

**THE
BEAN STATION
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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TOWN OF BEAN STATION, TENNESSEE

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ALDERMEN

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RECORDER

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PREFACE

The Bean Station Municipal Code contains the codification and revision of the ordinances of the Town of Bean Station, 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 § 2-106.

By utilizing the table of contents, code index 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 7 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 pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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.

The able assistance of the codes team: Kelley Myers and Nancy Gibson is gratefully acknowledged.

Kelley Myers, Municipal Codes Coordinator

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
TOWN CHARTER**

1. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted in one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)

2. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)

TITLE 1**GENERAL ADMINISTRATION¹****CHAPTER**

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. ADMINISTRATOR.
5. CODE OF ETHICS.
6. PUBLIC PROPERTY RULES.

CHAPTER 1**BOARD OF MAYOR AND ALDERMEN²****SECTION**

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Terms of office; date of elections.
- 1-105. Increase number of aldermen.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 5:00 P.M. on the fourth Monday of each month at the town hall. If the regular meeting falls on a

¹Municipal code references
Zoning: title 14.

²Charter references
Administrator: § 6-4-101.
Compensation: § 6-3-109.
Duties of mayor: § 6-3-106.
Election of the board: § 6-3-101.
Oath: § 6-3-105.
Ordinance procedure
Publication: § 6-2-101.
Readings: § 6-2-102.
Residence requirements: § 6-3-103.
Vacancies in office: § 6-3-107.
Vice-mayor: § 6-3-107.

holiday, or on a day observed as a holiday, the regular meeting shall be held at the same time and place on the rescheduled day. (Modified)

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 minutes of the previous meeting;
- (4) Communications from the mayor;
- (5) Reports from committees, members of the board of mayor and aldermen, and other officers;
- (6) Old business;
- (7) New business; and
- (8) Adjournment. (Modified)

1-103. General rules of order. The rules of order and parliamentary procedure contained in *Robert's Rules of Order, Newly 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.

1-104. Terms of office; date of elections. (1) Under the authority of *Tennessee Code Annotated*, § 6-3-104, the date of town elections shall be the first Tuesday after the Monday in November of even-numbered years.

(2) The term of the mayor and aldermen at large shall be four (4) years.

(3) The mayor and aldermen shall serve until their successors are elected and qualified. (Ord. #2006-08, Aug. 2006)

1-105. Increase number of aldermen. Under the authority of *Tennessee Code Annotated*, § 6-3-102, the number of aldermen of the Town of Bean Station is increased from two (2) to four (4) as follows.

(1) The mayor and the aldermen elected in the January, 1997, town election shall serve four (4) year terms of office until the last Saturday in April, 2001.

(2) At the town election in April, 1999, there shall be elected two (2) aldermen, at large to four (4) year terms of office that shall expire on the date of the town election in April 2003.

(3) At the town election held in April 2001, there shall be elected a mayor and two (2) aldermen, at large. The mayor and aldermen shall be elected to four (4) year terms of office. Thereafter, the mayor and aldermen shall be elected to four (4) year terms of office. (Ord. #99-103, Feb. 1999)

CHAPTER 2

MAYOR¹

SECTION

1-201. Duties of mayor.

1-201. Duties of mayor. (1) The mayor:

(a) Shall be the chief executive officer of the municipality and shall preside at meetings of the board;

(b) Shall communicate any information needed, and recommend measures the mayor deems expedient to the board;

(c) (i) Shall make temporary appointments of any officer or department head in case of sickness, absence, or other temporary disability.

(ii) The board may confirm the mayor's appointment or otherwise appoint a person to fill the vacant office unless this duty has been delegated as authorized in this charter.

(d) (i) May call special meetings of the board upon adequate notice to the board and adequate public notice; and

(ii) Shall state the matters to be considered at the special meeting and the action of the board shall be limited to those matters submitted.

(e) Shall countersign checks and drafts drawn upon the treasury by the treasurer and sign all contracts to which the municipality is a party;

(f) As a member of the board, may make motions and shall have a vote on all matters coming before the board; and

(g) Shall make appointments to boards and commissions as authorized by law.

(2) Unless otherwise designated by the board, the mayor shall perform the following duties or may designate a department head or department heads to perform any of the following duties:

(a) (i) Employ, promote, discipline, suspend, and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the board;

¹Charter references

Duties of mayor: § 6-3-106.

Vacancies in office: § 6-3-107.

Vice-mayor: § 6-3-107.

(ii) Nothing in this charter shall be construed as granting a property interest to employees or department heads in their continued employment;

(b) Act as purchasing agent for the municipality in the purchase of all materials, supplies, and equipment for the proper conduct of the municipality's business; provided, that all purchases shall be made in accordance with policies, practices, and procedures established by the board;

(c) Prepare and submit the annual budget and capital program to the board for their adoption by ordinance; and

(d) Such other duties as may be designated or required by the board.

CHAPTER 3**RECORDER¹****SECTION**

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and aldermen.

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. He/she shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers, with the exception of the police department. These records shall be maintained by the chief of police and the administrative assistant. (Modified)

¹Charter references

Recorder: §§ 6-4-201, *et seq.*

Recorder as treasurer: § 6-4-401(c).

CHAPTER 4**ADMINISTRATOR**¹**SECTION**

1-401. Administration of municipal business.

1-401. Administration of municipal business. The administrator shall perform the following duties:

- (1) Administer the business of the municipality;
- (2) 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 municipality;
- (3) Keep the board fully advised as to the conditions and needs of the municipality;
- (4) Report to the board the condition of all property, real and personal, owned by the municipality and recommend repairs or replacements as needed;
- (5) Recommend to the board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the municipality;
- (6) Recommend specific personnel positions, as may be required for the needs and operations of the municipality, and may propose personnel policies and procedures for approval of the board; and
- (7) Perform such other duties as may from time to time be designated or required by the board.

¹Charter reference

Administrator: § 6-4-101.

CHAPTER 5

CODE OF ETHICS¹

SECTION

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in non-voting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.
- 1-510. Ethics complaints.
- 1-511. Violations and penalty.

1-501. 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. (Ord. #2007-01-100, Feb. 2007)

¹State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the *Tennessee Code Annotated* (T.C.A.) sections indicated:

Campaign finance: *Tennessee Code Annotated*, title 2, ch. 10.

Conflict of interests: *Tennessee Code Annotated*, §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements: *Tennessee Code Annotated*, § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: *Tennessee Code Annotated*, §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office): *Tennessee Code Annotated*, § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information: *Tennessee Code Annotated*, §§ 39-16-401 and the following sections.

Ouster law: *Tennessee Code Annotated*, §§ 8-47-101 and the following sections.

1-502. Definition of "personal interest." (1) For purposes of §§ 1-503 and 1-504, "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;

(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), step parent(s), grandparent(s), sibling(s), child(ren), or step child(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.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #2007-01-100, Feb. 2007)

1-503. 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 himself¹ from voting on the measure. (Ord. #2007-01-100, Feb. 2007)

1-504. Disclosure of personal interest in non-voting 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. (Ord. #2007-01-100, Feb. 2007)

1-505. Acceptance of gratuities, etc. 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:

¹Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

(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. (Ord. #2007-01-100, Feb. 2007)

1-506. 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. (Ord. #2007-01-100, Feb. 2007)

1-507. Use of municipal time, facilities, etc. (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. (Ord. #2007-01-100, Feb. 2007)

1-508. 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. (Ord. #2007-01-100, Feb. 2007)

1-509. 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. (Ord. #2007-01-100, Feb. 2007)

1-510. 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 the governing body to 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 or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #2007-01-100, Feb. 2007)

1-511. Violations and penalty. 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. (Ord. #2007-01-100, Feb. 2007)

CHAPTER 6**PUBLIC PROPERTY RULES****SECTION**

1-601. Weapons on public property.

1-601. Weapons on public property. (1) Any person authorized to carry weapons under *Tennessee Code Annotated*, §§ 39-17-1351 to 39-17-1360, is prohibited from possessing any weapon while within a public building or on public property of the Town of Bean Station, Tennessee.

(2) The Town of Bean Station shall post notices at all entrances to the premises that are primarily used by persons entering the property. The notice shall be of a size that is plainly visible to the average person entering the building, premises or property. The signs shall state the following:

Pursuant to *Tennessee Code Annotated*, § 39-17-1359, the owner/operator of this property has banned weapons on this property, or within this building or this portion of this building. Failure to comply with this prohibition is punishable as a criminal act under state law and may subject the violator to a fine of not more than fifty dollars (\$50.00). (Ord. #2013-05-100, May 2013, modified)

TITLE 2**BOARDS AND COMMISSIONS, ETC.****CHAPTER**

1. BEER BOARD.
2. PARKS AND RECREATION BOARD.

CHAPTER 1**BEER BOARD****SECTION**

2-101. Beer board established.

2-101. Beer board established.¹ There is hereby established a beer board, to be composed of three (3) persons designated by the mayor. A chairperson shall be elected annually by the board from among its members. Members of the beer board shall receive compensation of fifty dollars (\$50.00) per every meeting they attend, with the exception of the chairperson, who will receive seventy-five dollars (\$75.00) per meeting. The amount paid each member shall not exceed six hundred dollars (\$600.00) per year. (Ord. #2001-09-100, Sept. 2001, modified)

¹Municipal code reference
Beer board established: § 8-201.

CHAPTER 2

PARKS AND RECREATION BOARD

SECTION

2-201. Established.

2-201. Established. (1) The town council for Bean Station does commission a parks and recreation board for the Town of Bean Station.

(2) The Parks and Recreation Board for Bean Station shall consist of three (3) members appointed by the mayor. (Modified)

TITLE 3
MUNICIPAL COURT¹

CHAPTER

1. TOWN JUDGE.
2. COURT ADMINISTRATION.
3. SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.

CHAPTER 1

TOWN JUDGE

SECTION

- 3-101. Town judge.
3-102. Jurisdiction.

3-101. Town judge. (1) Appointment. The town judge designated by the charter to handle judicial matters within the town shall be a licensed attorney appointed by the board of mayor and aldermen and shall serve at the pleasure of the governing body. Vacancies in the office of the town judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner as prescribed for the appointment of the town judge.

(2) Qualifications. The town judge shall be a minimum of twenty-five (25) years of age, be licensed by the State of Tennessee to practice law.

(3) Judge pro tem.² During the absence of the town judge from his duties for any reason or at any time the office of the town judge is vacant, the board of mayor and aldermen may appoint a town judge pro tem to serve until the town judge returns to his duties or the office of town judge is no longer vacant. The town judge pro tem shall have all the qualifications required, and powers, of the town judge.

(4) Salary. The salary of the town judge shall be determined by the board of mayor and aldermen per month. (modified)

¹Charter reference
Town judge - Town court: § 6-4-301.

²Charter reference
Appointment of temporary judge: § 6-4-301(b)(2).

3-102. Jurisdiction. The town judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code.

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. Contempt of court.

3-201. Maintenance of docket. The town clerk 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; summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant.

3-202. Imposition of penalties and costs. All penalties and costs shall be imposed by the town judge and recorded by the court clerk on the town court docket in open court.

In all cases heard and determined by him, the town judge shall impose court costs in the amount of one hundred three dollars and seventy-five cents (\$103.75). One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

In addition, pursuant to authority granted in *Tennessee Code Annotated*, § 67-4-601, the court shall levy a state litigation tax in the amount of thirteen dollars and seventy-five cents (\$13.75) in all cases on which state litigation tax is levied. (modified)

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

3-204. Contempt of court. Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.

CHAPTER 3

SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

3-301. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town judge, the judge may, in his discretion, issue a summons ordering the alleged offender personally to appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged, but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal.

3-302. Issuance of subpoenas. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appeals.

3-402. Bond amounts, conditions, and forms.

3-401. Appeals. Any person dissatisfied with any judgment of the town court against him may, within ten (10) days¹ thereafter, Sundays exclusive, appeal to the circuit court of the county upon giving bond.

"Person" as used in this section includes, but is not limited to, a natural person, corporation, business entity, or the municipality.

3-402. Bond amounts, conditions, and forms. (1) Appeal bond. An appeal bond in any case shall be two hundred fifty dollars (\$250.00) for such person's appearance and the faithful prosecution of the appeal.

(2) Pauper's oath. A bond is not required, provided the defendant/appellant:

(a) Files the following oath of poverty:

I, _____, do solemnly swear under penalties of perjury, that owing to my poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief; and

(b) Files an accompanying affidavit of indigency.

The affidavit of indigency must be sworn to by the defendant/appellant and the facts therein may be investigated.

¹State law reference

Tennessee Code Annotated, § 16-18-307.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL REGULATIONS.
2. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

PERSONNEL REGULATIONS

SECTION

4-101. Personnel rules and regulations.

4-101. Personnel rules and regulations.¹ The personnel rules and regulations for the Town of Bean Station are adopted herein as if set out verbatim.

¹The Personnel Rules and Regulations for the Town of Bean Station, as amended from time to time, are available in the office of the recorder.

CHAPTER 2

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-201. Purpose.
- 4-202. Enforcement.
- 4-203. Travel policy.
- 4-204. Travel reimbursement rate schedules.
- 4-205. Administrative procedures.

4-201. Purpose. The purpose of this chapter and referenced regulations is to bring the town into compliance with *Tennessee Code Annotated*, § 6-54-901 to 6-54-907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this ordinance is expanded to cover regular town employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on town business at town expense.

4-202. Enforcement. The Chief Administrative Officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations.

4-203. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" 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 town 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 town. 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 town for registration fees, air fares, meals, lodging, conferences and similar expenses.

Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the town. 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:

(i) Directly related to the conduct of the town business for which travel was authorized; and

(ii) Actual, reasonable and necessary under the circumstances.

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive will not be allowed.

(7) Claims of five dollars (\$5.00) 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 town or misuse town travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the town are not ordinarily considered eligible expenses for reimbursement.

4-204. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the state travel regulation rates. The town'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.

4-205. Administrative procedures. The town 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. A copy of the administrative procedures is on file in the office of the recorder.¹

¹State law reference

Tennessee Code Annotated, § 6-54-904, requires a town to notify the comptroller in writing that it has adopted the MTAS policy, including the date of such adoption.

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. LODGING/ACCOMMODATION TAX.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 5-101. Official depository for town funds.
- 5-102. Purchasing procedures.
- 5-103. Drug fund.

5-101. Official depository for town funds. The Citizens Bank and Trust Company of Bean Station, Tennessee, is hereby designated as the official depository for all town funds. (Ord. #0-01-97, March 2009)

5-102. Purchasing procedures. (1) The mayor shall act as purchasing agent for the town, with power, except as set out in these procedures, to purchase materials, supplies, equipment; secure leases and lease purchases, and dispose of and transfer surplus property for the proper conduct of the town's business. All contracts, leases, and lease-purchase agreements extending beyond the end of any fiscal year must have prior approval of the governing body.

(2) The purchasing agent shall have the authority to make purchases, leases, and lease purchases of less than four thousand one dollars (\$4,001.00) singly or in the aggregate during any fiscal year; and a minimum of three (3) competitive quotes shall be required for items between four thousand one dollars and nine thousand nine hundred ninety-nine dollars (4001.00 and \$9,999.00) with governing approval, and public advertisement and competitive bidding shall be required for items costing ten thousand dollars (\$10,000.00) or more with governing approval. All competitive bids or quotations received shall be listed upon that document prior to the issuance of the purchase order. Awards shall be made to the lowest and best bid by the governing body.

¹Charter reference

Depositories of municipal funds: § 6-4-402.

(3) A description of all projects or purchases, except as herein provided, that require the expenditure of town funds of ten thousand dollars (\$10,000.00) or more shall be prepared by the purchasing agent and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the purchasing agent to advertise for bids or proposals. The award of purchase, leases, or lease-purchases of ten thousand dollars (\$10,000.00) or more shall be made by the governing body to the lowest and best bid.

(4) Purchases amounting to ten thousand dollars (\$10,000.00) or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and except as otherwise provided therein, when such purchase are approved by the governing body.

(a) Sole source of supply or proprietary products as determined after complete search by using the department and the purchasing agent, with governing body approval.

(b) Emergency expenditures with subsequent approval of the governing body.

(c) Purchases from instrumentalities created by two (2) or more cooperating governments.

(d) Purchases from nonprofit corporations whose purpose or one (1) of whose purposes is to provide goods or services specifically to municipality.

(e) Purchases, leases or lease-purchases of real property.

(f) Purchases, leases, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.

(g) Investment in or purchases from the Local Government Investment Pool (LGIP).

(h) Purchases directed through or in conjunction with the state department of general services.

(i) Purchases of fuels, fuel products or perishable commodities.

(j) Purchases of natural gas and propane gas for re-sale.

(k) Purchases from Tennessee state industries (*Tennessee Code Annotated*, § 41-22-119--121).

(l) Professional service contracts (*Tennessee Code Annotated*, §§ 12-3-1209 and 12-4-107).

(m) Energy-related service contracts (*Tennessee Code Annotated*, § 12-4-110).

(n) Any of the insurance as provided in (*Tennessee Code Annotated*, § 29-20-407).

(o) Purchases for other local governmental units (*Tennessee Code Annotated*, § 12-3-1203).

(p) Cooperative purchasing agreements (*Tennessee Code Annotated*, §§ 12-3-1205 and § 12-9-101 *et. seq.*).

(q) Purchases of property at public auctions (*Tennessee Code Annotated*, § 12-2-421).

(r) Reverse auctions (*Tennessee Code Annotated*, § 12-3-1208).

(s) Purchase of confiscated property from the state (*Tennessee Code Annotated*, § 12-2-201).

(5) The purchasing agent shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined. (Ord. #2019-07-100, Aug. 2019)

5-103. Drug fund. The Town of Bean Station, in compliance with the provisions of *Tennessee Code Annotated*, §§ 6-22-120 and 40-33-211, does hereby authorize and direct the town recorder to establish an account for the depository of funds seized as a result of drug-related arrests made pursuant to *Tennessee Code Annotated*, §§ 53-11-201, *et seq.*, at the Citizens Bank and Trust of Grainger County, Tennessee, Bean Station Branch, said account and funds contained therein to be administered in accordance with applicable law. (Ord. #____, Dec. 1997)

CHAPTER 2**REAL AND PERSONAL PROPERTY TAXES****SECTION**

5-201. Prohibiting property taxes.

5-201. Prohibiting property taxes. The mayor and aldermen of the Town of Bean Station are prohibited from imposing a property tax for property located within the municipal boundaries of the Town of Bean Station, Tennessee. No ordinance imposing a property tax will be imposed without the revocation and repeal of this section requiring public notice in a newspaper of general circulation in the community of Bean Station, Tennessee. This section is enacted in keeping with the commitment of the parties organizing the incorporation of the Town of Bean Station to refrain from the imposition of a property tax, and it is envisioned by the mayor and aldermen approving this section as a permanent commitment establishing a financial and fiscal plan for the Town of Bean Station that will not include the imposition or use of property tax monies to run town government. (Ord. #____, _____)

CHAPTER 3**PRIVILEGE TAXES****SECTION**

5-301. Tax levied.

5-302. License required.

5-301. 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 town at the rates and in the manner prescribed by the act. In no event shall the tax imposed by this section exceed fifteen dollars (\$15.00) as established by *Tennessee Code Annotated*, § 67-4-709(a). (Ord. #0-01-97, March 2009)

5-302. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder or his designee to each applicant therefor upon the applicant's payment of the appropriate tax. (Ord. #0-01-97, March 2009, modified)

CHAPTER 4**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

5-401. To be collected. The beer board is hereby directed to take appropriate action to assure payment to the town of wholesale beer tax levied by the Wholesale Beer Tax Act as set out in *Tennessee Code Annotated*, title 57, chapter 6. (Ord. #0-01-97, March 2009, modified)

CHAPTER 5

LODGING/ACCOMMODATION TAX

SECTION

- 5-501. Definitions.
- 5-502. Levy of tax.
- 5-503. Tax added to room invoice.
- 5-504. Remittance to the municipality.
- 5-505. Offer to absorb tax prohibited.
- 5-506. Penalties and interest for delinquency.
- 5-507. Records.
- 5-508. Administration.
- 5-509. Tax levied in accordance with law.
- 5-510. Expending and distributing tax.
- 5-511. Tax is additional tax.

5-501. Definitions. As used in this chapter unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the room, lodging, space, or accommodation provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel, or any place in which rooms, lodgings, accommodations or spaces are furnished to transients for a consideration.

(3) "Municipality" means the Town of Bean Station.

(4) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, spaces, or accommodations in any hotel.

(5) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(6) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(7) "Religious institution" shall have the same meaning as that established in *Tennessee Code Annotated*, § 48-3-502(c);

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, spaces, or accommodations in a hotel for a period of less than thirty (30) continuous days. (Ord. #2009-03-100, March 2009)

5-502. Levy of tax. (1) There is hereby levied a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected and distributed as provided in this chapter.

(2) Those persons acting as representatives of, engaged in duties in conjunction with, and acting under the auspices of those organizations having valid certificates of exemption issued by the Commissioner of the Tennessee Department of Revenue as provided for in *Tennessee Code Annotated*, § 67-6-322(a)(1) and those religious institutions which have received a determination of exemption from the Internal Revenue Service under 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) and are currently operating under it, are exempt from the provisions of this chapter provided that proof of the existence of such certification of exemption or determination of exemption is presented to the operator prior to submittal of the invoice to the transient for payment. A copy of such proof shall be submitted to the municipality as part of the required monthly tax return. (Ord. #2009-03-100, March 2009, as amended by Ord. #2017-02-100, March 2017)

5-503. Tax added to room invoice. (1) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the municipality.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged, and the operator shall receive credit for the amount of such tax if previously paid or reported to the municipality. (Ord. #2009-03-100, March 2009)

5-504. Remittance to the municipality. (1) The tax levied shall be remitted by all operators who lease, rent, or charge for any rooms, lodgings, spaces or accommodations in hotels to the municipality, to be remitted not later than the twentieth (20th) day of each month next following collection from the transient. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the municipality entitled to such tax shall be that of the operator,

(2) For the purpose of compensating the operator in accounting for and remitting the tax levied by this chapter, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the municipality in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (Ord. #2009-03-100, March 2009)

5-505. Offer to absorb tax prohibited. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (Ord. #2009-03-100, March 2009)

5-506. Penalties and interest for delinquency. Taxes collected by an operator which are not remitted to the municipality on or before the due dates are delinquent. An operator is liable for interest on such delinquent taxes from the due date at the rate of one percent (1%) per month, for each month or fraction thereof such taxes are delinquent. Such interest shall become a part of the tax herein required to be remitted. Each occurrence or willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). The fine levied by this chapter shall be applicable to each individual transaction involving lodging services paid by a transient to the operator in those cases when the operator fails or refuses to pay the tax payable to the municipality. (Ord. #2009-03-100, March 2009)

5-507. Records. It is the duty of every operator liable for the collection and payment to the municipality of any tax imposed by this chapter to keep and preserve for a period of three (3) years all records necessary to determine the amount of tax due and payable for whose collection and payment to the municipality such operator may have been liable, which records the municipality shall have the right to inspect at all reasonable times. (Ord. #2009-03-100, March 2009)

5-508. Administration. (1) In administering and enforcing the provisions of this chapter, the municipality has as additional powers, those powers and duties with respect to collecting taxes as provided in *Tennessee Code Annotated*, title 67, or otherwise provided by law.

(2) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in *Tennessee Code Annotated*, § 67-1-911. It is the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter; provided, the municipality shall possess those powers and duties as provided in *Tennessee Code Annotated*, § 67-1-707,

with respect to adjustment and settlement with taxpayers of all errors of taxes collected under the authority of this chapter and to direct the refunding of same. Notice of any tax paid under protest shall be given to the municipality and suit for recovery shall be brought against it. (Ord. #2009-03-100, March 2009)

5-509. Tax levied in accordance with law. The tax levied pursuant to the provisions of this chapter shall only apply in accordance with the provisions of *Tennessee Code Annotated*, § 67-4-1425. (Ord. #2009-03-100, March 2009)

5-510. Expending and distributing tax. The proceeds from the tax levied by this chapter shall be retained by the municipality and distributed into the general fund for public projects and expenses for the benefit of the residents and tourists of the municipality. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel. (Ord. #2009-03-100, March 2009)

5-511. Tax is additional tax. The tax levied by this chapter shall be in addition to all other taxes levied or authorized to be levied, whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (Ord. #2009-03-100, March 2009)

TITLE 6**LAW ENFORCEMENT**¹**CHAPTER**

1. ARREST PROCEDURES.
2. CITATIONS, WARRANTS, AND SUMMONSES.

CHAPTER 1**ARREST PROCEDURES****SECTION**

- 6-101. When police officers to make arrests.
- 6-102. Disposition of persons arrested.

6-101. When police officers to make arrests.² Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer 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; and
- (3) Whenever a felony has in fact been committed and the officer has probable cause to believe the person has committed it.

6-102. Disposition of persons arrested. 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.

¹Municipal code references

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

"Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004:" title 7, chapter 3, footnote 1.

²Municipal code reference

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

CHAPTER 2

CITATIONS, WARRANTS, AND SUMMONSES

SECTION

6-201. Citations in non-traffic cases.

6-202. Summonses.

6-201. Citations in non-traffic cases.¹ Pursuant to *Tennessee Code Annotated*, §§ 7-63-101, *et seq.*, the board of mayor and aldermen appoints the N/A in the fire department and the N/A in the building department special police officers having the authority to issue citations. The N/A in the fire department shall have the authority to issue citations for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The N/A in the building department shall have the authority to issue citations for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

The citation 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*, § 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 was issued.

6-202. Summonses. Pursuant to *Tennessee Code Annotated*, §§ 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 chief in the police department to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

¹Municipal code reference

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

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 for the violation, or arrest the offender for failure to sign the citation. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 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. (modified)

TITLE 7**FIRE PROTECTION AND FIREWORKS****CHAPTER****1. FIREWORKS.****CHAPTER 1****FIREWORKS****SECTION****7-101. Sale of fireworks.**

7-101. Sale of fireworks. All concerned with the sale of fireworks shall be permitted within the municipal boundaries of the town as allowed by the applicable laws of the State of Tennessee. In addition to those requirements, any holder or owner of a license to sell fireworks under the laws of the State of Tennessee who shall seek to sell fireworks within the municipal limits of the Town of Bean Station shall further meet and comply with the following conditions.

(1) Sales of fireworks shall be allowed only from permanent locations only. "Permanent location," for this purpose, shall be defined as a permanent structure constructed and standing year round within the municipal limits of the Town of Bean Station.

(2) Any person seeking to sell fireworks within the municipal limits of the Town of Bean Station shall also obtain any necessary retail business sales license from Grainger County and the Town of Bean Station. Such structure shall meet all pertinent building codes and be equipped with at least two (2) fire extinguishers.

(3) Any person or entity seeking to sell fireworks within the municipal limits of the Town of Bean Station shall have first obtained all necessary licenses issued by the State of Tennessee for same, and present them to the town recorder, mayor or other designated authority.

(4) Any premises from which fireworks are sold shall be equipped with permanent electrical wiring and plumbing. Plumbing shall include appropriate restroom facilities for use of patrons of the business. Said plumbing facilities must be of a permanent nature, and portable sanitary facilities will not be acceptable.

(5) Any person or entity who shall sell fireworks in violation of this section within the municipal limits of the Town of Bean Station shall be subject to civil penalty in the amount of fifty dollars (\$50.00) per day for each day of violation. Further, any person or entity so violating this section shall be subject

to immediate restraint through appropriate court order obtained by the Town of Bean Station, acting on appropriate authority. (Ord. #3-101, May 1997)

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE IN RETAIL FOOD STORES.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this town. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101.

¹Municipal code reference

Minors in beer places, etc.: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, §§ 39-17-701, *et seq.*

CHAPTER 2

BEER

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. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.
- 8-216. Violations and penalty.

8-201. Beer board established. There is hereby established a beer board to be composed of three (3) members. There shall be a chairman of the beer board.

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 adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

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 shall be a public record and shall contain at least the following: The date of each meeting; names of the board members present and absent; 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.

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. Any member present but not voting shall be deemed to have cast a "nay" vote.

8-205. Powers and duties of the beer board.¹ 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 municipality in accordance with the provisions of this chapter.

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

8-207. Permit required for engaging in beer business.² 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 *Tennessee Code Annotated*, § 57-5-104(a), 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 Bean Station. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Privilege tax.³ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town of Bean Station, 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.

¹State law reference
Tennessee Code Annotated, § 57-5-106.

²State law reference
Tennessee Code Annotated, § 57-5-103.

³State law reference
Tennessee Code Annotated, § 57-5-104(b).

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on premises and off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.¹

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to eight (8). Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the town at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (Modified)

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 schools, residences, 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 manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property

¹State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under *Tennessee Code Annotated*, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under *Tennessee Code Annotated*, § 16-18-302, town courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. Town courts are thus prohibited from enforcing ordinances making violations of *Tennessee Code Annotated*, § 57-5-301(a) a local offense.

line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period.

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

1. Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.¹

2. Make or allow the sale of beer between the hours of 12:00 midnight and 8:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 12:00 midnight on Sunday.²

3. Allow any person under twenty-one (21) years of age to loiter in or about his place of business.³

4. Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

5. Allow drunk persons to loiter about his premises.

6. Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.

7. Fail to provide and maintain separate sanitary toilet facilities for men and women. (modified)

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend 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. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to

¹State law reference

Tennessee Code Annotated, § 1-3-113(a).

²State law reference

Tennessee Code Annotated, § 57-5-106(a), for cities with liquor by the drink, the Alcoholic Beverage Commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under *Tennessee Compilation Rules and Regulations* § 0100-01-.03(2).

³State law reference

Tennessee Code Annotated, § 57-5-106(a).

all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-214. Civil penalty in lieu of revocation or suspension. (1)

Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," *Tennessee Code Annotated*, § 57-5-601, *et seq.*

(2) Penalty, revocation or suspension.¹ The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or 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.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged

¹State law reference

Tennessee Code Annotated, § 57-5-108(2).

and shall be paid to the exclusion of any other penalty that the town may impose.

8-215. Loss of clerk's certification for sale to minor.¹ If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

8-216. Violations and penalty. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹State law reference

Tennessee Code Annotated, § 57-5-607.

CHAPTER 3

WINE IN RETAIL FOOD STORES

SECTION

8-301. Inspection fee on retail food store wine licensees.

8-302. Application for certificate.

8-301. Inspection fee on retail food store wine licensees. Pursuant to the authority contained in *Tennessee Code Annotated*, §§ 57-3-501 *et seq.*, there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in *Tennessee Code Annotated*, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee.

8-302. Application for certificate. Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-806, shall be signed by the mayor, or by any aldermen, a request in writing shall be filed with the recorder giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
- (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. YARD SALES.
3. CABLE TELEVISION.
4. ADULT-ORIENTED ESTABLISHMENTS.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violations and penalty.

9-101. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section.

(1) "Peddler" means any person, firm, or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm, or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation, or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one (1) of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under § 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Grainger County for a period of two (2) years prior to the date of its application for registration under this chapter.

(4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the town, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Transient vendor"¹ means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. "Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or

¹State law references

Tennessee Code Annotated, §§ 62-30-101, *et seq.* contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from *Tennessee Code Annotated*, § 62-30-101(3). Note also that *Tennessee Code Annotated*, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in *Tennessee Code Annotated*, § 67-4-709(b).

quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

9-102. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business.

9-103. Permit required. No person, firm, or corporation shall operate a business as a peddler, transient vendor or solicitor, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter.

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the administrative assistant by each applicant for a permit as a peddler, transient vendor, or solicitor, and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

(b) A brief description of the type of business and the goods to be sold.

(c) The dates for which the applicant intends to do business or make solicitations.

(d) The names and permanent addresses of each person who will make sales or solicitations within the town.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

(f) Tennessee state sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor or solicitor shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the administrative assistant shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the administrative assistant, the administrative assistant shall submit to the chief of police a copy of the application form and the permit.

9-105. Restrictions on peddlers and solicitors. No peddler, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the town.

(2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented, or held forth.

9-107. Display of permit. Each peddler, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-108. Suspension or revocation of permit. (1) Suspension by the administrative assistant. The permit issued to any person or organization under this chapter may be suspended by the administrative assistant for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be

suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the administrative assistant in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (modified)

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

9-110. Violations and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

CHAPTER 2

YARD SALES

SECTION

9-201. Definitions.

9-202. Property permitted to be sold.

9-201. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(2) "Yard sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance¹, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

9-202. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property.

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

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 Bean Station and its inhabitants under franchise as the Board of Mayor and Aldermen of the Town of Bean Station, Tennessee shall grant. The rights, powers, duties and obligations of the Town of Bean Station and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. #98-12 in the office of the recorder.

CHAPTER 4

ADULT-ORIENTED ESTABLISHMENTS¹

SECTION

- 9-401. Purpose.
- 9-402. Definitions.
- 9-403. License required.
- 9-404. Application for license.
- 9-405. Standards for issuance of license.
- 9-406. Permit required.
- 9-407. Application for permit.
- 9-408. Standards for issuance of permit.
- 9-409. Fees.
- 9-410. Display of license or permit.
- 9-411. Renewal of license or permit.
- 9-412. Revocation of license or permit.
- 9-413. Hours of operation.
- 9-414. Responsibilities of the operator.
- 9-415. Prohibitions and unlawful sexual acts.
- 9-416. Violations and penalty.

9-401. Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order 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 secondary effects of sexually oriented businesses within the town. It is not the intent nor effect of this ordinance 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.

9-402. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

- (1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment

¹State law references

Tennessee Code Annotated, §§ 7-51-1101–7-51-1122 and
7-51-1401–7-51-1407

is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.

(5) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering.

Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers,

private dancers, strippers, male or female impersonators, or similar entertainers.

(6) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the Town of Bean Station, Tennessee.

(7) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified sexual activities" means:

- (a) Human genitals in a state of actual or simulated sexual stimulation or arousal;
- (b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(12) "Specified anatomical areas" means:

- (a) Less than completely and opaquely covered:
 - (I) Human genitals, pubic region;
 - (ii) Buttocks;
 - (iii) Female breasts below a point immediately above the top of the areola; and
- (b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

9-403. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Town of Bean Station without first obtaining a license to operate issued by the Town of Bean Station.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or

corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.

9-404. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the Town of Bean Station. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the recorder and to the applicant.

(2) The application for a license shall be upon a form provided by the police chief. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:

(a) Name and addresses, including all aliases.

(b) Written proof that the individual(s) is at least eighteen (18) years of age.

(c) All residential addresses of the applicant(s) for the past three (3) years.

(d) The applicants' height, weight, color of eyes and hair.

(e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.

(f) Whether the applicant(s) previously operated in this or any other county, town or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(g) All criminal statutes, whether federal or state, or town ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.

(i) The address of the adult-oriented establishment to be operated by the applicant(s).

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

(l) The length of time each applicant has been a resident of the Town of Bean Station, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the town manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Bean Station Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the board of mayor and aldermen.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of mayor and aldermen and no agreement is reached with the applicant concerning the basis for denial, the town attorney shall institute suit for declaratory judgment in the Chancery Court of Grainger County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief.

9-405. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

- (a) If the applicant is an individual:
 - (i) The applicant shall be at least eighteen (18) years of age.
 - (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 - (iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.
- (b) If the applicant is a corporation:
 - (i) All officers, directors and stockholders required to be named under § 9-403 shall be at least eighteen (18) years of age.
 - (ii) No officer, director or stockholder required to be named under § 9-403 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Bean Station Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application.

9-406. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief.

9-407. Application for permit. (1) Any person desiring to secure an permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the town recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the police chief. An applicant for a permit shall furnish the following information under oath:

(a) Name and address, including all aliases.

(b) Written proof that the individual is at least eighteen (18) years of age.

(c) All residential addresses of the applicant for the past three (3) years.

(d) The applicant's height, weight, color of eyes, and hair.

(e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.

(f) Whether the applicant, while previously operating in this or any other town or state under an adult-oriented establishment permit or

similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefor, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

(g) All criminal statutes, whether federal, state or town ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.

(i) The length of time the applicant has been a resident of the Town of Bean Station, or its environs, immediately preceding the date of the application.

(j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Bean Station Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief.

9-408. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Bean Station Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application.

9-409. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned.

9-410. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Bean Station Police Department, or any person designated by the board of mayor and aldermen.

9-411. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the town recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the Bean Station Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the town recorder and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the Bean Station Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief.

9-412. Revocation of license or permit. (1) The police chief shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the town council pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the town council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Grainger County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license.

9-413. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Monday through Saturday, and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Bean Station Police Department, the Grainger County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate.

9-414. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight,

color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Bean Station Police Department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Bean Station Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by the Town of Bean Station Municipal Code. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

9-415. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer.

9-416. Violations and penalty. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

TITLE 10**ANIMAL CONTROL**¹**CHAPTER**

1. IN GENERAL.
2. DOGS AND CATS.

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. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Violations and penalty.

10-101. Running at large prohibited. The town believes it to be in the best interest and safety of the public to pass *Tennessee Code Annotated*, § 44-8-401 and 44-8-408, "animals running at large." (Ord. #2011-04-102, April 2011, modified)

10-102. Keeping near a residence or business restricted. No person shall keep or allow any animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line. (modified)

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. Storage of food. 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

¹Wherever this title mentions dogs, it pertains to dog and cats.

become a nuisance because of either noise, odor, contagious disease, or other reason.

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known, he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance.

10-107. Violations and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.
- 10-209. Violations and penalty.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the Tennessee Anti-Rabies Law (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-113) or other applicable law.

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section.

10-203. Running at large prohibited.¹ 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.

10-204. Vicious dogs.² [See Chapter 3 for Pit Bull Dogs optional chapter] (1) Definition of terms:

¹State law reference

Tennessee Code Annotated, § 68-8-107.

²See cases stating the state's authority to regulate vicious dogs: *State of Tennessee v. Denver Hartly*, 15 TAM 23-2 (Tenn. S. Ct. 1990), and *Darnell v. Shappard*, 3 S.W.2d 661 (1928).

(a) "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog, or the parents or guardian of a child claiming ownership.

(b) "Vicious dog" means:

(i) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals;

(ii) Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance;

(iii) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal;

(iv) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or

(v) Any pit bull terrier, which shall be defined as any American pit bull terrier or Staffordshire bull terrier or American Staffordshire terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American pit bull terrier or Staffordshire bull terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American pit bull terrier or Staffordshire bull terrier or Staffordshire bull terrier or American Staffordshire bull terrier.

(c) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot (1'). All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

(2) Confinement. The owner of a vicious dog shall not suffer or permit the dog to go unconfined.

(3) Leash and muzzle. The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(4) Signs. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(5) Dog fighting. No person, firm, corporation, organization, or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait, or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

(6) Insurance. Owners of vicious dogs must within thirty (30) days of the effective date of this section provide proof to the town clerk of public liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

(7) Penalties. Whoever violates any provision of this section shall be guilty of a gross misdemeanor and may be punished by a fine of not less than ten dollars (\$10.00) and not more than fifty dollars (\$50.00). The conviction of any owner of three (3) or more offenses under this chapter for any dog during one (1) calendar year shall require a confiscation and forfeiture of that animal based on the danger and incorrigibility of owner and animal. Failure to abide by a lawful order of forfeiture is punishable by contempt.

10-205. 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.

10-206. 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 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.

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag or found to be implanted with a microchip, the owner shall be notified in person, by telephone, or by a postcard addressed to his last known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag, it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar.

Any new owner adopting a dog that has not been spayed or neutered must pay a twenty-five dollar (\$25.00) deposit before a dog may be released, as required by the Tennessee Spay/Neuter Law.¹

10-208. 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.²

10-209. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹State law reference

Tennessee Code Annotated, §§ 44-17-501, *et seq.*, the Tennessee Spay/Neuter Law, prohibits persons from adopting a dog or cat from an agency (pound, animal shelter, etc.) operated by a municipality unless the dog or cat was already spayed or neutered, was spayed or neutered while in the custody of the agency, or the new owner signs a written agreement to have the animal spayed or neutered within thirty (30) days of the adoption if the animal is sexually mature, or within thirty (30) days after the animal reaches six (6) months of age if it is not sexually mature.

Before an agency may release an animal which has not been spayed or neutered it must collect a twenty-five dollar (\$25.00) deposit from the new owner to ensure compliance with the law. If the new owner does not comply with the law, the deposit is forfeited and the agency may file a petition in court to force the new owner to either comply with the law or return the animal.

An agency may not spay or neuter a dog or cat that is returned to its original owner within seven (7) days of its being taken into custody by the agency.

²State law reference

Tennessee Code Annotated, §§ 44-17-301, *et seq.*

TITLE 11**MUNICIPAL OFFENSES¹****CHAPTER**

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
4. LITTERING.

CHAPTER 1**ALCOHOL²****SECTION**

- 11-101. Drinking alcoholic beverages in public, etc.
11-102. Minors in beer places.
11-103. Violations and penalty.

11-101. 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.

11-102. 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.

11-103. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

¹Municipal code references

Animals and fowls: title 10.

Fireworks and explosives: title 7.

Housing and utilities: title 12.

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

Traffic offenses: title 15.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

- 11-201. Excessive noise prohibited.
- 11-202. Prohibited acts enumerated.
- 11-203. Exemptions.
- 11-204. Private prosecution.
- 11-205. Violations and penalty.

11-201. Excessive noise prohibited. No person owning, employing, or having the care, custody, or possession of any instrument, amplifier, animal, or other generator of regularly recurring sound shall permit or cause to be permitted the generation or transmission of such sound in such a manner as to cause injury, detriment, or nuisance to any person of ordinary sensitivities; provided, however, that excessive noise shall not include and is not intended to prohibit single day special events limited in duration to any single twelve (12) hour period, including, by way of example, but without limitation, events which are held for the purpose of public or private auction, events sponsored or supported by any public body, agency, or official or celebratory events commemorating any national, state, or local holiday. The generation or transmission of sound in such a manner as to be plainly audible on any adjacent or adjoining property shall be prima facie evidence of a violation of this section unless otherwise specifically permitted by ordinance or law or by an agency or department of the county. (Ord. #2001-08-100, Aug. 2001)

11-202. Prohibited acts enumerated. The following acts, among others, are declared to be excessive noises in violation of this chapter, but this enumeration shall not be deemed to be exclusive.

(1) Musical instruments. The playing of any radio, phonograph, or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., so as to annoy or disturb the quiet, comfort or repose of persons in any hospital or in any dwelling, hotel, or other type, of residence or of any persons in the vicinity.

(2) Dogs. The keeping of any clog, in a residential area, which by causing frequent or long continued noise disturbs the comfort and repose of any person in the vicinity.

(3) Operation of vehicles. The use of any automobile, motorcycle of other vehicle so out of repair or loaded in such manner as to create loud and unnecessary grating, grinding, rattling or other noise or the extended operation of refrigerated trucks or trailers between the hours of 10:00 P.M. and 7:00 A.M. the following day or any time on weekends or holidays, such that the sound

therefrom creates a noise disturbance across the residential real property boundary, except by a variance approved by the board of zoning appeals.

(4) Exhaust without mufflers. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(5) Drums or other instrument. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale or display of merchandise.

(6) Loudspeakers and amplifiers. The use of mechanical loudspeakers or amplifiers for advertising or other purposes.

(7) Loading and unloading. Loading, unloading, closing or other handling of boxes, crates, containers, building materials, garbage cans or dumpsters, motor vehicles or similar objects between the hours of 10:00 P.M. and 8:00 A.M. the following day or anytime on weekends or holidays, such that the sound therefrom creates a noise disturbance across a residential real property boundary, except by a variance approved by the board of zoning appeals. (Ord. #2001-08-100, Aug. 2001)

11-203. Exemptions. The provisions of this chapter shall not apply to any county vehicle while engaged upon necessary public business or to the reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character. (Ord. #2001-08-100, Aug. 2001)

11-204. Private prosecution. (1) Private citizens may prosecute violations of this section by completing, and signing an affidavit of complaint against the alleged violating individual. Upon the completion and signing of the aforementioned affidavit of complaint, the police chief shall issue a citation to the alleged violating individual. Said citation shall provide the date, place and time of the hearing regarding the alleged violation.

(2) The citation may be served by a Bean Station police officer, any other person designated by the board of mayor and aldermen, or via certified mail.

(3) If said citation is to be served via a Bean Station police officer or any other person designated by the board of mayor and aldermen, the private prosecutor shall pay a service fee of fifty dollars (\$50.00) to the court clerk at the time of the signing of the affidavit of complaint. Said service fee shall be assessed as court costs. If said citation is to be served via certified mail, the private prosecutor shall pay a processing fee of fifty dollars (\$50.00) plus postage. Said processing fee and postage shall be assessed as court costs. (Ord. #2003-05-100, May 2003, modified)

11-205. Violations and penalty. Any person found in violation of this chapter shall be subject to a maximum monetary penalty and forfeiture of fifty dollars (\$50.00). (Ord. #2001-08-100, Aug. 2001)

CHAPTER 3

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

- 11-301. Trespassing.
 11-302. Interference with traffic.
 11-303. Violations and penalty.

11-301. Trespassing. (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.¹

11-302. 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.

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

11-303. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 4**LITTERING****SECTION**

11-401. Littering offenses.

11-402. Violations and penalty.

11-401. Littering offenses. 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. (Ord. #2009-10-100, Dec. 2009)

11-402. Violations and penalty. Any person violating this chapter shall be subject to a civil penalty not exceeding fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall constitute a separate violation. (Ord. #2009-10-100, Dec. 2009)

TITLE 12

BUILDING, UTILITY, ETC. CODES

[RESERVED FOR FUTURE USE]

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. JUNKED MOTOR VEHICLES.
5. DEBRIS AND TRASH REMOVAL.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 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 and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds

¹Municipal code references

Animal control: title 10.

Littering generally: title 11.

Littering streets, etc.: § 16-107.

Property maintenance code: title 12.

Wastewater treatment: title 18, chapter 2.

on his property, and it shall be unlawful for any person to fail to comply with an order by the zoning officer to cut such vegetation when it has reached a height of over one foot (1'). (modified)

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen 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 § 13-104 of the Bean Station Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, 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.

(4) 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 mayor and aldermen. The appeal shall be filed with the zoning officer 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.

(5) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(6) 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. (modified)

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 zoning officer and dispose of such animal in such manner as the zoning officer shall direct. (modified)

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 subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

SLUM CLEARANCE¹

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.
- 13-214. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*, the board of mayor and aldermen 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.

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(3) "Municipality" shall mean the Town of Bean Station, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "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.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "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 state relating to health, fire, building regulations, or other activities concerning structures in the town.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the zoning officer of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the zoning officer. (modified)

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 occupation 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 occupation 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:

(1) 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, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) 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 occupation or use. The use or occupation of this building for human occupation 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, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in *Tennessee Code Annotated*, §§ 67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner

through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer 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 Grainger or Hawkins 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 to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Bean Station 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 Bean Station. 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; or uncleanliness.

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 persons are 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 of general circulation. In addition, a copy of such complaint or order shall be posted in a conspicuous place on 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 Grainger County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (modified)

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 bill 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 bill 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.

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained 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.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

JUNKYARDS^{1,2}

SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Permits and fees.
- 13-308. Violations and penalty.

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(3) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(4) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the town. (Ord. #2012-05-100, June 2012)

¹Municipal code reference

Refuse and trash disposal: title 17.

²State law reference

Tennessee Code Annotated, § 7-51-701.

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (Ord. #2012-05-100, June 2012)

13-303. Screening methods. The following methods and materials for screening are given for consideration only.

(1) Landscape planting. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) Earth grading. The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood;

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative; and

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (Ord. #2012-05-100, June 2012)

13-304. Requirements for effective screening. (1) Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the town.

(2) The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(a) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

(b) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(c) Screening shall be located on private property and not on any part of the highway right-of-way.

(d) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (Ord. #2012-05-100, June 2012)

13-305. Maintenance of screens. (1) The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to ensure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the town.

(2) If not replaced within sixty (60) days, the town may replace said screening and require payment upon demand. (Ord. #2012-05-100, June 2012)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (Ord. #2012-05-100, June 2012)

13-307. Permits and fees. It shall be unlawful for any junkyard located within the town to operate without a "junkyard control permit" issued by the town.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The town's fiscal year begins on July 1 and ends on June 30 the year next following.

(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the town,

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued. (Ord. #2012-05-100, June 2012)

13-308. Violations and penalty. Any person violating this chapter shall be subject to a civil penalty not exceeding fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall constitute a separate violation. (Ord. #2012-05-100, June 2012)

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Violations and penalty.

13-401. 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 in which vehicles ordinarily use for travel.

(4) (a) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including, but not limited to, any one (1) or combination of any 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 streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(ii) 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.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) 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.

(vi) 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.

(vii) 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.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(b) "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, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

13-402. Violations a civil offense.¹ 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 forsake 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 forsake the vehicle. (modified)

13-403. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) This exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property

¹State law reference

Tennessee Code Annotated, § 55-5-122.

maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for 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, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep, and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the town. (modified)

13-404. Enforcement. Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall, upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the town judge to issue a summons; or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, §§ 7-63-101 *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property.

13-405. Violations and penalty. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.

CHAPTER 5

DEBRIS AND TRASH REMOVAL

SECTION

- 13-501. Title.
- 13-502. Declaration of nuisance.
- 13-503. Definitions.
- 13-504. Permitting accumulation of junk, trash, refuse, etc.
- 13-505. Designation of public officer or department.
- 13-506. Initiation of proceedings; notice to property owner; hearings.
- 13-507. Additional powers of board of mayor and aldermen.
- 13-508. Judicial review.
- 13-509. Supplemental nature of this section.
- 13-510. Additional penalties.
- 13-511. Exceptions.

13-501. Title. This chapter shall be known as the "Town of Bean Station Debris and Trash Removal Ordinance." (Ord. #2013-05-103, May 2013)

13-502. Declaration of nuisance. The existence within the corporate limits of the Town of Bean Station of lots and parcels of land burdened with accumulations of debris, junk, trash, litter, garbage, or refuse or any combination of such elements is hereby declared to be a nuisance. (Ord. #2013-05-103, May 2013)

13-503. Definitions. (1) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(2) "Municipality" shall mean the Town of Bean Station, Tennessee, and the areas within existing town limits or as hereafter annexed.

(3) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(4) "Parties in interest" shall mean all individuals, associations, corporations, and others who have interests of record in a dwelling or lot and any who are in possession thereof. (Ord. #2013-05-103, May 2013)

13-504. Permitting accumulation of junk, trash, refuse, etc. (1) Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any person owning, leasing, occupying, or having control of property in the town to create, maintain, permit, or suffer debris, junk, trash, litter, garbage, or refuse to accumulate on such property to such an extent that a nuisance is created which is injurious to the health, safety, morals, and welfare of the inhabitants of the town or that infestation by rats or other harmful animals is encouraged.

(2) In complying with the provisions of this chapter, it shall be unlawful for any person owning, leasing, occupying, or having control of property in the town to rake up, cut up, or pile up vines, grass, underbrush or other vegetation, dead or broken tree limbs, dead trees or debris, trash, junk, litter, garbage, or rubbish into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct the flow of water drainage. (Ord. #2013-05-103, May 2013)

13-505. Designation of public officer or department. The board of mayor and aldermen may designate an appropriate department or person to enforce the provisions of this chapter. In lieu of any designation the Town of Bean Station Zoning Officer and persons acting under his or her authority shall serve in this capacity. (Ord. #2013-05-103, May 2013)

13-506. Initiation of proceedings; notice to property owner; hearings. (1) Whenever a citation is filed with the Town of Bean Station Municipal Court by the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman charging that provisions of this chapter have been violated, or whenever it appears to the board of mayor and aldermen upon their own motion, that the provisions of this chapter have been violated, if a preliminary investigation discloses a basis for such charges; then in such event it shall be the duty of the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman, to serve upon the owner of record in violation of this chapter, a notice in plain language to remedy the condition within ten (10) days, excluding Saturdays, Sundays, and legal holidays.

(2) Such notice may be served by:

(a) Personally delivering the notice upon the owner, lessee, occupant, or person having control of such property;

(b) Mailing the notice to the last known address of such owner, lessee, occupant, or person having control of such property by certified United States mail;

(c) Posting the notice on the property on which such violations exist; or

(d) If the whereabouts of such persons are unknown and the same cannot be ascertained by the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman in the exercise of reasonable diligence, and the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman to make an affidavit to that effect, then the serving of such citation or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper of general circulation. Service of

notice by any of the methods set out in subsections (a), (b), (c), or (d) above shall be due notice within the meaning of this chapter; provided, however, that no owner out of possession shall be liable to the penalty imposed by this chapter unless there shall be personal service of such notice upon him or such notice mailed to him by certified mail as provided in this section.

(3) The notice shall state that the owner of the property is entitled to a hearing before the Town of Bean Station Municipal Court, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of this chapter of the Bean Station Municipal Code, which has been enacted under the authority of the *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner be cleaned up at the expense of the owner and a lien placed against the property to secure the costs of the cleanup;

(b) The person, office, address, and telephone number of the department or person giving the notice; and

(c) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing. Failure to make the request for a hearing within ten (10) days of the notice shall, without exception, constitute a waiver of the right to a hearing.

(4) Any hearing requested by any such owner must be requested within ten (10) days of the receipt by such owner of any notification issued hereunder. Such request must be made in writing to the clerk of the Town of Bean Station Municipal Court and shall include an attached copy of the notification received or sufficient information so as to allow the court to properly identify the affected property. Upon the receipt of any request for a hearing the clerk shall notify the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman that a hearing has been requested and said zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman has thereafter file with the clerk of the Town of Bean Station Municipal Court a copy of any citation issued, notice sent to such property owner, and any and all other documents or materials generated during the investigation and initiation of proceedings under this chapter with the court. The court shall docket a hearing upon such request for a hearing within at the next scheduled court date or at such other time as may be designated by the court and the parties shall be notified to appear. At such hearing, the court shall be empowered to determine if the procedure outlined herein has been properly followed, if any property subject to the notice and request for a hearing is in fact a violation of this chapter, and any other matter necessary to effect the purpose of this chapter. At the conclusion of such hearing the court shall issue a written order making such findings as may be, necessary to effectuate the ordinance. If the court determines that the property in question is in violation of the ordinance and that the proceedings hereunder have been properly carried out

the court shall permit the remedies allowed under this chapter to proceed. (Ord. #2013-05-103, May 2013, modified)

13-507. Additional powers of board of mayor and aldermen. The zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and alderman, 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 and lots in the town in order to determine which structures therein are unfit for human occupation or use, or which are a public nuisance;

(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 to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of any officers, agents, and employees as deemed necessary to carry out the purpose of this chapter; and

(5) To delegate any of their functions and powers under this chapter to such officers and agents as they may designate. (Ord. #2013-05-103, May 2013)

13-508. Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under this chapter may see judicial review of the order or act as may be permitted under the laws of the State of Tennessee. (Ord. #2013-05-103, May 2013)

13-509. Supplemental nature of this section. The provisions of this chapter are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, the 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 accumulation of debris, junk, trash, litter, or garbage, or any combination of the proceeding elements, under its charter, any other provisions of the municipal code of ordinances or any other applicable law. (Ord. #2013-05-103, May 2013)

13-510. Additional penalties. In addition to the foregoing provisions, any person violating any of the provisions of this junk and trash ordinance shall be guilty of a Class C misdemeanor, and conviction thereof shall result in the penalties of a monetary fine not to exceed fifty dollars (\$50.00). The zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and aldermen, shall be empowered to issue a citation for such an offense to the any property owner requiring such owner to

appear before the Town of Bean Station Municipal Court for hearing to determine if a violation of the ordinance has occurred. Each day any violation of this chapter shall continue shall constitute a separate offense as allowed by the laws of the State of Tennessee. This additional remedy is permitted in addition to the remedies allowed in the foregoing and may be sought at the discretion of the zoning officer, persons acting under his or her authority, or such other person designated by the board of mayor and aldermen. (Ord. #2013-05-103, May 2013)

13-511. Exceptions. Nothing in this chapter shall prevent any refuse producer from collecting, removing, and disposing of his own refuse, provided he does so in such a manner as not to create a nuisance and provided further he is in full compliance with this chapter. (Ord. #2013-05-103, May 2013)

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.
4. MOBILE HOME PARKS.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor (or the mayor's designee) and another member of the governing body selected by the governing body; the other three (3) members shall be appointed by the mayor. The legislative body shall determine in what amount to compensate the members.

Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for four (4) 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 and the member selected by the governing body shall run concurrently with their terms of office. The mayor of the town shall fill any vacancy in an appointive membership for the unexpired term. (Ord. #2015-03-100, April 2015)

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.¹ 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.

¹State law reference

To make this section effective the municipality should request the state department of economic and community development, under authority granted by *Tennessee Code Annotated*, § 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. Violations and penalty.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Bean Station shall be governed by the "Zoning Ordinance of Bean Station, Tennessee," and any amendments thereto.¹

14-202. Violations and penalty. Violations of the zoning ordinance shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹The zoning ordinance (adopted July 1998), and any amendments thereto, are published as separate documents and are of record in the office of the recorder.

CHAPTER 3

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

- 14-301. Statutory authorization, findings of fact, and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.
- 14-307. Legal status provisions.

14-301. Statutory authorization, findings of fact, and objectives.

(1) Statutory authorization. The legislature of the State of Tennessee has in *Tennessee Code Annotated*, § 6-2-201, delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Bean Station, Tennessee, board of mayor and aldermen, do ordain the following.

(2) Findings of fact. (a) The Town of Bean Station, Tennessee and its legislative body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so, must meet the NFIP regulations found in 44 CFR ch. 1, § 60.3.

(b) Areas of the Town of Bean Station, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;

(d) Control filling, grading, dredging, and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this chapter are:

(a) To protect human life, health, and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the NFIP. (Ord. #2010-07-101, July 2010)

14-302. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following.

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' - 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard." See "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building." See "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with § 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(14) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures." See "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the Town of Bean Station, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use

with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(44) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(46) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(47) "North American Vertical Datum (NAVD) means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "100-year flood." See "base flood."

(49) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures. "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(51) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(52) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(53) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, or A99.

(54) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(55) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(56) "State coordinating agency" the Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(57) "Structure" for purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(58) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(59) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be: the appraised value of the structure prior to the start of the initial improvement; or in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(60) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(61) "Variance" is a grant of relief from the requirements of this chapter.

(62) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(63) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #2010-07-101, July 2010)

14-303. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the Town of Bean Station, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Bean Station, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance

Rate Map (FIRM), Community Panel Number 47057C0I50C, dated December 16, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure, or use shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Bean Station, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefor, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Bean Station, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #2010-07-101, July 2010)

14-304. Administration. (1) Designation of ordinance administrator. The zoning officer is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in subsections (1) and (2) above.

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. (i) Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

(ii) Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

(iii) For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

(iv) Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project,

(3) Duties and responsibilities of the administrator. Duties of the Administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding;

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA;

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process;

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained;

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with subsection (2) above;

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with subsection (2) above;

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with subsection (2) above;

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter;

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Town of Bean Station, Tennessee FIRM meet the requirements of this chapter; and

(k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #2010-07-101, July 2010, modified)

14-305. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse, and lateral movement of the structure.

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said nonconformity is not further extended or replaced.

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including § 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of subsection (2) below.

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction.

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in subsection (1) above, are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures." Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood

hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria:

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of this subsection (2).

(d) Standards for manufactured homes and recreational vehicles:

(i) All manufactured homes placed, or substantially improved, on: individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, or in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-302).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of subsections (1) and (2) above.

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by

quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding:

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see subsection (5) below).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the

effective flood insurance study for the Town of Bean Station, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above.

(4) Standards for areas of special flood hazard zones ae with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above.

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-303(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see subsection (5)(b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of subsections (1) and (2) above.

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or

floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of subsection (2) above.

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the Town of Bean Station, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) below. Within approximate A Zones, require that those subsections of subsection (2) above dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in subsections (1) and (2) above, apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of subsection (2) above.

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed water-tight to be completely floodproofed to at

least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of § 14-304 and this section shall apply.

(8) Standards for unmanned streams. Located within the Town of Bean Station, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply.

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-304 and 14-305. (Ord. #2010-07-101, July 2010)

14-306. Variance procedures. (1) Board of floodplain review.

(a) A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years, respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals; how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply.

(A) The Town of Bean Station, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in subsection (1) above.

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #2010-07-101, July 2010)

14-307. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Bean Station, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional. (Ord. #2010-07-101, July 2010)

CHAPTER 4

MOBILE HOME PARKS

SECTION

- 14-401. Definitions.
- 14-402. Location of mobile homes.
- 14-403. Compliance with construction standards required.
- 14-404. Installation requirements.
- 14-405. Permit for mobile home park.
- 14-406. Inspections by town building inspector.
- 14-407. Location and planning.
- 14-408. Minimum size of mobile home park.
- 14-409. Minimum number of spaces.
- 14-410. Minimum mobile home space and spacing of mobile homes.
- 14-411. Water supply.
- 14-412. Sewage disposal.
- 14-413. Refuse.
- 14-414. Electricity.
- 14-415. Streets.
- 14-416. Parking spaces.
- 14-417. Buffer strip.
- 14-418. License for mobile home parks.
- 14-419. License for individual mobile homes.
- 14-420. License fees for mobile home parks.
- 14-421. License fees for individual mobile homes.
- 14-422. Application for license.
- 14-423. Enforcement.
- 14-424. Board of appeals.
- 14-425. Appeals from board of appeals.
- 14-426. Violations and penalty.

14-401. Definitions. (1) "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.

(2) "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.

(3) "Mobile home park (trailer court)." 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.

(4) "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.

(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.

14-402. 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 December 31, 2007. The use of a single wide mobile home other than as a residential dwelling in a licensed and approved mobile home park is prohibited.

14-403. Compliance with construction standards required. No mobile home shall be used, placed, stored, or serviced by utilities within any mobile home park in the town unless it displays the appropriate decal(s) evidencing compliance with the applicable construction standards pursuant to the "Uniform Standards Code for Manufactured Homes," *Tennessee Code Annotated*, title 68, chapter 126, is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section.

14-404. Installation requirements. Mobile home installations shall comply with the Tennessee Manufactured Home Installation Act, *Tennessee Code Annotated*, §§ 68-126-401, *et seq.*

14-405 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 building 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.

14-406. 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.

14-407. Location and planning. A 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.

14-408. 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.

14-409. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is ten (10).

14-410. Minimum mobile homes space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen feet (15') of open space between mobile homes or any attachment such as a garage or porch, and at least ten feet (10') end to end spacing between trailers and any building or structure, twenty feet (20') between any trailer and property line and twenty-five feet (25') from the right-of-way of any public street or highway.

If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile homes spaces shall be made wider to accommodate such construction in order to maintain the required fifteen feet (15') of open space.

The individual plot sizes for mobile home spaces shall be determined as follows:

- (1) Minimum lot area of two thousand four hundred (2,400) square feet;
- (2) Minimum depth with end parking of an automobile shall be equal to the length of the mobile home plus thirty feet (30');
- (3) Minimum depth with side or street parking shall be equal to the length of mobile home plus fifteen feet (15'); and

(4) In no case shall the minimum width be less than forty feet (40') and the minimum depth less than sixty feet (60').

14-411. 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 every four (4) months 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 to maintain a safe, potable water supply. Water shall be furnished at the minimum rate of one hundred twenty-five (125) gallons per day per mobile home space. An additional water service connection shall be provided for each mobile home space, with meter for each individual trailer.

14-412. Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. 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 a such 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 must be determined according to the "Percolation Test Procedures" in the Official Compilation of the Rules and Regulations of the State of Tennessee, which may be found online at <http://state.tn.us/sos/rules/1200/1200-01/1200-01-06.pdf>. 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.

All sewer lines shall be laid in trenches separated at least ten feet (10') horizontally from any drinking water supply line.

14-413. 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.

14-414. 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 electrical code, and shall satisfy all requirements of the local electric service organization.

14-415. Streets. Widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	11 ft.
One-way, with parallel parking on one side only	18 ft.
One-way, with parallel parking on both sides	26 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

Streets shall have a compacted gravel base and a prime seal treatment to meet requirement of the Tennessee State Highway Department.

14-416. 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 one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two (2) car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home space. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten feet (10') and a length of not less than twenty feet (20'). The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

14-417. Buffer strip. An evergreen buffer strip shall be planted along those boundaries of the mobile home court that are adjacent to development.

14-418. License 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 license therefor.

14-419. License for individual mobile homes. It shall be unlawful for any person to maintain an individual mobile home as a dwelling unless a license has been obtained therefor. It shall be the responsibility of the owner of the mobile home to secure the license.

14-420. License fees for mobile home parks. The annual license fee for mobile home parks shall be twenty-five dollars (\$25.00).

14-421. License fees for individual mobile homes. The annual license fee for each mobile home shall be ten dollars (\$10.00). The fee for transfer of the license because of change of ownership or occupancy shall be five dollars (\$5.00).

14-422. Application for license. (1) Mobile home parks. 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 a plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

- (a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred feet to one inch (100' to 1");
- (b) Name and address of owner of record;
- (c) Proposed name of park;
- (d) North point and graphic scale and date;
- (e) Vicinity map showing location and acreage of mobile home park;
- (f) Exact boundary lines of the tract by bearing and distance;
- (g) Names of owners of record of adjoining land;
- (h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
- (i) 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;
- (j) Provisions for water supply, sewerage and drainage;
- (k) Such information as may be required by the town to enable it to determine if the proposed park will comply with legal requirements; and

(l) The applications and all accompanying plans and specifications shall be filed in triplicate.

(2) Individual mobile homes. Application for individual mobile home licenses shall be filed with and issued by the town building inspector. Applications shall be in writing and signed by the applicant. The application shall contain the following:

- (a) The name of the applicant and all people who are to reside in the mobile home;
- (b) The location and description of the mobile home, make, model, and year;
- (c) The state license number;
- (d) Further information as may be required by the town to enable it to determine if the mobile home and site will comply with legal requirements; and
- (e) The application shall be filed in triplicate.

14-423. Enforcement. It shall be the duty of the county health officer and town building inspector to enforce provisions of this chapter.

14-424. Board of appeals. The planning commission 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 planning commission for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of this chapter, the planning commission may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector.

14-425. 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 planning commission may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee.

14-426. Violations 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 (30) days' written notice of such requirements, shall be subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 15

MOTOR VEHICLES, TRAFFIC, AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One (1) way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic control signs, etc.
- 15-108. General requirements for traffic control signs, etc.
- 15-109. Unauthorized traffic control signs, etc.
- 15-110. School safety patrols.
- 15-111. Driving through funerals or other processions.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

Under *Tennessee Code Annotated*, § 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*, § 55-10-401; failing to stop after a traffic accident where death or injury occurs, as prohibited by *Tennessee Code Annotated*, §§ 55-10-101, *et seq.*; driving while license is suspended or revoked, as prohibited by *Tennessee Code Annotated*, § 55-50-504; and drag racing, as prohibited by *Tennessee Code Annotated*, § 55-10-501.

- 15-112. Clinging to vehicles in motion.
- 15-113. Riding on outside of vehicles.
- 15-114. Backing vehicles.
- 15-115. Projections from the rear of vehicles.
- 15-116. Causing unnecessary noise.
- 15-117. Vehicles and operators to be licensed.
- 15-118. Passing.
- 15-119. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-120. Delivery of vehicle to unlicensed driver, etc.
- 15-121. Compliance with financial responsibility law required.
- 15-122. Adoption of state traffic statutes.

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. One (1) way streets. On any street for one (1) 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.

15-104. 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 (1) 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.

15-105. 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 (1) way streets either lane may be lawfully used in the absence of markings to the contrary.

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, 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.

15-107. Miscellaneous traffic control signs, etc.¹ 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.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

15-108. General requirements for traffic control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*,² and shall be uniform as to type and location throughout the town.

15-109. 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

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

²For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, §§ 1680-3-1, *et seq.*

official traffic control sign, signal, marking, or device or any railroad sign or signal.

15-110. 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.

15-111. 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.

15-112. 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.

15-113. 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 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.

15-114. 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.

15-115. 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 inches (12") 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 feet (200') from the rear of such vehicle.

15-116. 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.

15-117. 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 Classified and Commercial Driver License Act of 1988."

15-118. 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.

15-119. 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, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to 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 (1) 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) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subsections (a)(ii)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1-1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Foundation.

- (b) This section does not apply to persons riding:
- (i) Within an enclosed cab;
 - (ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;
 - (iii) Golf carts; or
 - (iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(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.

15-120. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Adult" shall mean any person eighteen (18) 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) "Driver's 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 (18) 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 operator's or chauffeur's 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 Bean Station 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.

15-121. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, 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. 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.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected.

15-122. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302(a)(2), the Town of Bean Station adopts by reference, as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, title 55, chapter 8; and § 55-9-107; and §§ 55-9-601 *et seq.*; and § 55-12-139, which are designated as Class C misdemeanors. Any person violating this section shall be subject to a civil penalty not exceeding fifty dollars (\$50.00) plus court costs for each separate violation of this section. Each day the violation of this section continues shall constitute a separate violation. (Ord. #2007-02-100, March 2007)

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.¹ (1) 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.

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limit so long as life or property is not thereby endangered; and

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle.

15-203. Following emergency vehicles. No driver of any vehicle other than one on official business shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

feet (500') 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 police officer.

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. In general. (1) It shall be unlawful for any person to operate a motorized vehicle faster than twenty-five (25) miles per hour on any neighborhood, secondary, or dead-end street.

(2) For the purposes of this section, the following definitions are used.

(a) "Dead-end street" is defined as a street with only one (1) inlet/outlet.

(b) "Neighborhood street" is defined as a type of street normally characterized by relatively low speeds, wide ranges of traffic volumes, narrower lanes, frequent intersections and driveways, significant pedestrian traffic and more businesses and houses.

(c) "Secondary street" is defined as a road supplementary to a main road suitable for two-way traffic.

(d) "Speed" is based on the following classifications:

(i) "Average speed." The summation of the instantaneous or spot-measured speeds at a specific location of vehicles divided by the number of vehicles observed.

(ii) "Design speed." A selected speed used to determine the various geometric design features of a roadway.

(iii) "Eighty-fifth (85th) percentile speed." The speed at or below which eighty-five percent (85%) of the motor vehicles travel.

(iv) "Operating speed." A speed at which a typical vehicle or the overall traffic operates. Operating speed might be defined with speed values such as the average, pace, or eighty-fifth (85th) percentile speeds.

(v) "Pace." The ten (10) miles per hour speed range representing the speeds of the largest percentage of vehicles in the traffic stream.

(e) "Speed limit" is defined as "the maximum (or minimum) speed applicable to a section of highway as established by law or regulation."

(3) Exceptions to this section include emergency vehicles.

(4) Any person violating this section shall be subject to a civil penalty not exceeding fifty dollars (\$50.00) plus court costs for each separate violation

of this section. Each occurrence of the violation of this section continues a separate violation. (Ord. #2014-12-100, Jan. 2015, modified)

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*, § 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 ninety (90) minutes before the opening hour of a school, or a period of ninety (90) 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.

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two (2) way roadways.

15-404. Left turns on other than two (2) way roadways.

15-405. U-turns.

15-401. Generally. Every driver who intends to turn, or partly turn from a direct line, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in *Tennessee Code Annotated*, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

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 (2) 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 centerline thereof and by passing to the right of such centerline where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

15-404. Left turns on other than two (2) way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) 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.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At railroad crossings.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic control signals generally.
- 15-507. At flashing traffic control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.

15-501. 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 a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

15-502. 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.

15-503. At railroad crossings. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until that driver can do so safely. The foregoing requirements shall apply when:

- (a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- (b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
- (c) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; and

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic control signal.

15-505. At "yield" signs. (1) The driver of a vehicle who is faced with a yield sign at the entrance to a through highway or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway or other roadway, or which are approaching so closely on the highway or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this section shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls.

15-506. At traffic control signals generally. Whenever traffic is controlled by traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and 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 either 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) Yellow alone, or "Caution," when shown following the green or "Go" signal:

(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 the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) 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. A right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, such turn will not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections, except those that are 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) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(c) A left turn on a red or stop signal shall be permitted at all intersections within the town where a one (1) way street intersects with another one (1) way street moving in the same direction into which the left turn would be made from the original one (1) way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection except that clearly marked by a "No Turn of Red" sign, which may be erected by the town at intersections which the town decides requires no left turns on red in the interest of traffic safety.

(d) The driver of a motorcycle approaching an intersection that is controlled by a traffic-control signal utilizing a vehicle detection device that is inoperative due to the size of the motorcycle shall come to a full and complete stop at the intersection and, after exercising due care as provided by law, may proceed with due caution when it is safe to do so. It is not a defense to § 15-506, "At traffic control signals generally," that the driver of a motorcycle proceeded under the belief that a traffic-control signal utilized a vehicle detection device or was inoperative due to the

size of the motorcycle when such signal did not utilize a vehicle detection device or that any such device was not in fact inoperative due to the size of the motorcycle.

(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) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(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 at the signal.

15-507. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, and the light is clearly visible for a sufficient distance ahead to permit such stopping, 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 rapid 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 § 15-504 of this code.

15-508. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) Walk. Pedestrians facing such signals 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

crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

15-509. Stops to be signaled. Every driver operating a motor vehicle who intends to stop such vehicle, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give the signal required in *Tennessee Code Annotated*, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

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.
- 15-606. Presumption with respect to illegal parking.
- 15-607. Parking on town property.

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 inches (18") of the right edge or curb of the street. On one (1) 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 inches (18") 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 within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street.

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 feet (24').

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 (1) 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.

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.

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking.

15-607. Parking on town property. The Town of Bean Station does hereby prohibit the parking of all vehicles on property belonging to the Town of

Bean Station generally and the premises of the Town Hall of Bean Station specifically for any purpose other than to carry out lawful business with said town or to attend meetings of the Mayor and Alderpersons of the Town of Bean Station or meetings arranged and conducted by lawfully empowered persons meeting on behalf of the town. There may be imposed for a violation of the terms of this section a fine of five dollars (\$5.00) for the first violation, ten dollars (\$10.00) for the second violation and fifty dollars (\$50.00) for any third or subsequent violation hereof. (Ord. #____, April 1998)

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. Violations and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, 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.

¹Municipal 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, §§ 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 affixed to the vehicle 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*, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 to 55-16-109.

15-706. Violations and penalty. Maximum fines for all traffic offenses shall be fifty dollars (\$50.00). Court costs for all traffic offenses shall be set at a maximum of fifty dollars (\$50.00), with the exception of seat belt violations, which shall not exceed twenty dollars (\$20.00). On cases in town court, there is hereby levied a town litigation tax to match the state litigation tax of thirteen dollars and seventy-five cents (\$13.75). The privilege taxes levied pursuant to this section shall be deposited in the general fund to be used to assist in paying for the operation of town court and for the police department. (Ord. #2005-05-100, May 2005; Ord. #2012-06-100, June 2012)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.
3. ROADBLOCKS.

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. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Violations and penalty.

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 feet (14') or over any sidewalk at a height of less than eight feet (8').

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on

¹Municipal code reference

Motor vehicle and traffic regulations: title 15.

his property any tree, shrub, sign, or other obstruction which prevents persons 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.¹

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 recorder.

¹Municipal code reference
Building code: title 12, chapter 1.

16-111. 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.

16-112. 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.

16-113. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 2

EXCAVATIONS

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.
- 16-210. Violations and penalty.

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 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 mayor, 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 to the work to be done. Such application shall be rejected or approved by the mayor within twenty-four (24) hours of its filing. (modified)

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 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 recorder may, after consultation with public works or an engineer, 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 recorder a surety bond in such form and amount as the mayor shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (modified)

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 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 recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person, and not less than seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for each accident.

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 mayor. (modified)

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.

16-210. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

CHAPTER 3

ROADBLOCKS

SECTION

- 16-301. Definitions.
- 16-302. Purpose of roadblock.
- 16-303. Permit required.
- 16-304. Disobedience.
- 16-305. Liability.
- 16-306. State code.
- 16-307. Violations and penalty.

16-301. Definitions. (1) "Person" means any person or group acting individual or in concert.

(2) "Roadblock" means any activity by one (1) or more persons which obstructs or slows traffic and includes, but is not limited to, a person standing on a street in such a position or moving to a position that when a vehicle stops for a traffic signal, such person can talk to the driver or any passenger for the purpose of selling or promotion the sale of anything or soliciting a contribution or gift of any kind.

(3) "Sign" means any type of display, sign, placard, signal, or other device which advertises any activity and is not an official traffic control device or directional sign.

(4) "Street" means any highway, street, alley, or public right-of-way. (Ord. #2012-02-100, Feb. 2012)

16-302. Purpose of roadblock. Persons may establish a roadblock for the purpose of selling or promoting the sale of anything or soliciting a contribution or gift for the organization, provided:

(1) Persons participating in a roadblock shall be a least twelve (12) years of age or older and each roadblock location shall be supervised by an adult;

(2) Person in charge of roadblock applies for permit from the chief of police or his designee at least five (5) business days before the establishment of the roadblock;

(3) Person participating in the roadblock remove all signs or other displays upon completion of the roadblock;

(4) Person in charge of roadblock, or his designee, shall be present throughout the time of the roadblock; or

(5) Only one (1) permit will be issued for any given day. (Ord. #2012-02-100, Feb. 2012)

16-303. Permit required. (1) No person, except a law enforcement officer, fireman or one with authority to control traffic and the use of a street, shall establish a roadblock without a permit.

(2) No person shall be on a street without a permit:

(a) To solicit gifts or contributions or cause the solicitation of gifts or contributions;

(b) To sell, offer to sell or cause the selling or offering to sell any goods, whether the sale of such goods occurs on a street or off a street;

(c) To promote or advertise any activity; and

(d) To place a sign on a street to advertise or promote any activity.

(3) Permits shall be issued by the chief of police, or his designee, and shall be available for inspection at all times during a roadblock. (Ord. #2012-02-100, Feb. 2012)

16-304. Disobedience. No person shall disobey an order to move or remove a sign issued by a person who is a law enforcement officer, firefighter, public works employee, or person with authority to control traffic on a street or to maintain public safety on a street. (Ord. #2012-02-100, Feb. 2012)

16-305. Liability. Any person violating any provision of this section shall be liable for any accident or other occurrence arising from the illegal use of a street and no liability shall attach to the town, its officials and any member of the Bean Station Police Department. (Ord. #2012-02-100, Feb. 2012)

16-306. State code. This section is in accordance with *Tennessee Code Annotated*, § 39-17-307. (Ord. #2012-02-100, Feb. 2012)

16-307. Violations and penalty. Any person violating this section shall be subject to a penalty not to exceed fifty dollars (\$50.00) and each day of violation constitutes a separate and distinct violation. (Ord. #2012-02-100, Feb. 2012)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

[RESERVED FOR FUTURE USE]

¹Municipal code references

Littering: title 11, chapter 7.

Property maintenance regulations: title 13.

TITLE 18

WATER AND SEWERS

[RESERVED FOR FUTURE USE]

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20**MISCELLANEOUS****CHAPTER**

1. PARKS AND GREENWAYS.
2. TELECOMMUNICATIONS.
3. PUBLIC RECORDS PROCEDURES.

CHAPTER 1**PARKS AND GREENWAYS****SECTION**

- 20-101. Adoption.
20-102. Rules and regulations.
20-103. Violations and penalty.

20-101. Adoption. The rules and regulations below are hereby adopted by the board of mayor and aldermen, and may be amended from time to time by resolution of the board of mayor and aldermen. A copy of such rules and regulations shall be filed with the town recorder and will be available for citizen review. The mayor is authorized to post pertinent rules and regulations within the parks and greenway as he determines necessary. These regulations are in addition to other applicable town, state and federal laws. This chapter shall become effective upon final passage, the public welfare requiring it. (Ord. #2006-08-101, Aug. 2006)

20-102. Rules and regulations. (1) It is unlawful to use, place, or erect any signboard, sign, billboard, bulletin board, post, pole, or device of any kind for advertising in any park; or to attach any notice bill, poster, sign, wire, rod or cord to any tree, shrub, railing, post or structure within town park; or without written consent of the Town of Bean Station, to place or erect in any park, a structure of any kind; provided that the Town of Bean Station may permit the erection of temporary directional signs or decorations on occasions of public celebration and picnics.

(2) It is unlawful to remain in any park after the posted closing time, except when engaged in activities that are a part of the recreation programs approved by the Town of Bean Station. Park or greenway hours are from 6:00 A.M. to 10:00 P.M.

(3) It is unlawful for any person, except duly authorized law enforcement personnel, to possess any firearm, fireworks, firecracker, torpedo, explosive, air gun, bows and arrows, BB gun or slingshot in any park until a written permit has been obtained from the Town of Bean Station.

(4) It is unlawful to possess or consume alcoholic beverages in any park or greenway.

(5) It is unlawful for any person to disobey rules and signs.

(6) It is unlawful for any vehicle with a gross weight of over thirty-two thousand (32,000) pounds or a maximum width of over one hundred two inches (102") to use the road in any park of the town. This rule shall not apply to town maintenance vehicles and emergency vehicles.

(7) It is unlawful in any manner to lease, annoy, disturb, molest, catch, injure or kill, throw any stone or missile of any kind at, or strike with any stick or weapon, any animal, bird, or fowl.

(8) It is unlawful to perform the following activities in a park or greenway area unless specifically authorized by the Town of Bean Station in writing. Such writing shall include a concession contract with the Town of Bean Station:

(a) Operating a fixed or mobile concession, traveling exhibition;

(b) Soliciting, selling, offering for sale, peddling, hawking, or vending any goods or services;

(c) Advertising any goods or services other than the direct handling of written advertising handled to any one (1) person;

(d) Distributing any commercial circular notice, leaflet, pamphlet or printed material of any kind in any building. These facilities are not public fora or limited public fora and are designated solely to the specific purposes for which they are dedicated; and

(e) Entering upon, using or traversing any portion of a park for commercial purpose.

(9) It is unlawful for any person to travel on a trail at a speed greater than is reasonable and prudent under the existing conditions and having regard to actual and potential hazards. In every event, speed shall be so controlled as may be necessary to avoid colliding with others who are complying with the law and using reasonable care. Travel at speeds in excess of fifteen (15) miles per hour on a walking/vehicle trail shall constitute in evidence a prima facie presumption that the person violated this section.

(10) It is unlawful for dogs or other animals to be allowed in the greenway or the park bathrooms unless on an approved leash with reasonable control of the animal.

(11) It is unlawful to stay in any park or greenway when directed to leave by a Town of Bean Station employee or official of the Town of Bean Station or any police officer. Vehicles shall not be authorized in the park after 10:00 P.M.

(12) It is unlawful to remove, destroy, mutilate or deface any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, shrub, tree, fern, plant, flower, lighting system, or sprinkling system or other property in the park or greenway.

(13) It is unlawful to throw any refuse, litter, broken glass, crockery, nails, shrubbery, trimmings, junk, or advertising matter in the park or to deposit any such material therein, except in receptacles provided for such purposes.

(14) It shall be unlawful for any person to deposit any refuse brought from private property in receptacles located in the town park or greenway or facilities. Nothing in this section is intended to prohibit the disposal of refuse generated from park use such as picnics, barbecues, lunches, etc.

(15) It is unlawful to play car stereos, radios, or "boom boxes" portable audio equipment, such as tape or compact disc players, so loudly they interfere with normal conversations or cause annoying vibrations at a distance of seventy-five feet (75') or more.

(16) It is unlawful to ride, park, or drive any motorcycle, motor vehicle, go-cart, ATV, four (4) wheeler or three (3) wheeler, land sailing device, horse or pony on, over, or through any park or greenway. Skateboards are not allowed on walking and biking trails.

(17) It is unlawful to park a trailer, camper, or other vehicle for the purpose of remaining overnight.

(18) It is unlawful to build any fires in any park or greenway except in areas designated by the Town of Bean Station.

(19) It is unlawful to use profane or abusive language or to conduct oneself in a manner that interferes with the reasonable use of the park or greenway.

(20) It is unlawful to operate any bicycle on any designated walking trails within the town parks. (Ord. #2006-08-101, Aug. 2006, modified)

20-103. Violations and penalty. Any violation of the provisions of this chapter that are designated misdemeanors shall be punishable by a fine not exceeding fifty dollars (\$50.00) per day for each violation. The court may also order a person found to have committed a misdemeanor under this chapter to make full restitution. (Ord. #2006-08-101, Aug. 2006)

CHAPTER 2

TELECOMMUNICATIONS

SECTION

- 20-201. Purpose.
- 20-202. Applicable scope.
- 20-203. Definitions.
- 20-204. Municipal right-of-way use permit required.
- 20-205. Application to provide telecommunications services using the public rights-of-way.
- 20-206. Municipal right-of-way use permit issuance.
- 20-207. Petition for reconsideration.
- 20-208. Administration and enforcement.
- 20-209. Applicability.
- 20-210. Compensation to town.
- 20-211. Remitting rental fees to the town.
- 20-212. Audits.
- 20-213. Transfers.
- 20-214. Notices to the town.
- 20-215. Construction obligations.
- 20-216. Conditions of rights-of-way occupancy.
- 20-217. Insurance requirements.
- 20-218. Indemnity.
- 20-219. Privacy of customer information.
- 20-220. Annexation; de-annexation.
- 20-221. Unauthorized use of public rights-of-way.

20-201. Purpose. The purpose of this chapter is to establish a competitively neutral policy for usage of public rights-of-way for the provision of telecommunications services and enable the town to:

- (1) Permit non-discriminatory access to the public rights-of-way for providers of telecommunications services;
- (2) Manage the public rights-of-way in order to minimize the impact and cost to the citizens of the placement of telecommunications facilities within the rights-of-way;
- (3) Obtain fair and reasonable compensation for the commercial use of public rights-of-way through collection of rents;
- (4) Promote competition among telecommunications service providers and encourage the universal availability of advanced telecommunications services to all residents and businesses of the town; and
- (5) Minimize the congestion, inconvenience, visual impact, and other adverse effects on the town's public rights-of-way. (Ord. #____, June 1997)

20-202. Applicable scope. This chapter applies to all telecommunications service providers under Titles II ("Title II") and VI ("Title VI") of the Communications Act of 1934, as amended, (47 U.S.C. 201 *et seq.*) excluding services provided solely by means of wireless transmission. This chapter does not exempt providers of cable service or open video systems service from the requirements of Title VI and applicable FCC rules and regulations. Any requirements and obligations imposed by this chapter are in addition to any requirements imposed by Title VI or state law and regulation on such providers. (Ord. #____, June 1997)

20-203. Definitions. (1) "Applicant." Any person who files an application with the town, under § 20-205 (application to provide telecommunications services) of this chapter, in order to obtain the necessary permission to use the public rights-of-way to provide telecommunications services within the town, whether by means of the person's own facilities or by means of capacity obtained from another provider of telecommunications services.

(2) "Chief administrative officer." The chief administrative officer of the Town of Bean Station or the person designated by the board of mayor and aldermen to carry out the duties and responsibilities of the chief administrative officer. Chief administrative officer shall also mean the person under the chief administrative officer's management and control designated by the chief administrative officer to administer the provisions of this chapter.

(3) "Gross revenue." All revenues received by a provider for telecommunications services furnished within the town; however, revenues received for use of network capacity, switched or unswitched access, and sale of unbundled elements under 47 U.S.C. 251(b) and (c) from resellers of telecommunications services who are in compliance with this chapter are not included. Gross revenue does not include revenue uncollectible from customers ("bad debt") and any end user taxes collected front customers.

(4) "Municipal right-of-way use permit or municipal permit." The right granted by the town to use public rights-of-way to provide telecommunications services within the town to the public or to other providers, as specified by the terms of this chapter.

(5) "Person." Any person, firm, partnership, association, corporation, company, or organization of any kind.

(6) "Provider." A person who has been granted a certificate of need by the Tennessee Regulatory Authority and/or who operates or uses a telecommunications network within the town to provide telecommunications services, and who falls under the definition of § 20-202 (applicable scope) of this chapter.

(7) "Public rights-of-way." The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property in

which the town holds any property interest or exercises any rights of management or control over and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of a telecommunications network.

(8) "Telecommunications network" or "network." All facilities placed in the public rights-of-way and used to provide telecommunications services.

(9) "Telecommunications services." All transmissions between or among points specified by the user, of information of the user's choosing (whether voice, video or data), without change in content of the information as sent and received, where such transmissions are accomplished through a telecommunications network. Telecommunications services include all ancillary or adjunct switching services and signal conversions rendered as a function of underlying transmission services, but excludes long distance transmissions (inter-LATA and intra-LATA toll transmissions). Telecommunications services include all services provided. Telecommunications services also include all content or value-added services rendered in conjunction with transmission services.

(10) "Town." The Town of Bean Station present municipal corporation of Grainger County, together with any future annexation made pursuant to law.

(11) "Town requirements." All laws, rules, regulations, policies and directives of general application of the Town of Bean Station in effect at present or to be adopted in the future by the town. (Ord. #____, June 1997, modified)

20-204. Municipal right-of-way use permit required. (1) A person may not deliver telecommunications services in the town by means of a network unless the person obtains a municipal right-of-way use permit.

(2) The use of public rights-of-way for the delivery of any service not covered by this chapter is subject to all other applicable town requirements. (Ord. #____, June 1997)

20-205. Application to provide telecommunications services using the public rights-of-way. (1) Any person proposing to provide telecommunications services by means of a telecommunications network located within the public rights-of-way ("applicant") shall submit an application to the chief administrative officer. The application, in a form to be prescribed by the chief administrative officer, shall describe all services the applicant wishes to provide, outline applicant's proposed network, and identify the uses of and potential impact on the public rights-of-way.

(2) The chief administrative officer shall have the duty to review applications submitted under this chapter and administer the provisions of this chapter regarding the granting or denial of a municipal right-of-way use permit to applicants. The chief administrative officer shall issue municipal right-of-way use permits, and shall administer and enforce compliance with respect to all municipal right-of-way use permits granted under this chapter. The chief

administrative officer shall submit a report annually to the board of mayor and aldermen analyzing whether any requirements imposed by each section of this chapter result in: anti-competitive effects in the market for telecommunications services in the town, as defined by federal law; and/or discrimination in favor of or against a holder of a certificate of need under state law. (Ord. #____, June 1997)

20-206. Municipal right-of-way use permit issuance. (1) If the chief administrative officer finds that the application meets the requirements of this chapter, the chief administrative officer shall cause to be prepared a municipal right-of-way use permit for issuance to the applicant.

(2) The chief administrative officer shall complete all deliberations towards issuing a municipal right-of-way use permit, and shall issue the permit or a written denial within sixty (60) days of the receipt of an application. The applicant shall respond to all reasonable information requests of the chief administrative officer during this consideration period. Any delays in providing such information shall be documented in writing by the chief administrative officer, who may cite any delays or refusals in obtaining information from an applicant as grounds for denial of a permit. (Ord. #____, June 1997)

20-207. Petition for reconsideration. The act of granting, denying, or terminating a municipal right-of-way use permit is an exercise of the police power of the town. A person whose application for a municipal right-of-way use permit is denied must petition the board of mayor and aldermen for reconsideration before seeking judicial remedies, and must file such a petition within forty-five (45) days of the written denial of such application by the chief administrative officer. A petition is considered denied if the board of mayor and aldermen does not act within forty-five (45) days after the petition is filed with the town clerk. (Ord. #____, June 1997)

20-208. Administration and enforcement. (1) The chief administrative officer shall administer this chapter and enforce compliance with a municipal right-of-way use permit granted under this chapter.

(2) A provider shall report information that the chief administrative officer requires in the form and manner prescribed by the chief administrative officer relating to the use of public rights-of-way for the right-of-way occupancy authorized by a municipal right-of-way use permit granted under this chapter.

(3) The chief administrative officer shall report to the board of mayor and aldermen the chief administrative officer's determination that a provider has failed to comply with this chapter. (Ord. #____, June 1997)

20-209. Applicability. (1) Sections 20-215 (construction), 20-216 (ROW occupancy), and 20-217 (insurance) of this chapter apply only to a provider that owns or controls physical facilities in the rights-of-way.

(2) Section 20-218 (indemnity) of this chapter applies to a provider that has a property interest in a network. (Ord. #____, June 1997)

20-210. Compensation to town. (1) To compensate the town for the use and occupancy of the public rights-of-way, a provider shall pay a municipal right-of-way rental fee calculated as follows:

(a) Rights-of-way rental fee: each provider shall be subject to a five percent (5%) annual fee based on gross revenue obtained from the provision of telecommunications services within the town.

(b) Non-monetary consideration: to the extent allowed by state and federal law, the town may include non-monetary consideration from each provider. To the extent not expressly prohibited by applicable law, a provider may agree to furnish to the town non-monetary consideration in the form of telecommunications services, network capacity, conduit, or other infrastructure, valued at the provider's direct cost. The chief administrative officer shall, apply a credit or an offset for any non-monetary consideration received to the annual right-of-way rental fee. The chief administrative officer shall publicly disclose the form of non-monetary consideration and the credit amount.

(c) Credit for cable television franchise fees and other contributions. Any telecommunications provider who is currently franchised by the town under state and federal law and regulations to provide cable television service shall receive a credit against the annual rights-of-way rental fee for any cable television franchise fees paid to the town, and any other monetary or non-monetary contributions to the town under a cable franchise agreement.

(2) A provider may pass through to customers the municipal right-of-way rental fee on a pro rata basis, at its discretion, as permitted by state and federal law. The town does not require or recommend a pass-through charge of the fee on a per line or per customer basis. (Ord. #____, June 1997)

20-211. Remitting rental fees to the town. A provider shall remit the municipal right-of-way rental fee on a quarterly basis. Payment shall be made on or before the forty-fifth (45th) day following the close of each calendar quarter for which the payment is calculated. (Ord. #____, June 1997)

20-212. Audits. (1) On thirty (30) days' notice to a provider, the town may audit a provider at any time. The provider shall furnish information to demonstrate its compliance with the municipal right-of-way use permit.

(2) A provider shall keep complete and accurate books of accounts and records of business and operations in accordance with generally accepted accounting principles for a period of five (5) years. If the Federal Communications Commission requires, a provider shall use the system of accounts and the forms of books, accounts, records, and memoranda prescribed

in 47 CFR part 32 or its successor. The town may examine the provider's books and records.

(3) A provider shall make available to the town, for the town to examine, audit, review and copy, in the town's offices, upon the chief administrative officer's reasonable written request, its books and records including papers, books, accounts, documents, maps, plans and other provider records pertaining to a municipal right-of-way use permit granted under this chapter. A provider shall fully cooperate in making records available and otherwise assist the town examiner. The town examiner shall not make copies of customer specific information. (Ord. #____, June 1997)

20-213. Transfers. (1) A provider may not transfer a municipal right-of-way use permit unless the chief administrative officer approves the transfer in writing.

(2) A change in control of a provider is a transfer requiring chief administrative officer approval. A change of twenty-five percent (25%) or greater in the ownership of the provider establishes a rebuttable presumption of a change in control.

(3) If a provider attempts to transfer or transfers the provider's municipal right-of-way use permit without approval of the chief administrative officer, the chief administrative officer may revoke the municipal right-of-way use permit. If a municipal right-of-way use permit is revoked, all rights of the provider under the municipal right-of-way use permit end,

(4) A provider may transfer, without the chief administrative officer's approval, the facilities in the rights-of-way under a municipal right-of-way use permit to the provider's affiliate or to another provider who has a municipal right-of-way use permit under this chapter. The provider transferring the facilities remains subject to all applicable obligations and provisions of the municipal right-of-way use permit unless the provider to which the facilities are transferred is also subject to these applicable obligations and provisions.

(5) The chief administrative officer must act on a request for transfer of a municipal permit within ninety (90) days of receipt of the request from the provider. Any request for a transfer of a municipal permit not acted upon within ninety (90) days shall be deemed to have been approved. (Ord. #____, June 1997)

20-214. Notices to the town. (1) A provider shall notify the chief administrative officer in writing contemporaneously with the transmittal of all petitions, applications, written communications and reports submitted by the provider, to the Federal Communications Commission and the Tennessee Regulatory Authority, or their successor agencies relating to matters affecting both the use of public rights-of-way and the telecommunications services authorized by a municipal permit granted under this chapter. A provider shall furnish the chief administrative officer copies of the documents upon request.

(2) If a provider notifies the town of the confidential nature of information, the chief administrative officer shall maintain the confidentiality of the information to the extent permitted by law. Upon receipt in the chief administrative officer's office of requests for confidential information, the town shall notify the affected providers of the request by facsimile transmission. (Ord. #____, June 1997)

20-215. Construction obligations. (1) A provider is subject to the police powers of the town, other governmental powers, and the town's rights as a property owner under state and federal laws. A provider is subject to town requirements and federal and state rules in connection with the construction, expansion, reconstruction, maintenance, or repair of facilities in the public rights-of-way.

(2) A provider shall place certain facilities underground according to applicable town requirements.

(3) At the town's request, a provider shall furnish the town accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation, and repair of facilities performed by the provider in the public rights-of-way. If any information furnished is erroneous as to the location of facilities, and reliance on this information results in construction delays or additional expenses, the provider who furnished the erroneous information shall be liable for the cost of delays and the additional expenses.

(4) The construction, expansion, reconstruction, excavation, use, maintenance and operation of a provider's facilities and property are subject to applicable town requirements.

(a) A provider shall perform excavations and other construction in the public rights-of-way in accordance with all applicable town requirements, including the obligation to use trenchless technology whenever possible. The director of public works shall waive the requirement of trenchless technology if he determines that field conditions warrant the waiver. A provider shall minimize interference with the use of public and private property and shall follow the construction directions given by the town.

(b) When a provider completes construction work, a provider shall promptly restore the public rights-of-way in accordance with applicable town requirements. A provider may excavate only for the construction, installation, expansion, repair, removal, and maintenance of the provider's facilities.

(c) The town may require a provider to allow attachment of another provider's facilities to its poles and conduits, in accordance with the town charter, state and federal law.

(d) A provider shall furnish the director of public works and the chief administrative officer with construction plans and maps showing the routing of new construction at least forty-five (45) days before

beginning construction that involves an alteration to the surface or subsurface of the public right-of-way. A provider may not begin construction until the plans and drawings have been approved in writing by the director of public works.

(e) If the chief administrative officer declares an emergency and requests the removal or abatement of facilities, by written notice, a provider shall remove or abate the provider's facilities by the deadline provided in the chief administrative officer's request. A provider and the town shall cooperate to the extent possible to assure continuity of service. If a provider, after notice, fails or refuses to act, the town may remove or abate the facility, at the sole cost and expense of the provider, without paying compensation to the provider and without the town incurring liability for damages.

(f) Except in an emergency, a provider may not excavate the pavement of a street or public right-of-way without first complying with town requirements.

(g) Within one hundred twenty (120) days of completion of each new segment of a provider's facilities, a provider shall supply the town with a complete set of "as built" drawings for the segment in a format prescribed by the director of public works. A provider must obtain the town's approval before relocating the provider's facilities in the public rights-of-way. The town may not unreasonably withhold approval. A provider shall furnish a revised map including additional facilities on June 30 of each year to the director of public works showing how these facilities connect to existing facilities. (Ord. #____, June 1997)

20-216. Conditions of rights-of-way occupancy. (1) In the exercise of governmental functions, the town has first priority over all other uses of the public rights-of-way. The town reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachment, restructuring or changes in aerial facilities in, across, along, over or under a public street, alley, or right-of-way occupied by a provider, and to change the curb, sidewalks or the grade of streets.

(2) In case of conflict or interference between the facilities of different providers, the provider whose facilities were first permitted shall have priority over a competing provider's use of the public rights-of-way.

(3) If, during the term of a municipal permit, the town authorizes abutting landowners to occupy space under the surface of any public street, alley, or rights-of-way, the grant to an abutting landowner shall be subject to the rights of the provider. If the town closes or abandons a public right-of-way that contains a portion of a provider's facilities, the town shall convey the land in the closed or abandoned public rights-of-way subject to the rights granted in the municipal permit.

(4) If the town gives written notice, a provider shall, at the provider's expense, temporarily or permanently, remove, relocate, change or alter the position of provider's facilities that are in the public rights-of-way within one hundred twenty (120) days. The town shall give notice whenever the town has determined that removal, relocation, change, or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a town or other governmental entity's public improvement in the public rights-of-way. This section shall not be construed to prevent a provider's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal.

(5) A provider who holds a municipal permit may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its network. All tree trimming shall be performed in accordance with standards promulgated by the town. When ordered by the director of public works, tree trimming shall be done under the supervision of the town.

(6) Providers shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the town gives written notice of no less than forty-eight (48) hours. The expense of this temporary rearrangement shall be paid by the party or parties requesting and benefitting from the temporary rearrangement. Provider may require prepayment or prior posting of a bond from the party requesting the temporary move. (Ord. #____, June 1997)

20-217. Insurance requirements. (1) A provider shall obtain and maintain insurance in the amounts prescribed by the chief administrative officer with an insurance company licensed to do business in the State of Tennessee acceptable to the chief administrative officer throughout the term of a municipal permit granted under this chapter. A provider shall furnish the town with proof of insurance at the time of issuance of a municipal permit. The town reserves the right to review the insurance requirements while a municipal permit is in effect, and to reasonably adjust insurance coverage and limits when the chief administrative officer determines that changes in statutory law, court decisions, or the claims history of the industry or the provider require adjustment of the coverage. For purposes of this section, the town will accept certificates of self-insurance issued by the State of Tennessee providing the same coverage.

(2) The chief administrative officer may, on request and at no cost to the town, receive copies of certificates of insurance evidencing the coverage required by this section. The chief administrative officer may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the town, the provider, or the underwriter. If the chief administrative officer requests a deletion, revision or modification, a provider shall exercise reasonable efforts to pay for and to accomplish the change. An insurance certificate shall contain the following required provisions:

(a) Name the town and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage;

(b) Provide for thirty (30) days' notice to the town for cancellation, non-renewal, or material change;

(c) Provide that notice of claims shall be provided to the chief administrative officer by certified mail; and

(d) Provide that the terms of the municipal permit which impose obligations on the provider concerning liability, duty, and standard of care, including the indemnity section, are included in the policy and that the risks are insured within the policy terms and conditions.

(3) A provider shall file and maintain proof of insurance with the chief administrative officer during the term of a municipal permit. An insurance certificate obtained in compliance with this section is subject to town approval. The town may require the certificate to be changed to reflect changing liability limits. A provider shall immediately advise the town of actual or potential litigation that may develop that would affect insurance coverage related to a municipal permit.

(4) An insurer has no right of recovery against the town. The required insurance policies shall protect the provider and the town. The insurance shall be primary coverage for losses covered by the policies.

(5) The policy clause "other insurance" shall not apply to the town where the town is an insured under the policy.

(6) The provider shall pay premiums and assessments. A company which issues an insurance policy has no recourse against the town for payment of a premium or assessment. Insurance policies obtained by a provider must provide that the issuing company waives all right of recovery by way of subrogation against the town in connection with damage covered by the policy. (Ord. #____, June 1997)

20-218. Indemnity. (1) During the term of a municipal permit, a provider is liable for the acts or omissions of an entity used by the provider, including an affiliate, when the entity is involved directly or indirectly in the construction and installation of the provider's facilities. The acts or omissions of the entity shall be considered the acts or omissions of the provider.

(2) Each provider granted a municipal permit under this chapter shall provide to the chief administrative officer, in writing, a statement that the provider agrees to defend, indemnify and hold the town harmless against all damages, cost, loss or expense arising out of, incident to, concerning or resulting from the negligence or willful misconduct of the provider, its agents, employees, or subcontractors, in the performance of activities under the municipal permit:

(a) For the repair, replacement, or restoration of town property, equipment materials, structures and facilities which are damaged, destroyed or found to be defective; and

(b) Against any and all claims, demands, suits, causes of action, and judgments for:

(i) Damage to or loss of the property of any person including, but not limited to the provider, its agents, officers, employees and subcontractors, the town's agents, officers and employees, and third parties; and

(ii) Death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person including but not limited to the agents, officers and employees of the provider, the provider's subcontractors, the town, and third parties, no matter how, or to whom, the loss may occur.

(3) The chief administrative officer shall give prompt written notice to a provider of any claim for which the town seeks indemnification. The provider shall have the right to investigate, defend and compromise these claims subject to the town's prior approval. (Ord. #____, June 1997)

20-219. Privacy of customer information. A provider shall comply with state and federal law regarding privacy of customer information. (Ord. #____, June 1997)

20-220. Annexation; de-annexation. Within thirty (30) days following the date of passage of any action affecting any de-annexation or annexation, the chief administrative officer shall notify providers of this action by furnishing to the providers maps of the affected area(s), showing the new boundaries of the town. (Ord. #____, June 1997)

20-221. Unauthorized use of public rights-of-way. (1) A person commits an offense if a person uses the public rights-of-way to provide a telecommunications service without first securing a municipal permit from the town.

(2) Each unauthorized use of the public rights-of-way and each unauthorized placement of facilities constitutes a separate offense. Each day a violation of this chapter occurs shall constitute a distinct and separate offense.

(3) An offense under this section is punishable by a fine of fifty dollars (\$50.00). (Ord. #____, June 1997, modified)

CHAPTER 3

PUBLIC RECORDS PROCEDURES

SECTION

20-301. Procedures regarding access to and inspection of public records.

20-301. Procedures regarding access to and inspection of public records. (1) Consistent with the Public Records Act of the State of Tennessee, personnel of the Town of Bean Station shall provide full access and assistance in a timely and efficient manner to Tennessee residents who request access to public documents.

(2) Employees of the Town of Bean Station shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of the records custodian or designee. All copying of public records must be performed by employees of the town, or, in the event that town personnel are unable to copy the records, by an entity or person designated by the records custodian.

(3) To prevent excessive disruptions of the work, essential functions, and duties of employees of the Town of Bean Station, persons requesting inspection and/or copying of public records are requested to complete a records request form to be furnished by the town. If the requesting party refuses to complete a request form, a town employee shall complete the form with the information provided by the requesting party. Persons requesting access to open public records shall describe the records with specificity so that the records may be located and made available for public inspection or duplication, as provided in subsection (2) above. All requests for public records shall be directed to the records custodian.

(4) When records are requested for inspection or copying, the records custodian has up to seven (7) business days to determine whether the town can retrieve the records requested and whether the requested records contain any confidential information, and the estimated charge for copying based upon the number of copies and amount of time required. Within seven (7) business days of a request for records the records custodian shall:

- (a) Produce the records requested;
- (b) Deny the records in writing, giving explanation for denial;

or

(c) In the case of voluminous requests, provide, in writing, the requestor with an estimated time frame for production and an estimation of duplication costs.

(5) There is no charge assessed to a requester for inspecting a public record. Charges for physical copies of records, in accordance with the Office of Open Records Counsel (OORC) schedule of reasonable charges, are as follows:

(a) Standard eight and one-half by eleven (8-1/2 x 11) or an eight and one-half by fourteen (8-1/2 x 14) black and white copy - fifteen cents (\$0.15) per page for each produced.

(b) Standard eight and one-half by eleven (8-1/2 x 11) or eight and one-half by fourteen (8-1/2 x 14) color copy - fifteen cents (\$0.15) per page for each produced.

(c) Accident reports - fifteen cents (\$0.15) per page for each standard eight and one-half by eleven (8-1/2 x 11) or eight and one-half by fourteen (8-1/2 x 14) black and white copy produced.

(d) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual costs to the town.

(6) Requests requiring less than one (1) hour of municipal employee labor for research, retrieval, redaction and duplication will not result in an assessment of labor charges to the requester. Employee labor in excess of one (1) hour may be charged to the requester, in addition to the cost per copy, as provided in subsection (5) above. The town may require payment in advance of producing any request. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour.

(a) For a request requiring more than one (1) employee to complete, labor charges will be assessed based on the following formula: In calculating the charge for labor, a department head shall determine the number of hours each employee spent producing a request. The department head shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The department head will then multiply total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the department head will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

(b) When the total number of requests made by a requester within a calendar month exceeds four (4), the requests will be aggregated, and the requester shall charge a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requester that the aggregation limit has been met. Request for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month, shall not be counted in the aggregated requests.

(7) If the town is assessed a charge to retrieve the requested records from archives or any other entity having possession of requested records, the records custodian may assess the requester the cost assessed to the town.

(8) Upon completion of a records request the requester may pick up the copies of records at the office of the records custodian. Alternatively, the

requester may choose to have the copies of records delivered via United States Postal Service; provided that the requester pays all related expenses in advance.

(9) The police chief shall maintain in his office records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in the office of the records custodian. [This provision is for small police departments who do not have personnel trained in records management. Larger police departments should maintain personnel records in the department under the supervision of a trained records custodian]. Requests for personnel records, other than for undercover investigators, shall be made to the records custodian, who shall promptly notify the police chief of such request. The police chief shall make the final determination as to the release of the information requested. In the event that the police chief refuses to release the information, he shall provide a written explanation of his reasons for not releasing the information.

(10) If the public records requested are frail due to age or other conditions, and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection.

ORDINANCE NO. 2020-06-100**AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE TOWN OF BEAN STATION, TENNESSEE.**

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF BEAN STATION, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained herein to the Town of Bean Station Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the Town of Bean Station Municipal Code.

This supplement includes revisions required to the municipal code when considering ordinances 2017-06-100 through 2020-1-100 and additional revisions made by the Town of Bean Station. Code sections affected by these ordinances and revisions contain citations to the amending ordinance or modification at the end of the code section.

Section 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code 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. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.¹

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.

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see *Tennessee Code Annotated*, § 40-24-101 *et seq.*

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, June 22, 2020.

Passed 2nd reading, July 27, 2020.

Ben Waller
Mayor

Barbara Wolfe
Recorder

APPROVED AS TO FORM:

Town Attorney

ORDINANCE NO. 2019-05-102

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF BEAN STATION, TENNESSEE.

WHEREAS some of the ordinances of the Town of Bean Station 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 Bean Station, 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 "Bean Station Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF BEAN STATION, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the town 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 "Bean Station 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 appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing 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, 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 in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code 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. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.¹

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see *Tennessee Code Annotated*, § 40-24-101 *et seq.*

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, May 20, 2019.

Passed 2nd reading, June 24, 2019.

Ben Waller

Mayor

Barbara Wolfe

Recorder