup>

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, section 40-24-101 et seq.

Each day any violation of the municipal code continues shall constitute a separate offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

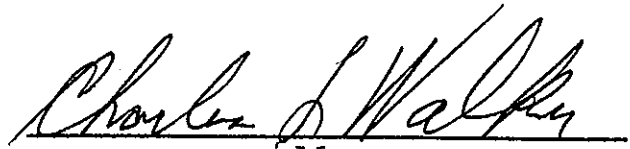
Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading July 6, 1993.

Passed 2nd reading August 3, 1993.

Passed 3rd reading \_\_\_\_\_, 19   .

  
\_\_\_\_\_  
Mayor .

  
\_\_\_\_\_  
Recorder

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**Many private act charters prescribe the number of readings. In addition, some charters prescribe a different number of readings for different kinds of ordinances.**