

**THE
FAIRVIEW
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

March 1996

Change 14, October 3, 2013

CITY OF FAIRVIEW, TENNESSEE

MAYOR

Beverly Totty

VICE MAYOR

Stuart L. Johnson

COMMISSIONERS

Allen Bissell
Patty Carroll
Toney Sutton

INTERIM MANAGER

Wayne Hall

RECORDER

Theresa Porter

Preface

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

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

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

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

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

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

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Sandy Selvage, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Consultant

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

1. General power to enact ordinances: (6-19-101)
2. All ordinances shall begin, "Be it ordained by the City of Fairview as follows:" (6-20-214)
3. Ordinance procedure
 - (a) Every ordinance shall be read two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-23 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.
 - (b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.
 - (c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.
 - (d) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. (6-20-215)
4. Publication of penal ordinances--Effective date.
 - (a) Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city.
 - (b) No such ordinance shall take effect until the ordinance, or its caption, is published except as otherwise provided in chapter 54 part 5 of this title. (6-20-218)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF COMMISSIONERS.
2. RECORDER.
3. CITY MANAGER.
4. MAYOR.
5. CODE OF ETHICS.

¹Charter reference

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

Municipal code references

Building, plumbing, and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Water and sewers: title 18.

Zoning: title 14.

CHAPTER 1

BOARD OF COMMISSIONERS¹

SECTION

- 1-101. Elections for.
- 1-102. Time and place of regular meetings.
- 1-103. Order of business.
- 1-104. Deleted.
- 1-105. General rules of order.
- 1-106. Ordinance procedures.
- 1-107. Reimbursement of expenses for the board of commissioners.

1-101. Elections for. (1) Transition period of city elections. A transitional period from 1987 through 1989 is hereby established with terms of office for commissioners elected therein to be three years and three months more or less.

(a) The transitional term of office for two commissioners elected on the third Thursday in August of 1987 will expire upon the date of the general election in November of 1990.

(b) The transitional term of office for the three commissioners who will be elected on the third Thursday in August 1989 will expire upon the date of the general election in November of 1992.

¹Charter reference

For detailed provisions of the charter related to the election, and to general and specific powers and duties of, the board of commissioners, see Tennessee Code Annotated, title 6, chapter 20. (There is an index at the beginning of chapter 20 which provides a detailed breakdown of the provisions in the charter.) In addition, see the following provisions in the charter that outline some of the powers and duties of the board of commissioners:

Appointment and removal of city judge: § 6-21-501.

Appointment and removal of city manager: § 6-21-101.

Compensation of city attorney: § 6-21-202.

Creation and combination of departments: § 6-21-302.

Subordinate officers and employees: § 6-21-102.

Taxation

Power to levy taxes: § 6-22-108.

Change tax due dates: § 6-22-113.

Power to sue to collect taxes: § 6-22-115.

Removal of mayor and commissioners: § 6-20-220.

(2) Regular municipal elections. All regular municipal elections for the City of Fairview, after the transitional period, will be held biannually in November of even numbered years on the date established for general elections by Tennessee Code Annotated, § 2-1-104(24). (1973 Code, § 1-101)

1-102. Time and place of regular meetings. (1) The Board of Commissioners of the City of Fairview, Tennessee shall meet on the first and third Thursdays of each and every month. Said meetings to begin at 7:00 o'clock P.M. at the City Hall, Fairview, Tennessee.

(2) The Administration Committee, Public Safety Committee and Public Works Committee of the City of Fairview, Tennessee shall meet on the second Thursday of each and every month. Said meetings to begin at 7:00 o'clock P.M. at the City Hall, Fairview, Tennessee.

(3) The Municipal Planning Commission of the City of Fairview, Tennessee shall meet on the second Tuesday of each and every month. Said meetings to begin at 7:00 o'clock P.M. at the City Hall, Fairview, Tennessee. (1973 Code, § 1-102, as replaced by Ord. #538, Feb. 2003)

1-103. Order of business. An agenda of each meeting's business shall be prepared and distributed to each commissioner at least 3 days prior to the meeting, which shall contain the following regular order of business:

(1) Call to order.

(2) Approval of agenda.

(3) Citizen comments.

(a) The first five (5) citizens of Fairview, Tennessee who first sign the comments register will be permitted to deliver their comments to the board of commissioners.

(b) Each and every citizen will be limited to three (3) minutes to deliver their comments.

(4) Awards and recognitions.

(5) Public announcements.

(6) Approval of minutes.

(7) Old business.

(8) New business (including committee reports).

(9) City manager's report.

(10) Communications from the mayor and/or commissioners.

(11) Adjournment.

Only the items of business appearing on the distributed agenda will be considered by the board of commissioners, unless this requirement is dispensed with by the unanimous vote of those commissioners who are present and voting. Non agenda items to be considered should be announced at the time of the approval of the agenda. (1973 Code, § 1-103, as amended by Ord. #428, Feb. 1998; Ord. #452, Jan. 1999; and Ord. #541, April 2003)

1-104. Deleted. (1973 Code, § 1-104, as deleted by Ord. #542, April 2003)

1-105. 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 commissioners 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. (1973 Code, § 1-105, modified)

1-106. Ordinance procedures. The procedure prescribed in Tennessee Code Annotated, § 6-20-215 shall be applicable to all ordinances within the city, except that the caption of every ordinance shall be read two (2) different days in open session before its adoption, instead of the entire ordinance, and further that a minimum of three votes shall be required to adopt any ordinance or resolution of the board of commissioners. (1973 Code, § 1-106, as amended by Ord. #374, June 1995, and Ord. #491, Feb. 2001)

1-107. Reimbursement of expenses for the board of commissioners. (1) Expenses of commissioners reimbursable. The expenses of Commissioners of the City of Fairview shall be reimbursed by the city.

(2) Specific expenses and guidelines to be set by resolution. The board of commissioners shall from time to time by resolution promulgate a specific policy of the board which shall establish guidelines for reimbursement of expenses, and which may itemize specific reimbursable expenditures.

(3) Expense forms required to be submitted. Requests for reimbursement of expenses shall be submitted on expense forms to the city manager, or his designee, and shall be disbursed within the guidelines set by the board of commissioners, on a monthly basis. (as added by Ord. #496, March 2001)

CHAPTER 2

RECORDER¹

SECTION

1-201. To be bonded.

1-202. To charge for copies of records, etc.

1-201. To be bonded. Pursuant to Tennessee Code Annotated, § 6-21-104, the recorder shall, before entering upon his duties, execute a fidelity bond in the amount of five thousand dollars (\$5,000.00), with a surety company authorized to do business in the State of Tennessee as surety.

The cost of this bond shall be paid by the City of Fairview. (1973 Code, § 1-301)

1-202. To charge for copies of records, etc. When the recorder provides copies of records, papers, and documents in his office he shall charge therefor the following fees:

- (1) For accident reports..... \$4.00
- (2) For other records, papers,
and documents..... \$.25 per page
for 1st 2 pages and
\$.10 per page for all
pages thereafter.

(1973 Code, § 1-302)

¹Charter references

For charter provisions outlining the duties and powers of the recorder, see Tennessee Code Annotated, title 6, chapter 21, part 4, and title 6, chapter 22. Where the recorder also serves as the treasurer, see Tennessee Code Annotated, title 6, chapter 22, particularly § 6-22-119.

CHAPTER 3**CITY MANAGER¹****SECTION**

1-301. To be bonded.

1-301. To be bonded. Pursuant to Tennessee Code Annotated, § 6-21-104, the city manager shall, before entering upon his duties, execute a fidelity bond in the amount of five thousand dollars (\$5,000.00), with a surety company authorized to do business in the State of Tennessee as surety.

The cost of this bond shall be paid by the City of Fairview. (1973 Code, § 1-201)

¹Charter reference

For charter provisions outlining the appointment and removal of the city manager, see Tennessee Code Annotated, title 6, chapter 21, part 1, particularly § 6-21-101.

CHAPTER 4

MAYOR¹

SECTION

1-401. Created.

1-402. Election by popular vote.

1-401. Created. Pursuant to Tennessee Code Annotated, § 6-20-202(B)(b)(2), the position on the City of Fairview, Tennessee Board of Commissioners held at the time of the adoption of Ord. #626 by Darrell Mangrum shall be changed and henceforth shall be know as the position of the Mayor of the City of Fairview, Tennessee. (as added by Ord. #626, June 2006)

1-402. Election by popular vote. The mayor shall be elected by popular vote of the citizens of Fairview, Tennessee at the election to be held in the city on November 2, 2006, and the mayor's office shall stand for election from time to time as required by Tennessee Code Annotated, § 6-20-202(B)(b)(2) and its successors. (as added by Ord. #626, June 2006)

¹Charter reference:

Election of mayor: 6-20-201

Powers of mayor: 6-20-213

Duties of mayor: 6-20-203

Compensation of mayor: 6-20-204

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.

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.

1-501. Applicability. This chapter is the code of ethics for personnel of the City of Fairview. 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 City of Fairview. The words "municipal" and "town" or "City of Fairview" include these separate entities. (as added by Ord. #663, March 2007)

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

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

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

(3) 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. (as added by Ord. #663, March 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. (as added by Ord. #663, March 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

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

official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #663, March 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 City of Fairview:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #663, March 2007)

1-506. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity of the City of Fairview 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 of the City of Fairview or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #663, March 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 board of commissioners to be in the best interests of the City of Fairview. (as added by Ord. #663, March 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 City of Fairview.

(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 City of Fairview. (as added by Ord. #663, March 2007)

1-509. Outside employment. A full-time employee of the City of Fairview may not accept any outside employment without written authorization from the department head. (as added by Ord. #663, March 2007)

1-510. Ethics complaints. (1) The City of Fairview attorney is designated as the ethics officer for the City of Fairview, Tennessee. Upon the written request of an official or employee potentially affected by a provision of this chapter, the City of Fairview 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 City of Fairview 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 City of Fairview attorney may request the mayor and board of commissioners 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 City of Fairview's mayor and board of commissioners, the mayor and board of commissioners 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 board determines that a complaint warrants further investigation, it shall authorize an investigation by the City of Fairview attorney or another individual or entity chosen by the mayor and board of commissioners.

(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. (as added by Ord. #663, March 2007)

1-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the mayor and board of commissioners. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action as outlined herein. (as added by Ord. #663, March 2007)

**City of Fairview, Tennessee
Disclosure of Personal Interest**

This form should be filled out and filed with the recorder or clerk by any municipal employee or official, except those who serve on boards or other bodies, who must exercise discretion relative to any matter and who has a personal interest in the matter. A personal interest is any financial, ownership, or financial interest in a matter to be regulated or supervised by the employee or official that could affect the employee's or official's discretion. This includes any financial, ownership, or employment interest of the employee's or official's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step-child(ren). "Employee interest" includes any situation in which the employee or official or one or more of his or her family members designated above is negotiating possible employment with a person or organization that is to be regulated or supervised by the employee or official in carrying out municipal business. Use item 1 of this form to report individual occurrences and item 2 to make a yearly report of situations that occur more than once during a calendar year.

NAME OF EMPLOYEE OR OFFICIAL: _____

1. Individual occurrence

BRIEFLY DESCRIBE THE SITUATION IN WHICH YOU MUST EXERCISE DISCRETION AND WHICH YOU HAVE A PERSONAL INTEREST THAT COULD AFFECT THAT DISCRETION:

2. Continual occurrences

FOR INDIVIDUALS, BUSINESSES, OR ENTITIES THE MUNICIPALITY WILL ENTER INTO TRANSACTIONS WITH MORE THAN ONCE EACH CALENDAR YEAR AND IN WHICH YOU HAVE A PERSONAL INTEREST, YOU MAY MAKE ONE (1) DISCLOSURE FOR THE CALENDAR YEAR BY REPORTING HERE:

Name of Individual, Business, or Entity: _____

Briefly describe the transactions that will take place between the municipality and the named entity during the calendar year in which you will exercise discretion and in which you have a personal interest that could affect the discretion:

Date: _____

Employee's or Official's Signature

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. [REPEALED.]
2. [REPEALED.]
3. PARK COMMISSION.
4. HISTORICAL PRESERVATION COMMISSION ORDINANCE.

CHAPTER 1

[REPEALED]

This chapter was repealed by Ord. # 440, Aug. 1998.

CHAPTER 2

[REPEALED]

This chapter was repealed by Ord. #510, Sept. 2001.

CHAPTER 3

PARK COMMISSION

SECTION

2-301. Created.

2-302. Membership.

2-303. Vacancies.

2-304. Terms.

2-301. Created. There is hereby created a park commission for the City of Fairview, Tennessee, consisting of seven (7) voting members and one (1) non-voting advisory member for a total of eight (8) members of the park commission. Each member shall be nominated by the Mayor of the City of Fairview, Tennessee and approved by a majority vote of the Board of Commissioners of the City of Fairview, Tennessee. The mission of the City of Fairview, Tennessee Park Commission is to be an advisory (only) committee to the board of commissioners on any and all issues referred to the committee by the board of commissioners relative to all public parks of the City of Fairview, Tennessee. (as added by Ord. #601, Feb. 2005, and replaced by Ord. #774, Aug. 2011)

2-302. Membership. The park commission commissioners shall be composed of individuals as follows:

(1) Two (2) members from the Fairview, Tennessee, Board of Commissioners nominated by the Mayor of the City of Fairview, Tennessee and approved by a majority vote of the Board of Commissioners of the City of Fairview, Tennessee.

(2) One (1) member from the Fairview, Tennessee, Planning Commission. Said member is to be selected and approved by a majority vote of the members of the City of Fairview, Tennessee Planning Commission.

(3) One (1) member from the City of Fairview, Tennessee, Tree Board. Said member is to be selected and approved by a majority vote of the members of the City of Fairview, Tennessee Tree Board.

(4) One (1) member from the City of Fairview, Tennessee, Friends of Bowie Park. Said member is to be selected and approved by a majority vote of the members of the City of Fairview, Tennessee Friends of Bowie Park.

(5) One (1) member from the City of Fairview, Tennessee, Historical Association. Said member is to be selected and approved by a majority vote of the members of the City of Fairview, Tennessee Historical Association.

(6) One (1) member from the residents of the City of Fairview, Tennessee, at large. Said member is to be nominated by the Mayor of the City of Fairview, Tennessee and approved by a majority vote of the Board of Commissioners of the City of Fairview, Tennessee.

(7) One (1) non-voting member from the Senior Class of Fairview, Tennessee High School nominated by the Principal and Guidance Counselor of the City of Fairview, Tennessee High School and approved by a majority vote of the City of Fairview Board of Commissioners. Preference for this position will be given to a student with an interest in parks and recreation. While this member will be a non-voting position the member will be allowed to participate fully in all other functions of the park commission.

(8) The membership listed in (1) through (7) in this section shall meet as the parks commission at the call of the chairman but shall meet at least quarterly each year, keep accurate minutes of all meetings and submit a copy of the transcribed minutes to the city recorder within fifteen (15) working days of each and every meeting. (as added by Ord. #601, Feb. 2005, amended by Ord. #673, July 2007, and replaced by Ord. #774, Aug. 2011)

2-303. Vacancies. Upon the request of the Mayor of the City of Fairview, Tennessee, each board, commission or school shall submit the name or names(s) of their respective board, commission or school member(s) they recommend to fill the seats on the City of Fairview, Tennessee, Park Commission. The mayor may accept the nominations and or make nominations of his or her choosing. (as added by Ord. #601, Feb. 2005, and replaced by Ord. #774, Aug. 2011)

2-304. Terms. The terms of the Commissioners of the City of Fairview, Tennessee, Park Commission shall be as follows:

(1) Members of the City of Fairview, Tennessee, Board of Commissioners. Concurrent with their terms on the Board of Commissioners of the City of Fairview, Tennessee.

(2) Member of the City of Fairview, Tennessee, Planning Commission. Concurrent with their terms on the Planning Commission of the City of Fairview, Tennessee.

(3) Member of the City of Fairview, Tennessee, Tree Board. Concurrent with their terms on the Tree Board of the City of Fairview, Tennessee.

(4) Member of the City of Fairview, Tennessee, Friends of Bowie Park. Initial period of office one (1) year.

(5) Member of the City of Fairview, Tennessee, Historical Association. Initial period of office two (2) years.

(6) Member of the City of Fairview, Tennessee, residents at large. Initial period of office three (3) years.

(7) Member from the Senior Class of Fairview, Tennessee High School. Period of office shall be concurrent with member's senior class school session.

(8) Terms of office for members listed in (4) through (6) above shall be three (3) year terms after the initial terms. (as added by Ord. #601, Feb. 2005, amended by Ord. #659, March 2007, and replaced by Ord. #774, Aug. 2011)

CHAPTER 4

HISTORICAL PRESERVATION COMMISSION ORDINANCE

SECTION

- 2-401. Purpose and intent.
- 2-402. Definitions.
- 2-403. Establishment of historical districts.
- 2-404. Historic preservation commission; membership terms and administrative matters.
- 2-405. Amendments to historic district designations.
- 2-406. Application for certificates from the commission.
- 2-407. Meetings of the commission.
- 2-408. Process of appealing determinations of the commission.
- 2-409. Enforcement.
- 2-410. Limited coverage.
- 2-411. Amendments to ordinance.
- 2-412. Designation of historic districts.

2-401. Purpose and intent. It is hereby declared a matter of public policy that the protection, enhancement, preservation and use of historical resources or value is a public necessity and is required in the interest of education, prosperity, safety and welfare of all the citizens of the City of Fairview, Tennessee.

The purpose of this ordinance is to:

- (1) Protect, enhance and preserve cultural and historical resources, including those districts which represent or reflect elements of the city's cultural, social, economic, political or architectural history.
- (2) Safeguard the city's historical and cultural heritage by improving historical and cultural resources by creating historic districts.
- (3) Foster wider public awareness of and pride in accomplishments of the past.
- (4) Encourage private efforts of Fairview, Tennessee citizens in support of such purposes.
- (5) Promote the use of historic districts as a stimulus to local business and industry.
- (6) Enhance the city's image to residents, visitors and tourists and make the city a more attractive and desirable place in which to live and work. (as added by Ord. #643, Oct. 2006)

2-402. Definitions. In this ordinance, unless the context clearly requires otherwise:

- (1) "Commission" means the historic preservation commission created pursuant to this ordinance.

(2) "Historic district" is an area designated in accordance with § 2-403 that contains one or more parcels or lots of land, or one or more buildings or structures on one or more parcels or lots of land.

(3) "Altered" includes the words "rebuilt," "reconstructed," "restored," "removed" and "demolished" and the phrases "changed in exterior color" and "any alteration to exterior physical appearance or exterior architectural feature visible from a public way."

(4) "Building" means a combination of materials forming a shelter for persons, animals or property.

(5) "Constructed" includes the words "built," "erected," "installed," "enlarged" and "moved."

(6) "Exterior architectural feature" means such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surfaces and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

(7) "Person aggrieved" means the applicant, an owner of adjoining property, an owner of property within the same historic district as property within one hundred (100) feet of said property lines and any charitable corporation in which one of its purposes is the preservation of historic structures or districts.

(8) "Structure" means a combination of materials other than a building, including a sign, fence, wall, hitching post, terrace, walk or driveway. (as added by Ord. #643, Oct. 2006)

2-403. Establishment of historic districts. The City of Fairview, Tennessee may, by ordinance adopted by a majority vote of the board of commissioners, establish historic districts subject to the following provisions:

(1) Process. Prior to the establishment of any historic district in Fairview, Tennessee, an investigation and report on the historical and architectural significance of the buildings, structures or sites to be included in the proposed historic district or districts shall be made by a historic district study committee or by a historic district commission, as provided in this section. The buildings, structures or sites to be included in the proposed historic district may consist of one or more parcels or lots of land, or one or more buildings or structures on one or more parcels or lots of land.

The study committee or the commission shall transmit copies of the report to the planning commission, and to the Tennessee Historical Commission for their respective consideration and recommendations.

Not less than sixty (60) days after such a transmittal the study committee or commission shall hold a public hearing on the report after due notice given at least fourteen (14) days prior to the date thereof, which shall include a

written notice, given by certified mail, postage prepaid, return receipt requested, to the owners as they appear on the most recent real estate tax list of the Williamson County Tax Assessor or trustee of all properties to be included in such district or districts. The committee shall submit a final report with its recommendations, a map of the proposed district or districts and a draft of a proposed ordinance to the board of commissioners.

(2) Formation of historic district study committee. A historic district study committee may be established in Fairview, Tennessee by a majority vote of the board of commissioners for the purpose of making an investigation of the desirability of establishing a historic district or districts therein. The study committee shall consist of not less than three (3) nor more than seven (7) members appointed by the mayor, and confirmed by the board of commissioners. (as added by Ord. #643, Oct. 2006)

2-404. Historic preservation commission; membership terms and administrative matters. (1) Terms. The ordinance shall be administered by a historic preservation committee with the following terms, composition and administrative matters. The historic preservation commission shall consist of seven (7) members, appointed by the mayor and subject to confirmation by the board of commissioners. All of the members shall be residents of the City of Fairview, Tennessee. Each member shall serve for a term of three (3) years; except that the initial appointments shall be for two (2) members to serve a term of one (1) year, two (2) members to serve a term of two (2) years, and three (3) members to serve a term of three (3) years. Vacancies shall be filled in the same manner as the original appointment for the unexpired term. In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the commission, all actions taken will be decided by a majority vote of a quorum present and voting. Each member shall continue in office after expiration of his or her term until a successor is duly appointed and qualified.

(2) Composition. The commission membership shall be composed of the following: one (1) member, preferably a professional architect or historian, one licensed real estate broker, real estate agent, or licensed building contractor, one (1) member of the city planning commission chosen by the planning commission members, one (1) member of the board of commissioners and three (3) citizen members who, through education or experience, have demonstrated a commitment to historic preservation. If, within thirty (30) days after the submission of a written request for nominees to any of the above-named positions, no such nominations have been submitted, the mayor may make such an appointment, subject to approval by the board of commissioners, without nomination by any organization or entity. To the extent a person meets more than one of the foregoing specific membership requirements, then each such specific membership requirement so met shall be satisfied by such person's membership on the commission.

(3) Compensation. No member shall receive compensation for his or her service on the commission, but shall be reimbursed, subject to availability of appropriated funds, for his or her actual expenses reasonably and necessarily incurred in performance of his or her official duties.

(4) Conflict of interest. If any commission member or alternate is an employee of the City of Fairview, Tennessee or has directly, or indirectly a financial interest in any contract with the city, the conflict or possible conflict of interest shall be dealt with in accordance with the laws of the State of Tennessee in effect at the time the conflict or potential conflict arises.

(5) Officers. The historical commission shall elect before the end of its fourth regular meeting during the first year and every July thereafter, a chairman, vice-chairman, and a secretary. All officers, shall be elected from its own members. Whenever the secretary shall not attend a meeting of the commission, the commission shall elect a secretary pro-tempore who shall take the minutes of the meeting. The records of the commission shall set forth every determination made by the commission, the vote of every member participating in such determination and the absence or failure to vote of every other member.

(6) Expenses. The commission may suggest and forward to the board of commissioners for approval that the city enter into contracts to employ clerical and technical assistance of consultants and incur other expenses appropriate to the carrying on of its work. Any and all such contracts must be approved by the board of commissioners and issued in the name of and under the authority of the City of Fairview, Tennessee. The commission nor any commissioner shall have no separate authority to contract with any person or entity in the name of the Commission or the City of Fairview, Tennessee.

(7) Gifts. The Commission may, upon approval by the Board of Commissioners, accept money gifts and expended the same for the carrying on of its work. The commission may also administer on behalf of the city any properties or easements, restrictions or other interests in real property which the city may have or may accept as gifts or otherwise and which the city may designate the commission as the administrator thereof.

(8) Record keeping and rules. The commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and amend such rules and regulations not inconsistent with the provisions of this ordinance and prescribe such forms as it shall deem desirable and necessary for the regulations of its affairs and the conduct of its business. The commission shall file a copy of any such rules and regulations with the city clerk. An annual report of the commission's activities shall be filed with the City Clerk of the City of Fairview, Tennessee for filing as a permanent record of the City of Fairview, Tennessee.

(9) Other powers. The commission shall have, in addition to the powers, authority and duties granted to it by this ordinance, such other powers, authority and duties as may be delegated or assigned to it from time to time by

vote of the Board of Commissioners of the City of Fairview, Tennessee. (as added by Ord. #643, Oct. 2006)

2-405. Amendments to historic district designations. (1)

Enlargements or reductions. A historic district may be enlarged or reduced or an additional historic district in the city created in the manner established under § 2-403, for creation of the initial district, except that in the case of the enlargement or reduction of an existing historic district the investigation, report and hearing shall be by the historic preservation commission having jurisdiction over such historic district instead of by a study committee.

(2) Additional districts. In the case of creation of an additional historical district the investigation, report and hearing shall be by the city historic preservation commission instead of by a study committee unless the commission recommends otherwise.

(3) Notice. If the district is to be reduced, written notice, as provided in § 2-403 for the creation of the initial district, shall be given to said owners of each property in the district.

(4) Filing requirements. No changes to the boundaries of a historic district shall become effective until a map(s) setting forth the changes to the boundaries of the historic district has been filed with the city clerk. (as added by Ord. #643, Oct. 2006)

2-406. Application for certificates from the commission.

(1) Considerations of commission. In passing upon matters before it the commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture, material and color of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the commission shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity, and the commission may in appropriate cases recommend to the City of Fairview, Tennessee Planning Commission the imposition of dimensional and set back requirements in addition to those required by applicable ordinance or by-law. The commission shall not consider interior arrangements or the categories of exclusions specified in paragraph 3 of this section.

The commission may after public hearing set forth in such manner as it may determine the various designs of certain appurtenances, such as light fixtures, which will meet the requirements of a historic district and a roster of certain colors of paint and roofing materials which will meet the requirements of a historic district, but no such determination shall limit the right of an applicant to present other designs or colors to the commission for its approval.

The commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the historic district.

(2) Submission requirements. Except for the exclusions noted in paragraph (3) no building or structure within a historic district shall be constructed or altered in any way that affects exterior architectural features unless the commission shall first have issued a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship with respect to such construction or alteration to the original requestor and a copy sent to the Fairview, Tennessee Planning Commission.

Any person who desires to obtain a certificate shall file with the commission an application for a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship, as the case may be, in such form as the commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the commission to enable it to make a determination on the application.

No building permit for construction of a building or structure or for alteration of an exterior architectural feature within a historic district and no demolition permit for demolition (full or partial) or removal of a building or structure within a historic district shall be issued by the City of Fairview, Tennessee Codes Department until the certificate required by this section has been issued by the commission.

(3) Exclusions. The authority of the commission shall not extend to the review of the following categories of buildings, structures or exterior architectural features of the historic district and, in this event, the buildings, structures or exterior architectural features so excluded may be constructed or altered within the historic district without review by the commission:

(a) Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the commission may reasonably specify;

(b) Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, lawn statuary and similar appurtenances, or any one or more of them;

(c) The color of paint;

(d) Signs, which are in, full compliance with the City of Fairview, Tennessee sign ordinance(s).

(e) The reconstruction, substantially similar in exterior design, type of use and size of a building, structure or exterior architectural feature damaged or destroyed by storm or other disaster, provided such reconstruction is begun within one (1) year thereafter and carried forward with due diligence; and upon request by an applicant, the commission

shall issue a certificate on non-applicability with respect to construction or alteration in any category thei not subject to review by the commission in accordance with the above provisions.

(4) Commission powers and duties. The commission shall have the following powers, functions and duties related to issuance of certificates:

(a) If the commission determines that the construction or alteration for which an application for a certificate of appropriateness that has been filed will be appropriate for or compatible with the preservation or protection of the historic district, the commission shall cause a certificate of appropriateness to be issued to the applicant. In the case of a disapproval of an application for a certificate of appropriateness the commission shall place upon its records the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefore as set forth in the records of the commission, to be issued the applicant. The commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material, and similar features. Prior to the issuance if any disapproval the commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the commission. The commission shall, as feasible, identify sources of additional information, technical assistance and financial incentives, which may eliminate the area of concern. If, within fourteen (14) days of the receipt of such notice, the applicant files a written modification of his application in conformity with the recommended changes of the commission, the commission shall cause a certificate of appropriateness to be issued to the applicant.

(b) In the case of determination by the commission that an application for a certificate of appropriateness or for a certificate of non-applicability does not involve any exterior architectural feature, or involves an exterior architectural feature which is not then subject to review by the commission in accordance with the provisions of § 2-406(3), the commission shall cause a certificate of non-applicability to be issued to the applicant.

(c) The commission shall determine if the construction or alteration for which an application for a certificate of appropriateness has been filed is inappropriate, or in the event of an application for a certificate of hardship, the commission shall determine if, owing to conditions especially affecting the building or structure involved, (e.g. handicapped access), but not affecting the historic district generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant. The commission shall also determine whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from

the intent and purposes of this ordinance. If the commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, or in the event of failure to make a determination on an application within the time specified in § 2-407, the commission shall cause a certificate of hardship to be issued to the applicant.

(d) Each certificate issued by the commission shall be dated and signed by its chairman, vice-chairman, secretary or such other person designated by the commission to sign such certificates on its behalf. Each certificate issued by the commission shall also be accompanied by a document substantiating in sufficient detail, the basis of the determination. Certificates are valid for one (1) full year from the date of issuance and must be revalidated by the commission if substantial work has not been completed by the end of this period.

(e) The commission shall file with the city clerk and with the city codes department a copy or notice of all certificates, determinations of disapproval and substantiating documents issued by it. (as added by Ord. #643, Oct. 2006)

2-407. Meetings of the commission. (1) Voting: The commission shall hold meetings at the call of the chairman or at the request of two (2) members of the commission, and in such other manner as the commission shall determine in its rules. A majority of the members of a commission shall constitute a quorum. The concurring vote of a majority of the members of the commission shall be necessary to issue a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship.

(2) Review of application: The commission shall determine promptly, and in all events within fourteen (14) days after the filing of an application for a certificate of appropriateness; a certificate of non-applicability or a certificate of hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the commission. If the commission determines that such application involves any such features which are subject to approval by the commission, the commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter provided.

(3) Hearing an application: The commission shall fix a reasonable time for the hearing on an application and shall give public notice of the time, place and purposes thereof at least fifteen (15) days before said hearing in a newspaper of general local circulation, and by mailing, postage prepaid, a copy of such notice to the applicant, to the owners of all adjoining property and other property deemed by the commission to be material affected thereby as they appear on the most recent real estate tax list of the Williamson County tax assessor or trustee, to the city planning commission and board of commissioners,

to any person filing a written request for notice of hearing, such request to be renewed yearly in December, and to such other persons as the commission shall deem entitled to notice.

(4) Period of determination: As soon as convenient after such public hearing, but in any event within forty-five (45) days after the filing of the application, or within such further time as the applicant may allow in writing, the commission shall make a determination on the application. If the commission shall fail to make a determination within such period of time, the commission shall thereupon issue a certificate of hardship. (as added by Ord. #643, Oct. 2006)

2-408. Process of appealing determination of the commission. (1) Initial appeal. A person aggrieved by a determination of the commission may, within twenty (20) days after the filing of the notice of such determination with the city clerk, appeal to the City of Fairview, Tennessee, Board of Commissioners.

(2) Court option. A person aggrieved who receives an adverse decision from the initial appeal to the City of Fairview, Tennessee, Board of Commissioners may exercise their right to appeal to the appropriate court of the State of Tennessee in accordance with the then existing statutes and rules of procedure of the State of Tennessee.

(3) Costs. Costs of the initial appeal to the Board of Commissioners of the City of Fairview, Tennessee shall not be allowed against the commission unless it shall appear to the board of commissioners that the commission acted with gross negligence, in bad faith or with malice in the matter from which the appeal was taken. In all cases appealed to the courts of the State of Tennessee, cost shall be awarded by the court hearing the appeal. (as added by Ord. #643, Oct. 2006)

2-409. Enforcement. The appropriate court(s) of the State of Tennessee shall have jurisdiction to enforce the provisions of this ordinance and the determinations, rulings and regulations issued pursuant thereto and may, upon the petition of the board of commissioners, after recommendation of the commission, restrain by injunction violations thereof; and, without limitation, such court(s) may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, or the substantial restoration of any building, structure or exterior architectural feature altered or demolished in violation thereof, and may issue such other orders for relief as may appear equitable to the court(s).

Whoever violates any of the provisions of this ordinance shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). Each day during any portion of which a violation continues to exist shall constitute a separate offense. (as added by Ord. #643, Oct. 2006)

2-410. Limited coverage. Nothing in this ordinance shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature within a historic district which does not involve a change in design, material, color or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of this historic district ordinance. (as added by Ord. #643, Oct. 2006)

2-411. Amendments to ordinance. This ordinance enabling the creation of historic districts may from time to time be amended in a manner not inconsistent with the provisions of the statutes of the State of Tennessee and the City of Fairview, Tennessee, Municipal Code, by a majority vote of the board of commissioners, provided that the substance of such amendment has first been submitted to the historic preservation commission, for their recommendation and their recommendations have been received or least thirty (30) days have elapsed without receipt of such recommendations. This section shall not be construed in any manner to direct or imply that the board of commissioners cannot amend this ordinance in compliance with the provisions heretofore outlined. (as added by Ord. #643, Oct. 2006)

2-412. Designation of historic districts.¹ There are hereby established under the provisions of the Statutes of the State of Tennessee and the City of Fairview, Tennessee Municipal Code, historic districts bounded as shown on the map, which is made a part of this ordinance by reference as fully as if copied herein verbatim. (as added by Ord. #643, Oct. 2006)

¹A copy of the historic district map shall be kept in the city recorder's office, and is available to the public during normal business hours.

TITLE 3
MUNICIPAL COURT¹

CHAPTER

1. CITY COURT.
2. CITY JUDGE.
3. COURT ADMINISTRATION.

CHAPTER 1

CITY COURT

SECTION

3-101. City court established.

3-101. City court established. A city court for the City of Fairview, Tennessee is established. (1973 Code, § 1-501)

¹Charter references

For provisions of the charter governing the city judge and city court operations, see Tennessee Code Annotated, title 6, chapter 21, part 5. For specific charter provisions in part 5 related to the following subjects, see the sections indicated:

City judge:

Appointment and term: § 6-21-501.

Jurisdiction: § 6-21-501.

Qualifications: § 6-21-501.

City court operations:

Appeals from judgment: § 6-21-508.

Appearance bonds: § 6-21-505.

Arrest warrants: § 6-21-504.

Docket maintenance: § 6-21-503.

Fines and costs:

Amounts: §§ 6-21-502, 6-21-507.

Collection: § 6-21-507.

Disposition: § 6-21-506.

CHAPTER 2

CITY JUDGE

SECTION

3-201. Jurisdiction.

3-202. Qualifications.

3-203. Election and term.

3-204. Vacancies.

3-205. Salary.

3-201. Jurisdiction. (1) Municipal jurisdiction. The city 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 up to the maximum allowed under state law, and costs prescribed by ordinance.

(2) Concurrent jurisdiction. The city judge shall also have the authority to exercise jurisdiction concurrent with courts of general sessions in all cases involving the violation of the criminal laws of the state within the corporate limits of the city. (1973 Code, § 1-502, modified)

3-202. Qualifications. The city judge shall be a resident of the County of Williamson one year and a resident of Tennessee five years immediately preceding his or her election, at least 30 years old, and licensed to practice law in Tennessee. (1973 Code, § 1-503)

3-203. Election and term. In accordance with art. VII, § 3 of the Tennessee Constitution, at the August general election of 1998, and every eight years thereafter during the August general election, the city judge shall be elected by the qualified voters of the city for a term of eight years, and the city judge shall take office on September 1st next following his or her election. However, the office of city judge during the interim period between the passage of this code amendment and September 1, 1998, shall be filled as follows:

(1) The board of commissioners shall appoint a city judge to serve until the next regular August general election falling at least 180 days after his or her appointment, or until September 1, 1998, if the next regular August general election falls within 180 days of September 1, 1998.

(2) At the next regular August general election, August 4, 1994, the qualified voters of the city shall elect a city judge to serve until September 1, 1998. (1973 Code, § 1-504)

3-204. Vacancies. Vacancies in the office of city judge shall be filled by the board of commissioners for the unexpired portion of the term. (1973 Code, § 1-505)

3-205. Salary. (1) The salary of the municipal court judge for the City of Fairview, Tennessee is hereby set as sixteen thousand two hundred dollars (\$16,200.00) annually for the elected term beginning on August 8, 2006, for as long as the Municipal Court of the City of Fairview, Tennessee, exercises concurrent, general sessions jurisdiction. Said salary shall be paid in installments as agreed upon by the city and the municipal court judge.

(2) The salary of the municipal court judge for the City of Fairview, Tennessee is hereby set as six thousand dollars (\$6,000.00) annually for the elected term beginning on August 8, 2006, effective the date that the Municipal Court of the City of Fairview, Tennessee, ceases to exercise concurrent, general sessions jurisdiction, for any reason either voluntarily or involuntarily. In the event the Municipal Court of the City of Fairview, Tennessee, ceases to exercise concurrent general sessions jurisdiction, the salary listed for the municipal court judge in "A" above shall terminate and the salary listed in "B" shall be prorated for the remainder of the year in which concurrent general sessions jurisdiction is terminated and shall be the municipal court judge's annual salary for the remaining years of his elected term. Said salary shall be paid in installments as agreed upon the city and the municipal court judge. (1973 Code, § 1-506, as amended by Ord. #486, Sept. 2000, and replaced by Ord. #635, July 2006)

CHAPTER 3

COURT ADMINISTRATION

SECTION

3-301. Records; docket; city clerk.

3-302. Imposition of fines, penalties and costs.

3-301. Records; docket; city clerk. The city does not elect, as permitted by the laws of the State of Tennessee, to require the city court clerk to be elected. The city manager shall have the duty of maintaining all records of the city court in accordance with applicable laws. The city manager may employ on behalf of the city a person to assist him in this function and such person shall be designated as city court clerk. The board of commissioners shall require the proper maintenance of the docket of the city court and other records of the court. Subject to general law and the authority of the city judge(s), the board shall fix the regular time for holding court. (1973 Code, § 1-507)

3-302. Imposition of fines, penalties and costs. The schedule of fees set out in Tennessee Code Annotated, § 8-21-401 (when applicable to the City Court of the City of Fairview, Tennessee when said court is exercising its current general sessions jurisdiction relative to criminal offenses) and the fees set out in Schedule "A"¹ is made part of this section by reference per Tennessee Code Annotated, § 16-18-304 (applicable to all violations of City of Fairview, Tennessee Municipal Ordinances).

Schedule "A" may be amended as required from time to time by resolution of the Board of Commissioners of the City of Fairview, Tennessee at any regular scheduled meeting or by special meeting called in accordance with applicable law at the time the special meeting is called. (Ord. #377, June 1995, as replaced by Ord. #699, May 2008)

¹Schedule "A" is available in the office of the city recorder.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. MISCELLANEOUS PERSONNEL REGULATIONS.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Exclusions.
- 4-107. Date of effect.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Fairview, Tennessee, to extend, as of the date hereinafter set forth, to employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto. In pursuance of said policy, and for that purpose, the City of Fairview shall take such action as may be required by applicable state and federal laws or regulations. (1973 Code, § 1-701)

4-102. Necessary agreements to be executed.¹ The mayor of the city is hereby authorized and directed to execute all necessary agreements and amendments thereto with the State Executive Director of Old Age and Survivors Insurance Agency, State of Tennessee, as agent or agency, to secure coverage of employees and officials as provided in § 4-101 hereof. (1973 Code, § 1-702)

¹See Ord. #368, § 1, Dec. 1994, and Ord. #369, § 1, Jan. 1995 of record in the office of the recorder for amendments to the Social Security Agreement by and between the City of Fairview and the State Old Age and Survivors Insurance Agency.

4-103. Withholdings from salaries or wages. Withholding from salaries or wages of employees and officials, for the purpose provided in § 4-101 hereof, are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1973 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1973 Code, § 1-704)

4-105. Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1973 Code, § 1-705)

4-106. Exclusions. There is hereby excluded from this chapter any authority to make any agreement...¹ as defined below, or any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official or position not authorized to be covered under applicable state or federal laws or regulations. A part-time position is hereby defined as a position normally requiring 600 hours or less of service per calendar year.

Notwithstanding any provision(s) heretofore contained in the Social Security Agreement between said parties, it is now the intent and purpose of said board of commissioners to amend the Social Security Agreement by and between the City of Fairview and the State Old Age and Survivors Insurance Agency, to exclude from its coverage group under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of election workers and election officials if the remuneration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or before December 31, 1999 and, the adjusted amount thereafter determined under Section 218 (c) (8) (B) of the Social Security Act, for any calendar year commencing on or after January 1, 2000. (1973 Code, § 1-706)

4-107. Date of effect. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

¹Ord. #369, § 1, Jan. 1995, deleted from this section of the Fairview Municipal Code the phrase "with respect to elective 'legislative' officials, or employees rendering services in part-time positions." When this phrase was deleted the section remained as it now reads.

declared to exist by reason whereof this chapter shall be in full force from and after its passage, approval, and publication as required by law, and shall be effective the 1st day of July 1964. (1973 Code, § 1-707)

CHAPTER 2

MISCELLANEOUS PERSONNEL REGULATIONS

SECTION

- 4-201. Business dealings.
- 4-202. [Repealed.]
- 4-203. [Repealed.]
- 4-204. [Repealed.]
- 4-205. [Repealed.]
- 4-206. Strikes and unions.
- 4-207. Posting of campaign literature of candidates for city commissioner.
- 4-208. Nepotism.
- 4-209. Polices and procedures manual.

4-201. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his city duties, it shall be unlawful for any city officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city. (1973 Code, § 1-901)

4-202. [Repealed.] (1973 Code, § 1-902, as repealed by Ord. #663, March 2007)

4-203. [Repealed.] (1973 Code, § 1-903, as repealed by Ord. #663, March 2007)

4-204. [Repealed.] (1973 Code, § 1-904, as repealed by Ord. #663, March 2007)

4-205. [Repealed.] (1973 Code, § 1-905, as repealed by Ord. #663, March 2007)

4-206. Strikes and unions. No city officer or employee shall participate in any strike against the city, nor shall he join, be a member of, or solicit any other city officer or employee to join any labor union which authorizes the use of strikes by government employees. (1973 Code, § 1-906)

4-207. Posting of campaign literature of candidates for city commissioner. In furtherance of the policy of Tennessee Code Annotated, § 6-21-106, no city officer or employee shall permit the posting of campaign literature, which said literature advocates directly or indirectly, the election of a particular candidate to the office of Commissioner of the City of Fairview, on any premises owned or leased by the City of Fairview except on city right of

ways. It shall be the responsibility of the city manager to see that the intent and purpose of this ordinance is enforced. It is not the intent of this ordinance to prohibit impartial public notices of elections, notices of forums conducted by impartial groups such as the League of Women Voters, or the posting of sample ballots, to assist and encourage voters to participate in city elections. (1973 Code, § 1-909)

4-208. Nepotism. (1) Within each department, no city employees who are relatives shall be placed within the same direct line of supervision whereby one (1) relative is responsible for supervising the job performance or work activities of another relative.

(2) "Relative" means a parent, foster parent, parent-in-law, child, spouse, brother, foster brother, sister, foster sister, grandparent, grandchild, son-in-law, brother-in-law, daughter-in-law, sister-in-law, or other family member who resides in the same household.

(3) The prohibition established by this section shall not be applied retroactively but shall be adhered to in all hiring and employee transactions subsequent to January 1, 1982. (1973 Code, § 1-910)

4-209. Policies and procedures manual.¹ The policies and procedures manual (effective 7/1/2006) be and is hereby adopted as the official policies and procedures manual for the City of Fairview, Tennessee effective July 1, 2006 and is incorporated into and made a part of this chapter by reference as fully as if copied verbatim herein.

Any and all prior existing policies and procedures manuals (those dated prior to July 1, 2006) for the City of Fairview, Tennessee are hereby cancelled and rendered void as of July 1, 2006, it being the express intent of the board of commissioners that the policies and procedures manual adopted and incorporated into and made a part of this chapter by reference as fully as if copied verbatim herein be and is the only approved policy and procedures manual for the City of Fairview, Tennessee, as of July 1, 2006. (as added by Ord. #615, April 2006, and amended by Ord. #641, Sept. 2006)

¹A copy of the policies and procedures manual for the City of Fairview is located in the office of the recorder and is available for review during regular business hours.

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program.
- 4-308. [Repealed.]
- 4-309. [Repealed.]
- 4-310. [Repealed.]
- 4-311. [Repealed.]
- 4-312. [Repealed.]
- 4-313. [Repealed.]
- 4-314. [Repealed.]

4-301. Title. This section shall provide authority for establishing and administering the Occupational Safety and Health Program Plan for the employees of the City of Fairview, Tennessee. (1973 Code, § 1-801, as replaced by Ord. #526, Sept. 2002, and Ord. #804, April 2013)

4-302. Purpose. The purpose of the City of Fairview, Tennessee, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment:
 - (a) Top management commitment and employee involvement;
 - (b) Continually analyze the worksite to identify all hazards and potential hazards;
 - (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
 - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated,

adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (1973 Code, § 1-802, as replaced by Ord. #526, Sept. 2002, and Ord. #804, April 2013)

4-303. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Fairview, Tennessee shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Fairview, Tennessee whether part-time, or full-time, seasonal or permanent. (1973 Code, § 1-803, as replaced by Ord. #526, Sept. 2002, and Ord. #804, April 2013)

4-304. Standards authorized. The occupational safety and health standards adopted by the City of Fairview, Tennessee are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹ (1973 Code, § 1-804, as replaced by Ord. #526, Sept. 2002, and Ord. #804, April 2013)

4-305. Variances from standards authorized. The City of Fairview, Tennessee, may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Fairview, Tennessee, shall notify or serve notice to

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

employees, their designated representatives, or interested parties and present them with an opportunity for hearing. The posting of notice on the main bulletin board as designated by the City of Fairview, Tennessee shall be deemed sufficient notice to employees. (1973 Code, § 1-805, as replaced by Ord. #526, Sept. 2002, and Ord. #804, April 2013)

4-306. Administration. For the purpose of this chapter, the current Director of Safety for the City of Fairview, Tennessee and any successor(s) to the Director of Safety for the City of Fairview, Tennessee, duly appointed as Safety Director for the City of Fairview, Tennessee in accordance with the city's policies and procedures is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Act Program for the City of Fairview, Tennessee. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (1973 Code, § 1-806, as replaced by Ord. #526, Sept. 2002, and Ord. #804, April 2013)

4-307. Funding. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Fairview, Tennessee, Board of Commissioners. (1973 Code, § 1-807, as replaced by Ord. #526, Sept. 2002, and Ord. #804, April 2013)

4-308 - - 4-314. [Repealed.] (as replaced by Ord. #526, Sept. 2002)

CHAPTER 4

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-401. Purpose.
- 4-402. Enforcement.
- 4-403. Travel policy.
- 4-404. Travel reimbursement rate schedules.
- 4-405. Administrative procedures.

4-401. Purpose. The purpose of this chapter and referenced regulations is to bring the city into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any 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 chapter is expanded to cover regular city employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (1973 Code, § 1-911(1))

4-402. Enforcement. The chief administrative officer (CAO) of the city (city manager) or his or her designee shall be responsible for the enforcement of these travel regulations. (1973 Code, § 1-911(2))

4-403. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

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

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

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

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

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

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

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

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

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

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

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (1973 Code, § 1-911(3))

4-404. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the State of Tennessee 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. (1973 Code, § 1-911(4))

4-405. Administrative procedures. The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city manager. (1973 Code, § 1-911(5))

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. LOCAL SALES TAX.
4. WHOLESALE BEER TAX.
5. BUSINESS TAX.
6. ADEQUATE FACILITIES TAX.
7. SALE OF CITY PROPERTY.
8. HOTEL/MOTEL TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Restrictions on expenditures by city manager.
- 5-102. Fiscal year of the city.
- 5-103. Official depository for city funds; city manager authorized to sign checks.
- 5-104. Competitive bidding; when required; procedure.
- 5-105. Budget amendments require specific appropriation increases or corresponding reduction in expenditures.

5-101. Restrictions on expenditures by city manager. The city manager is hereby authorized to expend a maximum amount of ten thousand dollars (\$10,000.00) for materials, supplies, and equipment for the proper conduct of the city's business without specific authorization of the board of commissioners.

Any expenditure by the city manager in excess of ten thousand dollars (\$10,000.00) in any one single transaction shall only be made upon the specific authorization of the board of commissioners. (1973 Code, § 6-101, modified)

5-102. Fiscal year of the city. The fiscal year of the City of Fairview, Tennessee, shall begin on July 1 of each year and end on June 30 of the following year. (1973 Code, § 6-102)

¹Charter reference

Finance and taxation: title 6, chapter 22.

5-103. Official depository for city funds; city manager authorized to sign checks. The official depository for the funds of the City of Fairview, Tennessee, shall be designated by resolution of the board of commissioners of the City of Fairview, Tennessee, as adopted by a vote of the majority of the members of the board of commissioners from time to time for that purpose. Such depository for the funds of the City of Fairview, Tennessee, shall be in a banking institution duly chartered by the State of Tennessee or the United States of America and insured by the Federal Deposit Insurance Corporation (FDIC) or its equivalent. (1973 Code, § 6-103, as replaced by Ord. #583, Aug. 2004)

5-104. Competitive bidding; when required; procedure.

(1) No purchase or contract shall be executed on behalf of the City of Fairview, Tennessee, wherein the aggregate amount of the purchase or contract exceeds ten thousand dollars (\$10,000.00), except upon advertisement for bids.

(2) The provisions of § 5-104(1) notwithstanding, advertisement for bids shall not be required when the purchase or contract to be executed on behalf of the City of Fairview, Tennessee, regardless of the amount of the contract is exempt or may be exempt from the requirement for bids under the following statutes of the State of Tennessee.

- (a) Tennessee Code Annotated, § 6-19-104 and its successors.
- (b) Tennessee Code Annotated, § 6-56-302 and its successors.
- (c) Tennessee Code Annotated, § 6-56-304 and its successors.
- (d) Tennessee Code Annotated, § 12-3-1001 and its successors

(2) The advertisement for bids shall be published in a newspaper of general circulation in the City of Fairview, Tennessee. It shall set forth the nature of the purchase or contract, the location of the plans and specifications, if any, and the date, time, and place the bids will be received and opened.

(3) The time specified for the receipt and opening of bids will not be less than ten (10) days following the publication of the advertisement for bids.

(4) The purchase shall be made from, or the contract shall be awarded to, the lowest and best bidder; provided, that the city commission, for good cause shown, may reject any and all bids. (1973 Code, § 6 - 104, modified, as amended by Ord. #514, Jan. 2002, and replaced by Ord. #748, Feb. 2009)

5-105. Budget amendments require specific appropriation increases or corresponding reduction in expenditures. Prior to the approval of any amendment to the annual budget that would increase appropriations for the expenditure of city funds, the board of commissioners shall approve a resolution¹ that identifies a corresponding source of funds to cover the proposed additional expenditure, and/or identifies a corresponding reduction in expenditure to compensate for the proposed additional expenditure. (1973 Code, § 6-105)

¹A sample form of this resolution is attached to Ord. #296, which is of record in the office of the recorder.

CHAPTER 2

REAL PROPERTY TAXES¹

SECTION

5-201. Levy.

5-202. When due and payable.

5-203. When delinquent--penalty and interest; payment.

5-201. Levy. All real property within the corporate limits of the City of Fairview (except such property as is or shall be exempt by the Laws of the State of Tennessee or of the United States) shall pay a tax in such amount as may be levied by ordinance, from time to time, as provided by the Charter to and for the use of the City of Fairview, on each \$100.00 of assessed valuation of such property, and a proportional amount of each fraction of valuation under \$100.00; all of said taxes to be collected by the proper officers of the City of Fairview for the purposes set forth in the charter. (1973 Code, § 6-401)

5-202. When due and payable.² Taxes levied by the city against real property shall become due and payable annually on and after October 1 for the year in which assessed. (1973 Code, § 6-402)

¹State law references

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

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

²Charter references

Tennessee Code Annotated, § 6-22-110 sets the due date of November 1 of the year for which the taxes are assessed, but Tennessee Code Annotated, § 6-22-113 provides that a different tax due date may be set by ordinance (by unanimous vote of the board of commissioners.)

5-203. When delinquent--penalty and interest; payment.¹ (1) When delinquent--penalty and interest. All unpaid real property taxes shall become delinquent on March 1 following the year in which same are assessed; and shall thereupon be subject to the same penalty and interest as is prescribed by law for delinquent county taxes.²

(2) When paid by mail. All unpaid real property taxes paid by mail shall be processed and shall become delinquent in accordance with Tennessee Code Annotated, § 67-1-107 as it exists on the date of passage of this amended section and as it may be amended from time to time by the legislature of the State of Tennessee.

(3) When due date falls on Saturday or Sunday. All unpaid real property taxes paid in person shall be processed and shall become delinquent in accordance with Tennessee Code Annotated, § 4-1-402 as it exists on the date of passage of this amended section and as it may be amended from time to time by the legislature of the State of Tennessee.

(4) This section shall be retro active to March 1, 2004, and the City Manager of Fairview, Tennessee, is authorized to refund all interest and penalties collected to any and all taxpayers of the City of Fairview, Tennessee whose payments of taxes would have been in compliance with this section as amended. (1973 Code, § 6-403, as amended by Ord. #5-72, May 2004)

¹Charter reference

Tennessee Code Annotated, § 6-22-112 sets the tax delinquency of December 1 of the year for which the taxes are assessed, but Tennessee Code Annotated, § 6-22-113 provides that a different delinquent date may be set by ordinance (by unanimous vote of the board of commissioners).

²Charter reference

Tennessee Code Annotated, § 6-22-114 directs the finance director to turn over the collection of delinquent property taxes to the county trustee.

State law reference

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

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

CHAPTER 3

LOCAL SALES TAX¹

SECTION

5-301. Levied.

5-301. Levied. (1) As authorized by Tennessee Code Annotated, § 67-6-701, as amended, there is levied a tax in the same manner and on the same privileges subject to the Retailers' Sales Tax Act under Tennessee Code Annotated, title 67, chapter 6, as the same may be amended, which are exercised in the City of Fairview, Tennessee. The tax is levied on all such privileges at a rate of one-sixth (1/6) of the present four and one-half (4 1/2%) percent state rate in order to provide for a three-fourths (3/4%) percent tax rate except as that rate may be limited or reduced by statute.

(2) If a majority of those voting in the election required by Tennessee Code Annotated, § 67-6-706, vote for the ordinance, collection of the tax levied by this ordinance shall begin on the first day of the month occurring 30 or more days after the county election commission makes its official canvass of the election returns.²

(3) It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, said determination being evidenced by Local Option Sales and Use Tax Rules and Regulations heretofore promulgated by the Department of Revenue, the department shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The mayor is hereby authorized to contract with the department of revenue for the collection of tax by the department, and to provide in said contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of administration and collection of said tax.

(4) In the event the tax is collected by the department of revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the mayor.

(5) A certified copy of this ordinance shall be transmitted to the said department of revenue by the city recorder forthwith and shall be published one time in a newspaper of general circulation in the City of Fairview, Tennessee prior to the election called for in (2) hereof. (1973 Code, § 6-501)

¹Ordinances and information on the passage of local sales and use taxes are of record in the office of the city recorder.

²This ordinance was approved by the voters at an election held on August 20, 1981.

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1973 Code, § 6-301)

¹State law reference

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

CHAPTER 5

BUSINESS TAX

SECTION

5-501. Tax levied.

5-502. Recording fee.

5-503. Business license.

5-501. Tax levied. The taxes provided for in Pub. Acts 1971, ch. 387, known as the "Business Tax Act," as amended are hereby enacted, ordained, and levied on the businesses, business activities, vocations, or occupations carried on in Fairview, Williamson County, Tennessee at the rates and in the manner prescribed by the said Act. (Ord. #385, Sept. 1995)

5-502. Recording fee. A recording fee of five dollars (\$5.00) shall be paid to the City of Fairview at the same time as the minimum tax is paid. (Ord. #385, Sept. 1995)

5-503. Business license. It shall be unlawful for any person, corporation, firm, joint-stock company, syndicate, business or association to operate a business within the City of Fairview without a business license. The burden of going forward shall be upon the taxpayer in every case to establish the fact that the taxpayer is not engaged in the business of selling tangible personal property or offering services for profit or monetary gain, as defined in Tennessee Code Annotated, § 64-4-701, etc.

(1) If any court compete jurisdiction shall find any portion of this section to be unconstitutional, that portion of the section shall be severed from the section and the remaining portion(s) shall be enforced.

(2) In addition to any other action the city may take against a violator of this chapter, such violation shall be punishable by a penalty of fifty dollars (\$50.00) for each offense. Each day a violation occurs shall constitute a separate offense. (as added by Ord. #688, Dec. 2007)

CHAPTER 6

ADEQUATE FACILITIES TAX

SECTION

- 5-601. Definitions.
- 5-602. Tax established.
- 5-603. Collection of tax.
- 5-604. Use of tax.
- 5-605. Exceptions.
- 5-606. Severability.

5-601. As used in this chapter, unless a different meaning appears from the context:

(1) "Building" means any structure built for the support, shelter, or enclosure of persons, chattles, or moveable property of any kind; the term includes a mobile home. This will not pertain to buildings used for agricultural purposes.

(2) "Building permit" means a permit for development issued in the municipality.

(3) "Capital improvement program" means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchase, construction, or replacement of the physical assets of the community are included.

(4) "Certificate of occupancy" means a license for occupancy of a building or structure issued in the municipality.

(5) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure of the addition to any building or structure, or any part thereof, which provides, adds to or increases the floor area of a residential or non-residential use.

(6) "Dwelling unit" means a room, or rooms, connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(7) "Floor area" means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls, but excluding in the case of nonresidential

facilities: arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

(8) "General plan" means the official statement of the planning commission which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set forth in Tennessee Code Annotated, §§ 13-3-301, 13-3-302, and 13-4-102. For purposes of this act only, a general plan may consist solely of the land development plan element which sets out a plan or scheme of future land usage.

(9) "Governing body" means the city commission of the City of Fairview, Tennessee.

(10) "Major street or road plan" means the plan adopted by the planning commission, pursuant to Tennessee Code Annotated, §§ 13-3-402 and 13-4-302, showing, among other things, "the general location, character, and extent of public ways (and) the removal, relocation, extension, widening, narrowing, vacating, abandonment or change of use of existing public ways...".

(11) "Non-residential" means the development of any property for any use other than the residential use, except as may be exempted by this act.

(12) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number.

(13) "Place of worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are intended to be leased, rented, or used by persons who do not have tax-exempt status.

(14) "Public buildings" means a building owned by the State of Tennessee or any agency thereof, a political subdivision of the State of Tennessee, including but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(15) "Public facility or facilities" means a physical improvement undertaken by the county or city, including, but not limited to the following: road and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities and other governmental capital improvements benefiting the citizens of the municipality.

(16) "Residential" means the development of any property for a dwelling unit or units.

(17) "Municipality" means the City of Fairview, Tennessee. (Ord. #437, July 1998)

5-602. Tax established. Any person who engages in new development in the City of Fairview shall pay a privilege tax in accordance with the following schedule:

A flat fee of five hundred (\$500.00) dollars per building permit, plus the following fees per square foot of floor area:

<u>Type</u>	<u>Fee per Square foot of Floor Area</u>
Residential:	
Streets	03.50 cents
Parks/recreation	01.00 cents
Fire	01.00 cents
Police	01.50 cents
Water	04.50 cents
Sewer	07.25 cents
Municipal land and buildings	06.25 cents
Total residential	25.00 cents
Non-residential:	
Streets	07.00 cents
Parks/recreation	02.00 cents
Fire	02.00 cents
Police	03.00 cents
Water	09.00 cents
Sewer	14.50 cents
Municipal land and buildings	12.50 cents
Total Non-residential	50.00 cents

(Ord. #437, July 1998)

5-603. Collection of tax. The tax established in this chapter shall be collected at the time of application for a building permit for development as herein defined or, if a building permit is not required, at the time of application for a certificate of occupancy. No building permit for development as herein defined, or certificate of occupancy if no building permit is required, shall be issued in the City of Fairview unless the tax has been paid in full to the city or a negotiable instrument approved by the city attorney and payable to the city has been received.

The city building official or other responsible official shall receive payment in full in cash or other negotiable instrument payable to the city as approved by the city attorney. (Ord. #437, July 1998)

5-604. Use of tax. All tax funds collected shall be used for the purpose of providing public facilities identified in the City of Fairview Capital Improvement Program, as may be amended from time to time. Until amended, tax funds collected shall be allocated for use in providing certain public facilities as follows:

Per square foot of floor area

	<u>Residential</u>	<u>Non-residential</u>
Municipal land and buildings (Ord. #437, July 1998, as amended by Ord. #505, July 2001)	25 cents	50 cents

5-605. Exceptions. This chapter shall not apply to development of:

- (1) Public buildings.
- (2) Places of worship.

(Ord. #437, July 1998)

5-606. Severability. If any provisions of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. (Ord. #437, July 1998)

CHAPTER 7

SALE OF CITY PROPERTY

SECTION

- 5-701. Generally.
- 5-702. Sealed bids.
- 5-703. Public auction.

5-701. Generally. (3) Competitive bidding required – exception. All property including real property, or interest therein owned by the city, may be sold only after competitive bidding to the highest bidder, except as provided in § 5-701(4).

(4) Notice of sale. Before a sale of any property including real property or interest therein is made by competitive bids, the board of commissioners shall provide for the publication of a notice of sale in the official newspaper of the city or at least one (1) newspaper of public circulation within the city for a period of four (4) consecutive weeks. Within two (2) working days of the notice of sale being advertised in the afore referenced newspaper, the city manager shall cause a sign advertising the sale to be placed upon the property for sale in a conspicuous place on the property.

(5) Authority of the board of commissioners to provide by resolution for conduct of sales. The board of commissioners may, from time to time, further provide by resolution for the conduct of sales but failure to comply with such provisions shall not affect the validity of any sale.

(6) Sales not subject to this chapter. (a) The following sales, conveyances and other dispositions of property, including real property, shall not be subject to the provisions of this chapter:

(i) An exchange of real properties or interest therein, which may include the receipt or payment of money as additional consideration incidental to such exchange when the board of commissioners determines by resolution that the exchange is in the best interest of the city.

(ii) A sale of real property or interest therein having a reasonable estimated market value (as estimated by the board of commissioners) of less than the cost to conduct a sale by sealed bids or auction as required by this chapter. Shall be disposed of as directed by the board of commissioners.

(iii) A quitclaim or other release of any real or apparent interest of the city made for the purpose of clearing title to real property owned by others.

(iv) A sale of any property, including real property, or interest therein to the state, the county or to any city, school district, flood control, a redevelopment agency, the housing

authority or any other special district within the county operated by or controlled by the state or county government.

(b) A determination by the board of commissioners by resolution or in an ordinance authorizing execution of a conveyance that a transaction is of the nature described in any of the subdivisions of subsection (a) of this section shall be conclusive for the purposes of this chapter.

(7) Permits and rentals. (a) The board of commissioners may lease on terms and conditions approved by the board of commissioners, any real property owned by the city, the use of which by the city has been temporarily deferred or suspended. All such leases or rental agreements shall be automatically terminated upon motion adopted by the board of commissioners that the use of the demised real property is immediately required by the city, and, provided further, that no such lease or rental agreement shall be for a term of longer than one (1) year.

(b) The board of commissioners may grant permits to use the streets or public property, revocable at any time without notice, when such use serves the public interest or is of such a casual, temporary or occasional nature as not to unduly interfere with the public use thereof. In granting such permits for the use of public streets or places dedicated to the public and serving a public need, due regard shall be given for the extent of interference, the timing of such use so as to minimize interference with public use, and shall require when indicated appropriate insurance coverage protecting the city against liability that might or could arise out of such permitted use. When in the estimation of the board of commissioners such use would require more than ordinary services of the city, a fee to defray city's expenses generated thereby may be charge as prerequisite to the granting of such permit.

(8) Payment of commission. If pursuant to this chapter a sale is consummated as the result of a bid which is subject to payment of a broker's or salesperson's commission by the city, the director of finance and administrative services shall cause the payment of such commission. (as added by Ord. #543, May 2003)

5-702. Sealed bids. (1) Sealed bids-terms and conditions generally. Whenever the sale of property, including real property, or an interest therein is required by this chapter or any other city ordinance to be subject to competitive bidding, the board of commissioners may determine that the competitive bidding shall be by sealed bids. The terms and conditions of a sale by sealed bids shall be as set forth in this article and in the notice of sale of such property or interest.

(2) Bidder's deposit required. A deposit of ten (10%) percent of the amount bid shall be required by the notice of sale to qualify the bidder. Such deposit shall be in cash or by cashier's or certified check payable to the city and

drawn or certified by a bank acceptable to the board of commissioners. Such deposit shall be enclosed in the sealed envelope containing the bid. The deposit made by the successful bidder will be applied upon the purchase price, except as provided by § 5-702(3), and deposits made by others will be refunded after acceptance of the successful bid.

(3) Forfeiture of deposit. Unless otherwise stated in the contract for sale, failure of the successful cash bidder to pay the balance of the purchase price, or failure by the successful bidder to pay the balance of the down payment, or failure by the successful bidder to close the transaction within ten (10) business days after notification that all documents are prepared and the city is prepared to close the sale, will result in forfeiture of the bidder's deposit; provide, however, that for good cause shown the board of commissioner may extend such time limitation for closing.

(4) Notation on envelope containing bid. The sealed envelope containing a bid shall bear the notation that it contains a bid and the sale number. Any bid submitted which does not have this notation will be returned to the bidder unopened.

(5) Terms of sale. (a) The sale shall be on the terms set forth in the notice of sale and as provided by this section. Except for the warranties contained in § 5-702(6), all property sold shall be sold as is where is with all faults, no warranty expressed or implied an specifically no warranty of merchantability and fitness for a specific purpose shall be given. All appropriate documents noting the sale of property shall contain this disclaimer.

(6) Title policy – deed, title or bill of sale. In the event of a cash sale for real property, upon receipt of full payment, the city will furnish at its expense a standard owner's policy of title insurance in the amount of the successful bid, showing title vested in the person designated by the successful bidder, subject to any general or special taxes unpaid, and to covenants, conditions, restrictions, reservations, rights, rights-of-way and easements, if any and subject to the normal qualifications and exceptions. The city will not be responsible for recording fees or legal fees incurred by the bidder.

In the event of a cash sale for all property other than real property, upon receipt of full payment, the city will furnish at its expense a certificate of title with all liens having been paid and released or a bill of sale stating that the property sold has no outstanding liens attached to or encumbering the property sold. The city will not be responsible for recording fees or legal fees incurred by the bidder.

(7) Sales upon request. Requests for the purchase of city-owned property or interest therein shall be directed to the city manager by anyone willing to make a bid. The city manager shall fix an estimated market value and submit the request, together with his or her recommendation as to whether or not a sale shall be conducted, to the board of commissioners for further action. Whenever such property or interest shall be offered for sale by the city upon request, the person so requesting shall make a deposit of the amount estimated

by the city manager of the cost of advertising before publication of the notice of sale. Such deposit shall be returned to the depositor if the property or interest is not offered for sale or is sold; otherwise, it shall be forfeited to the city.

(8) Sale void if city unable to convey title. If any property cannot legally be sold by the city, or if the city is unable to convey marketable title thereto within a reasonable time after the date of sale, the sale shall be void and deemed mutually canceled, and the purchase price or any part thereof deposited with the city shall be refunded and no liability will be assumed or incurred by the city.

(9) Submission of bid through licensed broker or salesperson. If a bid is submitted by a licensed real estate broker or a licensed real estate salesperson, or any agent and is to be subject to the payment of a commission, the bid shall so state and the commission is to be paid by the person being represented by the licensed broker, sales person or agent. In no instance will the city be responsible for the licensed broker, salesperson or agent's commission.

(10) Tie bids-highest net bid. In the event two or more equally high, valid bids are submitted, the board of commissioners shall determine the successful bidder by lot. In determining the highest bid or bids, the criterion shall be the highest net bid submitted, exclusive of any and all commissions.

(11) Rejection of bids. The board of commissioners expressly reserves the right to reject any and all bids or to withdraw any property, including real property, or interest therein from sale at any time.

(12) Statements in notice of sale not warranty. No statement in the notice of sale including but not limited to the location, size of parcel or zoning of any real property, model, year of manufacturer, etc. for other property offered for sale shall be considered a warranty. (as added by Ord. #543, May 2003)

5-703. Public auction. (1) By public auction when – terms and conditions generally. Whenever the sale of property, including real property, or an interest therein is required by this chapter or any other city ordinance to be subject to competitive bidding, the board of commissioners may determine that the competitive bidding shall be by public auction. The terms and conditions of a sale by public auction shall be as set forth in this chapter and in the notice of sale of such property or interest.

(2) Bidder's deposit required. A deposit of ten percent of the minimum price established by the board of commissioners shall be required by the notice of sale to qualify the bidder. Such deposit shall be in cash, a cashier's or certified check, or irrevocable letter of credit, payable to the city and drawn or certified by a bank acceptable to the board of commissioners, and shall be delivered to the auctioneer at the time of the sale or to the city manager prior to such time. The deposit made by the successful bidder will be applied upon the purchase price, except as provided in this chapter, and deposits made by all others will be refunded after acceptance of the successful bid.

(3) Forfeiture of deposit. Unless otherwise stated in the contract for sale, failure of the successful cash bidder to pay the balance of the purchase price, or failure by the successful bidder to pay the balance of the down payment, or failure of the successful bidder to close the transaction within ten (10) business days after notification that all documents are prepared and the city is prepared to close the sale, will result in forfeiture of the bidder's deposit; provide, however, that for good cause shown the board of commissioner may extend such time limitation for closing.

(4) Method of conducting. Any sale regulated by this chapter shall be held at such time and place as the board of commissioners may designate in the notice of sale and shall be conducted by a license auctioneer retained by the city for the purpose of conducting the sale. If any bid is submitted through an agent the principal shall be liable for any commission. Under no circumstances, will the city be liable for nor will the city pay agents commissions. The auction shall proceed in a professional manner under the terms herein designated. The property shall be sold to the highest bidder and the auctioneer shall declare the sale closed when the highest and best bid has been received.

(5) Terms of sale. All sales shall be for cash, cashier's check, or certified check payable at the time delivery of the sold item(s) is taken by the successful bidder. Except for the warranties contained in § 5-703 (6), all property sold shall be sold as is where is with all faults, no warranty expressed or implied and specifically no warranty of merchantability and fitness for a specific purpose shall be given. All appropriate documents noting the sale of property shall contain this disclaimer.

(6) Title policy – deed, title or bill of sale. In the event of a cash sale for real property, upon receipt of full payment, the city will furnish at its expense a standard owner's policy of title insurance in the amount of the successful bid, showing title vested in the person designated by the successful bidder, subject to any general or special taxes unpaid, and to covenants, conditions, restrictions, reservations, rights, rights-of-way and easements, if any and subject to the normal qualifications and exceptions. The city will not be responsible for recording fees or legal fees incurred by the bidder.

In the event of a cash sale for all property other than real property, upon receipt of full payment, the city will furnish at its expense a certificate of title with all liens having been paid and released or a bill of sale stating that the property sold has no outstanding liens attached to or encumbering the property sold. The city will not be responsible for recording fees or legal fees incurred by the bidder.

(7) Sales upon request. Requests for the purchase of city-owned property or interest therein shall be directed to the city manager by anyone willing to make a bid. The city manager shall fix an estimated market value and submit the request, together with his or her recommendation as to whether or not a sale shall be conducted, to the board of commissioners for further action. Whenever such property or interest shall be offered for sale by the city upon

request, the person so requesting shall make a deposit of the amount estimated by the city manager of the cost of advertising before publication of the notice of sale. Such deposit shall be returned to the depositor if the property or interest is not offered for sale or is sold; otherwise, it shall be forfeited to the city.

(8) Sale void if city unable to convey title. If any property cannot legally be sold by the city, or if the city is unable to convey marketable title thereto within a reasonable time after the date of sale, the sale shall be void and deemed mutually canceled, and the purchase price or any part thereof deposited with the city shall be refunded and no liability will be assumed or incurred by the city.

(9) Rejection of bids. The board of commissioners expressly reserves the right to reject any an all bids or to withdraw any property, including real property, or interest therein from sale at any time.

(10) Statements in notice of sale not warranty. No statement in the notice of sale including but not limited to the location, size of parcel or zoning of any real property offered for sale shall be considered a warranty. (as added by Ord. #543, May 2003)

CHAPTER 8

HOTEL/MOTEL TAX

SECTION

- 5-801. Definitions.
- 5-802. Privilege tax levied: use.
- 5-803. Payment of the tax.
- 5-804. Interest and penalty for late payment.
- 5-805. Compensation to the hotel.
- 5-806. Records required.

5-801. Definitions. As used in this chapter:

(1) "Consideration" means the consideration charged, whether or not received for the occupancy in a hotel valued in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever;

(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 cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;

(3) "Occupancy" means the use or possession, or the right to use or possession, of any room, lodgings or accommodations in any hotel;

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

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

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days. (as added by Ord. #553, Sept. 2003)

5-802. Privilege tax levied: use. (1) Pursuant to the provisions of Tennessee Code Annotated, §§ 67-4-1401 through 67-4-1425, § 67-4-1425, as amended by Public Acts of 2003, Chapter No. 370, Senate Bill No. 1665, substituted for House Bill No. 979, passed on May 29, 2003 and signed by the governor on June 17, 2003, there is hereby levied a privilege of occupancy tax in any hotel of each transient, from and after the operative date of this chapter. The rate of the levy shall be two percent (2%) of the consideration charged by the operator. This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The city manager shall be designated

as the authorized collector to administer and enforce this chapter and these statutory provisions.

(2) The proceeds received from this tax shall be available for the city's general fund. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel. (as added by Ord. #553, Sept. 2003, and amended by Ord. #562, Dec. 2003)

5-803. Payment of the tax. The tax levied shall be remitted by all operators who lease, rent or charge for rooms or spaces in hotels within the City of Fairview, Tennessee, to the City Manager of the City of Fairview, Tennessee. The payment of such tax to be remitted not later than the twentieth day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for 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 City of Fairview, Tennessee, for the amount of tax for which credit was given shall be that of the operator. (as added by Ord. #553, Sept. 2003)

5-804. Interest and penalty for late payment. (1) Taxes collected by an operator which are not remitted to the authorized collector on or before the due dates shall be delinquent.

(2) The hotel operator shall be liable for interest on any delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition, for the penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. (as added by Ord. #553, Sept. 2003)

5-805. Compensation to the hotel. For the purpose of compensating the operator in accounting for and remitting the tax levied pursuant to this chapter, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the officer in the form of a deduction in submitting the operator's report and paying the amount due by such operator; provided, that the amount due was not delinquent at the time of payment. (as added by Ord. #553, Sept. 2003)

5-806. Records requirement. The hotel operator must keep records for three years, with the right of inspection by the city. (as added by Ord. #553, Sept. 2003)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST¹

SECTION

- 6-101. City manager authorized to appoint police officers and "auxiliary police officers."
- 6-102. Policemen subject to chief's orders.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.
- 6-108. Fees for copies of reports.

6-101. City manager authorized to appoint police officers and "auxiliary police officers." There is hereby established a police department to be supported and equipped from appropriations by the board of commissioners. All apparatus, equipment and supplies shall be purchased by or through the city and shall be and remain the property of the city. The police department shall be composed of a chief to be appointed by the city manager, and any other police officers and/or "auxiliary police officers" (who will not be employee members of the city police department) deemed to be necessary by the police chief and the city manager. "Auxiliary police officers" will have the powers of city police officers only while in their performance of their duties for the City of Fairview, Tennessee. (1973 Code, § 1-401, as replaced by Ord. #785, June 2012)

6-102. Policemen subject to chief's orders. All policemen who are employee members of the city police department shall obey and comply with such orders and administrative rules and regulations as the chief of police may officially issue. (1973 Code, § 1-402)

¹Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of commissioners shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1973 Code, § 1-403)

6-104. When policemen to make arrests¹. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1973 Code, § 1-404)

6-105. Policemen may require assistance. It shall be unlawful for any person to willfully refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1973 Code, § 1-405)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1973 Code, § 1-406)

6-107. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1973 Code, § 1-407)

6-108. Fees for copies of reports. The Fairview Police Department will charge fees for copies of reports as follows:

(1) \$20.00 for a set of fingerprints to any person who is not a resident of the Fairview Community;

(2) \$5.00 for a copy of any accident report, arrest report or offense report;

(3) \$15.00 for any back ground check. (as added by Ord. #434, June 1998, and replaced by Ord. #511, Sept. 2001)

CHAPTER 2

WORKHOUSE¹

SECTION

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

6-204. Public service program.

6-205. Costs of program.

6-201. County workhouse to be used. The Williamson County Workhouse is hereby designated as the city workhouse, subject to such contractual arrangement as may be worked out with the county. (1973 Code, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1973 Code, § 1-602)

6-203. Compensation of inmates.² Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him. (1973 Code, § 1-603)

6-204. Public service program. As an alternative to incarceration in the county workhouse pursuant to the provisions set out above, the city judge in his sole discretion may order a specified number of hours of public service as a condition of probation, provided that the board of commissioners has available a public service supervisor to administer and supervise such a program. (1973 Code, § 1-604)

6-205. Costs of program. There shall be assessed as additional court costs the amount of fifteen dollars (\$15.00) per participant in the public service program for the purpose of defraying the expenses of the program. (1973 Code, § 1-605)

¹Charter references: §§ 6-19-101(28) and 6-21-502.

²State law reference

Tennessee Code Annotated, § 40-24-104.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be and include that area designated as the central business district at such time as the city may adopt a zoning ordinance. Until that time, there are no fire limits. (1973 Code, § 7-101)

¹Municipal code reference
Building, utility and housing codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Modifications.
- 7-204. Definition of "municipality."
- 7-205. Storage of explosives, flammable liquids, etc.
- 7-206. Gasoline trucks.
- 7-207. Variances.
- 7-208. Violations and penalties.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating exits, egress capacity, stairways, fire escapes, travel distance to egress, special locking arrangements in place of assembly occupancies, in any building or structure. The International Fire Code,² 2009 edition, along with appendices A, B, C, D, F, H, I and all subsequent amendments or additions to said code as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as fully as if copied herein verbatim as a part of this code.

One (1) copy of the fire code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #366, Nov. 1994, modified, as amended by Ord. #631, July 2006 and Ord. #656, March 2007, and replaced by Ord. #784, May 2012)

7-202. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (as replaced by Ord. #784, May 2012)

7-203. Modifications. (1) Within the fire code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the named

¹Municipal code references

Building, utility and residential codes: title 12

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, DC 20001.

official shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned.

(2) Section 903, "Automatic Sprinkler Systems," of the International Fire Code, 2009 edition, is adopted in its entirety with the following modifications to the following sections:

(a) Section 903.2.1.1 Group A-1 (1) The fire area exceeds 5,000 square feet.

(b) Section 903.2.1.3 Group A-3 (1) The fire area exceeds 5,000 square feet.

(c) Section 903.2.1.4 Group A-4 (1) The fire area exceeds 5,000 square feet.

(d) Section 903.2.3 Group E (1) Throughout all Group E fire areas greater than 5,000 square feet.

(e) Section 903.2.4 Group F (1) A Group F-1 fire area exceeds 5,000 square feet.

(f) Section 903.2.7 Group M (1) A Group M fire area exceeds 5,000 square feet.

(g) Section 903.2.8 Group R A Group R an automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area except for one- and two-family dwellings.

(h) Section 903.2.9 Group S-1 (1) A group S-1 fire area exceeds 5,000 square feet.

(i) Section 903.2.9.1 Repair Garages.

(i) Buildings having two or more stories above grade plane, including basements, with a fire area containing a repair garage exceeding 5,000 square feet.

(ii) Buildings no more than one story above grade plane, with a fire area containing a repair garage exceeding 5,000 square feet.

(j) Section 903.2.10 Group S-2 enclosed parking garages.

(i) Where the fire area of the enclosed parking garage exceeds 5,000 square feet. (Ord. #366, Nov. 1994, as replaced by Ord. #784, May 2012)

7-204. Definition of "municipality." Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the City of Fairview, Tennessee. (as replaced by Ord. #784, May 2012)

7-205. Storage of explosives, flammable liquids, etc. (1) The limits referred to in the fire code, in which storage of explosive materials is prohibited, are hereby declared to be the fire district as set out in § 7-101 of this code.

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

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

(4) The limits referred to in the fire code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire district as set out in § 7-101 of this code. (as replaced by Ord. #784, May 2012)

7-206. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (as replaced by Ord. #784, May 2012)

7-207. Variances. The chief of the fire department may recommend to the board of commissioners variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of commissioners. (as replaced by Ord. #784, May 2012)

7-208. Violations and penalties. It shall be unlawful for any person to violate or fail to comply with any provision of the fire code, along with Appendices A, B, C, D, F, H, and I as herein adopted. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #784, May 2012)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training and maintenance.
- 7-307. Chief to be assistant to state officer.
- 7-308. Police powers of firemen.
- 7-309. Authorization to act while off duty.
- 7-310. Inspections and inspection fees.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of commissioners. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief to be appointed by the city manager, and any other firefighters deemed to be necessary by the fire chief and the city manager. (1973 Code, § 7-301, as amended by Ord. #504, July 2001)

7-302. Objectives. The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.

¹Charter references

For detailed charter provisions governing the operation of the fire department, see Tennessee Code Annotated, title 6, chapter 21, part 7. For specific provisions in part 7 related to the following subjects, see the sections indicated.

Fire chief

Appointment: § 6-21-701.

Duties: § 6-21-702.

Emergency: § 6-21-703.

Fire marshall: § 6-21-704

Firemen

Appointment: § 6-21-701.

Emergency powers: § 6-21-703.

Municipal code reference

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

- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1973 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1973 Code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the city manager once each month, and at the end of the year a detailed annual report shall be made. (1973 Code, § 7-304)

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the city manager. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department.

All personnel of the fire department shall receive such compensation for their services as the board of commissioners may from time to time prescribe. (1973 Code, § 7-305)

7-306. Chief responsible for training and maintenance. The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1973 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1973 Code, § 7-308)

7-308. Police powers of firemen. Firemen at the scene of a fire shall have the same powers and authority as policemen for the purpose of directing

traffic and otherwise preventing interference with the fire fighting effort. (1973 Code, § 7-309)

7-309. Authorization to act while off duty. Fire department employees and volunteer firemen are authorized to act to protect lives and property within the corporate limits of the City of Fairview, Tennessee, during those hours when such fire department employees and volunteer firemen are off duty, and during those hours when such fire department employees and volunteer firemen are in route or travel to and from official fire department business; and all actions by such off duty fire department employees and volunteer firemen shall be carried out in accordance with the laws, rules and regulations governing actions and conduct of fire department employees and volunteer firemen. (1973 Code, § 7-310)

7-310. Inspections and inspection fees. The chief of the fire department, or a well trained and qualified subordinate, approved by the chief, is authorized under this code to perform inspections of private residences for the purpose of determining whether flue installations for wood burning stoves are safely and properly installed to reduce the risk of fire from such installations. Provided that no such inspection is authorized unless the citizen requesting such an inspection shall sign a waiver acknowledging that the City of Fairview, and the inspector so designated, makes no warranty or guarantee, and further acknowledges his or her understanding that there is no assumption of liability upon the part of the said inspector, the chief of the fire department, or the City of Fairview, should a fire result from the installation so inspected. (1973 Code, § 7-311, as amended by Ord. #504, July 2001)

CHAPTER 4**FIRE SERVICE OUTSIDE CITY LIMITS****SECTION**

7-401. Equipment to be used only in approved areas.

7-401. Equipment to be used only in approved areas. No equipment of the fire department shall be used for fighting any fire in an area not approved by the Fairview City Commission, which shall include all areas within the municipal boundaries in the city, all areas in the 15th District of Williamson County, any other areas included in a mutual aid agreement with any other municipality or county, and (within the discretion of the city manager, the fire chief or the mayor) any area impacted by a disaster. (1973 Code, § 7-307, as amended by Ord. #504, July 2001)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Purpose.
- 7-502. Definitions.
- 7-503. [Repealed.]
- 7-504. [Repealed.]
- 7-505. [Repealed.]
- 7-506. Permissible types of fireworks.
- 7-507. Conditions for use of permissible articles.
- 7-508. [Repealed.]
- 7-509. Public displays--permits--regulation.
- 7-510. Regulations governing storing, locating or display of fireworks.
- 7-511. [Repealed.]
- 7-512. Seizure and destruction of fireworks.
- 7-513. Penalty for violation.
- 7-514. Exceptions to application.

7-501. Purpose. The purpose of this chapter is to provide for the use of certain fireworks for private use within the corporate limits of the City of Fairview, Tennessee within certain guidelines, which shall provide for the general safety and welfare of the citizens thereof. (as added by Ord. #430, May 1998, and replaced by Ord. #762, Nov. 2009)

7-502. Definitions. As used in this chapter, the following terms shall have the meaning described to them herein, unless clearly indicated otherwise:

(1) "D.O.T. Class C (1.4G) common fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class C (1.4G) common fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles;

(2) "Person" means any individual, firm, partnership or corporation;

(3) "Sale" means an exchange of articles of fireworks for money and also includes the barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, co-partnership, of one (1) or more individuals;

(4) "Special fireworks" means all articles of fireworks that are classified as Class B (1.3G) explosives in the regulations of the United States Department of Transportation and includes all articles other than those classified as Class C (1.4G);

(5) "Unregulated or novelty fireworks." Those fireworks that are not regulated by state, federal or local statutes or ordinances and contain no more

than five (5) grams of pyrotechnic composition per individual device. (as added by Ord. #430, May 1998, and amended by Ord. #762, Nov. 2009)

7-503. [Repealed.] (as added by Ord. #430, May 1998, replaced by Ord. #658, March 2007, and repealed by Ord. #762, Nov. 2009)

7-504. [Repealed.] (as added by Ord. #430, May 1998, replaced by Ord. #658, March 2007, and repealed by Ord. #762, Nov. 2009)

7-505. [Repealed.] (as added by Ord. #430, May 1998, and repealed by Ord. #762, Nov. 2009)

7-506. Permissible types of fireworks. It is unlawful for any individual, firm, partnership or corporation to sell fireworks of any type except those defined in § 7-502(5) within the corporate boundaries of the City of Fairview, Tennessee. (as added by Ord. #430, May 1998, and replaced by Ord. #762, Nov. 2009)

7-507. Conditions for use of permissible articles. (1) No permissible articles of common fireworks, defined in § 7-502(1) shall be possessed or used within the corporate boundaries of the City of Fairview, Tennessee unless they are properly named to conform to the nomenclature of § 7-506 hereof or unless they are certified as "common fireworks" or certified as "unregulated or novelty fireworks" as defined in § 7-502(5).

Additionally:

(2) Those items now or hereafter classified as D.O.T. Class C (1.4G) common fireworks may be possessed and used by person(s) as defined in § 7-502(2) in accordance with the use of permissible articles as defined in § 7-507.

(a) Such use by persons shall be restricted to the following dates and times and those dates and times only.

(i) July 3, 4 and 5 from noon to 11:00 P.M. inclusive.

(ii) December 31 from noon to January 1, 1:00 A.M. inclusive.

(iii) January 1 and 2 from noon to 11:00 P.M. each day inclusive.

(b) All persons using fireworks as provided in this section shall:

(i) Not use or ignite or discharge fireworks on public roadways, streets, sidewalks, or any other public owned property, within six hundred feet (600') of any church, hospital, asylum, public school, or park or within two hundred feet (200') gas station or throw any fireworks from a motor vehicle, into a motor vehicle at or near any person or group of persons.

(ii) Persons using fireworks as provided in this section shall have attained the minimum age of sixteen (16) years unless they are accompanied by a person who has attained the minimum age of eighteen (18) years.

(iii) All persons using or igniting fireworks as provided in this section shall:

Make every reasonable effort to contain the fireworks and the debris on the users' property.

(iv) If the person using or igniting the fireworks as provided in this section does not own the property upon which the person is using or igniting the fireworks, the owner's permission must be obtained for the firework using or igniting and the owner must be present during the entire time fireworks are being used or ignited.

(v) Debris from the fireworks must be contained to the premises where the fireworks were used or ignited, collected and disposed of properly upon termination of the using or igniting of fireworks.

(vi) Any provision contained in § 5-507 to the contrary notwithstanding the dates and times for use shall not apply to those items certified as "unregulated or novelty fireworks." (as added by Ord. #430, May 1998, and replaced by Ord. #762, Nov. 2009)

7-508. [Repealed.] (as added by Ord. #430, May 1998, and repealed by Ord. #762, Nov. 2009)

7-509. Public displays--permits--regulation. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of Fairview shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulation of the United States Department of Transportation as "Class B special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the codes administrator, or their designees, and applied for and received a permit for such displays issued by the state fire marshal. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to

property and that is shall not endanger human lives. Possession of special fireworks for re-sale to holders of a permit for public fireworks display shall be confined to holders of a distributors permit only. Applicants must obtain and also provide liability insurance of at least one million dollars and no cents (\$1,000,000.00). (as added by Ord. #430, May 1998)

7-510. Regulations governing storing, locating or display of fireworks. (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within fifty feet (50') of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "fireworks--no smoking" in letters not less than four inches (4") high. No fireworks shall be sold at retail at any location where paints, oils or varnishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision.

(3) The physical site proposed for the location of storage, placement or sale of permissible fireworks shall require the prior approval of the codes administrator or the fire chief previous to the issuance of any required permits and licenses.

(4) The bulk storage (storage other than limited amounts incidental to permitted retail sales or public displays) of fireworks within the corporate limits of the City of Fairview is prohibited, and a violation of this section is unlawful and punishable under the provision of this chapter or the applicable state code. (as added by Ord. #430, May 1998)

7-511. [Repealed.] (as added by Ord. #430, May 1998, and repealed by Ord. #762, Nov. 2009)

7-512. Seizure and destruction of fireworks. (1) The City of Fairview Fire Chief shall seize as contraband any fireworks other than "Class C common fireworks" defined in § 7-502 hereof, or "special fireworks" for public displays as provided for in § 7-509 hereof, which are sold, displayed, used or possessed in violation of this chapter.

(2) Before any seized fireworks may be destroyed:

(a) If the owner of such seized fireworks is known, the fire chief shall give notice by registered mail or personal service to such owner, of

the fire chief's intention to destroy such seized materials. Such notice shall inform the owner of the owner's right to a hearing. Upon the request of the owner, the fire chief shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

(b) If the identity of the owner of any seized fireworks is not known to the fire chief, the fire chief shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such seizure, and of the fire chief's intention to destroy such fireworks. The notice shall be published once each week for three (3) consecutive weeks and if no person claims ownership of the fireworks within ten (10) days of the date of the last publication, the fire chief may proceed to destroy the fireworks. If the owner does claim the fireworks within the time specified, a hearing as set out in this subsection shall be held. (as added by Ord. #430, May 1998)

7-513. Penalty for violation. Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not to exceed fifty dollars (\$50.00). Each day of operation in violation shall constitute a separate distinct punishable offense. In addition, the City of Fairview fire chief may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years. (as added by Ord. #430, May 1998, as replaced by Ord. #658, March 2007)

7-514. Exceptions to application. Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes only from the state fire marshal, and after approval of the county agricultural agent for the county in which the fireworks are to be used and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the City of Fairview. (as added by Ord. #430, May 1998)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. ON PREMISES CONSUMPTION OF INTOXICATING LIQUORS.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definitions.
- 8-102. Application of chapter.
- 8-103. Distance limitations on grant of retail licenses.
- 8-104. Powers and duties of mayor generally.
- 8-105. Authority of mayor to call upon finance and police departments in enforcement of chapter.
- 8-106. Classes of licenses issued; restrictions generally.
- 8-107. Retailer's licenses.
- 8-108. Application for license to sell intoxicating liquors.
- 8-109. Wholesaler's license, salesman's and employee's permits, fees, etc.
- 8-110. Books to be kept by wholesalers; inspection fee.
- 8-111. Wholesale stores, etc., not to be located within three hundred feet of churches or schools.
- 8-112. Regulations as to purchase and sale, location of premises, etc.
- 8-113. License fee to be paid by applicant; penalty.
- 8-114. Sunday sales prohibited.
- 8-115. Price lists, etc., to be posted.
- 8-116. Slot machines, etc., on premises of retailers.
- 8-117. Location of bars with respect to retail stores.
- 8-118. Solicitation of orders.
- 8-119. Employment of minors.
- 8-120. Employment of non-citizens.
- 8-121. Sales to minors.
- 8-122. Effect of conviction of felony involving moral turpitude.
- 8-123. Effect of conviction of violating laws relating to alcoholic beverages.
- 8-124. Keeping in unsealed bottles or containers.
- 8-125. Unstamped merchandise.

¹State law reference

Tennessee Code Annotated, title 57.

- 8-126. Sales to persons intoxicated, etc.
- 8-127. Sales on credit.
- 8-128. Sales of more than 20 gallons of alcoholic beverages, record, etc.
- 8-129. Name and license number to be printed on window.
- 8-130. Inspection fee on retailers.

8-101. Definitions. Whenever used in this chapter, unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, or wine and capable of being consumed by a human being, other than patented medicine, beer, or wine, where the latter two contain an alcoholic content of five percent (5%) by weight, or less.

(2) "License" means the license issued pursuant to this chapter and "licensee" means any person to whom such license has been issued pursuant to this chapter.

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

(4) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions of this chapter.

(5) "Mayor" means the mayor of the city.

(6) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(7) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(8) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic saccharine and seasonal conditions, and including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be deemed "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine. (1973 Code, § 2-101)

8-102. Application of chapter. It shall be lawful to store, transport, sell, distribute, possess and receive alcoholic beverages in the city within the area set out and defined in § 8-104 of this code, subject to the the license, payment of taxes, limitations, regulations, and conditions herein provided.

Nothing in this chapter is intended to relate to the transportation, storage, sale, distribution, possession or receipt of, or tax upon, any beverage of alcoholic content of five per cent (5%) by weight, or less, and no provision relating thereto shall be considered or construed as modified by this chapter. (1973 Code, § 2-102)

8-103. Distance limitations on grant of retail licenses.

(1) Restrictions upon granting permits. No retailer's license shall be issued to an applicant whose location is less than one thousand (1,000) feet from a church, school, licensed day care center or nursery, or public park. The distance shall be measured by a straight line from the nearest corner of the building of a potential licensee to the nearest corner of the church, school, licensed day care center or nursery, or to the center of the main entrance of a public park, where the centerline intersects with the margin of the public road.

The distance between the applicant's place of business and the nearest church, school, park, day care center, or other prohibited use shall be measured and certified by a licensed surveyor, which certification shall accompany the application.

(2) The provisions regarding the distance requirements shall not apply to permittees holding a permit issued prior to the approval date of this section;¹ and in violation of such provisions. Provided, renewal of such permits shall only be granted to those permittees as defined in this chapter, holding valid permits on the effective date of this amendment, and to transferees of such permittees who were operating under valid permits prior to the location of any church, school, nursery or day care center, or public park within one thousand (1,000) feet of the licensee. (1973 Code, § 2-103, as replaced by Ord. #519, May 2002, and amended by Ord. #523, Aug. 2002)

8-104. Powers and duties of mayor generally. The mayor shall have authority, by and with the consent of the city commission, to employ additional necessary clerical help, whose compensation shall be paid out of the funds or receipts collected under this chapter. The mayor shall enforce and administer the provisions of this chapter and the rules and regulations made by him. He shall have and exercise the following functions, duties, and powers:

(1) Issuance of licenses, revocations, etc. To cause to be issued all licenses in respect to, or for the importation, bottling, keeping, giving away, furnishing, possession, transportation, sale, and delivery of alcoholic beverages, and to revoke any license whatsoever, the issuance of which is authorized by this chapter; provided, that the revocation of any license shall be made by the mayor only on account of the violation of or refusal to comply with any of the provisions of this chapter or of any rule or regulation of the mayor, after not less than ten days notice to the holder of the license proposed to be revoked, informing such holder of the time and place of the hearing to be held in respect thereto, and all further procedure with reference to the revocation of any license as shall be fixed and prescribed in the rules and regulations adopted and promulgated by the mayor, which may be repealed or amended from time to time; provided, that in all cases it shall be the mandatory duty of the mayor to revoke any wholesaler's or retailer's license after final judgment or conviction of any offense defined, or upon a finding by him of a violation of this chapter for the second time, whether judgment or conviction ensue or not; provided, further,

¹This section passed as Ord. #519, May 2002.

that no person shall be deemed to have a property right in any license issued hereunder, nor shall the license itself, or the enjoyment thereof, be considered a property right.

If, upon investigation, the mayor finds that the applicant for a license or permit has concealed or misrepresented in writing, or otherwise, any material fact or circumstance concerning the operation of the business or employment, or if the interest of the applicant in the operation of the business or employment is not truly stated in the application or in case of any fraud or false swearing by the applicant touching any matter relating to the operation of the business or employment, the mayor shall refuse to cause a license or permit to be issued. If a license or permit has been issued, the mayor shall issue a citation to the licensee or permittee to show cause why his license or permit should not be suspended or revoked. All data, written statements, affidavits, evidence or other documents submitted in support of an application shall be deemed to be a part of the application.

The mayor shall have the right to summon any applicant for a license or permit and also to summon and examine witnesses and to administer oaths to such applicants and witnesses in making any investigation in regard thereto. No retail license shall be issued except to an individual operating as such, or to individuals operating a general or limited partnership.

(2) Rules and regulations. To make, promulgate, alter, amend, or repeal rules and regulations for the enforcement of this chapter or the collection of all license fees and taxes, and all penalties and forfeitures relating thereto.

(3) Form of applications, licenses, etc. To prescribe all forms of applications and licenses, and of all reports and all other papers and documents required to be used under or in the enforcement of this chapter.

(4) Prevention of connecting premises from being used as a subterfuge. To prevent parts of the premises connected with or in any sense used in connection with the premises whereon the possession, transportation, delivery, receipt, sale, or purchase of alcoholic beverages may be lawful from being used as a subterfuge or means of evading the provisions of this chapter or the rules and regulations of the mayor.

(5) Coordination of practices, methods, etc. To conform, or to adopt, or to coordinate, to the extent that the mayor may deem proper, the practices, methods, standards, rules, and regulations governing traffic in alcoholic beverages, and in alcohol, with the rules, practices, standards, and regulations established by the government of the United States, or any officer, bureau, or agency thereof.

(6) Removal of bottles, etc., likely to be used in evading ordinance. To require, on licensed premises, the destruction or removal of any and all bottles, whether empty or otherwise, cases, containers, apparatus, or devices, used or likely to be used, or designed or intended, or employed in evading, violating, or preventing the enforcement of this chapter or the rules or regulations of the mayor.

(7) Advertising, signs, etc. To regulate advertising, signs and displays, posters, or designs intended to advertise any alcoholic beverage or the place where the same is sold. (1973 Code, § 2-104)

8-105. Authority of mayor to call upon finance and police departments in enforcement of chapter. In order to carry out the provisions of this chapter, the mayor is hereby authorized to call upon any employee in the department of finance, as well as upon any member of the police department, to assist in the enforcement of the provisions of this chapter. (1973 Code, § 2-105)

8-106. Classes of licenses issued; restrictions generally. The mayor may cause to be issued, under the provisions of this chapter, the following classes of licenses, licensing the duly qualified holders thereof:

(1) Classes. Licenses in relation to alcoholic, spirituous beverages exclusively shall consist of the following classes only:

- (a) Liquor wholesaler's license.
- (b) Liquor retailer's license.

(2) Transfer; duration. The holder of a license may not sell, assign, or transfer such license to any other person, and said license shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by the payment of the license fee herein provided; provided, however, that licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee under this chapter, including the furnishing of a certificate of good moral character. No person who is ineligible to obtain a license under this chapter shall be eligible to serve as the agent of a licensee under this section.

(3) Vision into places of sale, etc., not to be obstructed. It shall be the policy of this chapter that, to the fullest extent consistent with the nature of the establishment, full, free, and unobstructed vision shall be afforded from the street and public highway of the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.

(4) Interest of mayor and employees. The mayor or any one employed pursuant to the provisions of this chapter, shall have no interest, direct or indirect, either proprietary or by means of any loan, mortgage, or lien, or in any other manner, in or on any premises where alcoholic beverages are sold; nor shall they have any interest, direct or indirect, in any business wholly or partially devoted to the sale, transportation, or storage of alcoholic beverages.

(5) Interest of brewer or wholesaler. No brewer or wholesaler shall have any interest in the business or building containing licensed premises of any

other person having a license under this chapter or in the fixtures of any such person.

(6) Issuance of license where former license has been revoked. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one year from the date such revocation becomes final and effective. (1973 Code, § 2-106)

8-107. Retailer's licenses. For the retail sale of alcoholic, spirituous beverages, a license may be issued as herein provided. Any person desiring to sell alcoholic, spirituous beverages to patrons or customers, shall make application to the mayor for a retailer's license, which application shall be in writing, and verified, on forms herein authorized to be prescribed and furnished; and the mayor may, subject to the restrictions of this chapter, cause such retailer's license to be issued.

(1) Fee; citizenship requirements. Such retailer's license shall not be issued unless and until the applicant therefor shall pay to the city a license fee of two hundred and fifty dollars and no license shall be issued except to individuals who are, and have been for at least two years, citizens of the State of Tennessee.

(2) Employee's permit required. Every retail licensee shall, before employing any person to dispense alcoholic beverages, secure from the recorder, upon the order of the mayor, an employee's permit authorizing such person to serve as an employee in the place of business of the retailer. It is made the duty of the retailer to see that each person dispensing alcoholic beverages in his place of business has an employee's permit, as above required, which permit must be on the person of such employee or upon the premises of the licensee at all times, subject to inspection by the mayor or his duty authorized agent. The applicant for such employee's permit shall pay to the city the sum of five dollars therefor.

(3) Duration of employee's permits; revocation, etc. Employee's permits issued pursuant to the provisions of this section shall be issued at any time and shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by the payment of the fee herein provided, and shall be subject to revocation or suspension by the mayor for violation of this chapter or any rule or regulation promulgated by the mayor pursuant thereto. Applications for renewal shall be made in the same manner as applications for original permits upon forms to be prescribed by the mayor. Such permits shall not be transferable and must be surrendered to the mayor within five days from the date the holder thereof ceases to represent or work for the employer, and it shall be the duty of the employer to notify the mayor within five days of the termination of the employment for which such permit was issued.

(4) Limitation on number of licenses to be issued. No person, firm, or corporation shall be licensed under this chapter to engage in the sale or distribution of alcoholic beverages in excess of three (3). No other license to engage in the retail sale of alcoholic beverages within the limits of the said city shall be issued, unless and until some person, firm, or corporation holding such

a license discontinues the operation of a retail liquor establishment. Provided, however, that nothing in this section shall prohibit or in any manner affect the renewal of any retail license in the continuation or operation of any retail store licensed and in operation on January 15, 1970. (1973 Code, § 2-107, as amended by Ord. #599, Jan. 2005, and Ord. #791, Oct. 2012)

8-108. Application for license to sell intoxicating liquors. All persons desiring to engage in the sale of spirituous liquors or vinous liquors at retail in the city shall give notice of the purpose of making such application by advertising one time in a daily paper published in the city, having general circulation among the citizens of the city, which notice shall contain a particular description of the location of the proposed liquor business, the name of the applicant, and if a partnership the names of the partners. The applicant shall make written application to the mayor of the city for such privilege upon forms to be prepared and approved by the mayor, which application shall give the name and address of the applicant, place where the proposed business is to be located, nature and character of the business to be carried on, and, if a partnership, the names of the partners and such other information as may be required by the mayor.

The application shall be sworn to and when so filed with the mayor shall be investigated and shall not be acted upon by the mayor until ten days after the filing of the application. The running of the notice in the newspapers may be concurrently made at the time the application for license is filed. If advertisement be not made before the filing of the application, the application shall state that the advertisement is being made. (1973 Code, § 2-108)

8-109. Wholesaler's license, salesman's and employee's permits, fees, etc. Any person or general or limited partnership desiring to sell at wholesale any alcoholic, spirituous beverages shall make application to the mayor for a license, which application shall be in writing and verified, on the forms herein authorized to be prescribed and furnished. Thereupon the mayor may cause to be granted such license subject to the restrictions of this chapter.

Such wholesaler's license, however, shall not be issued unless and until there shall be paid to the city a separate license fee therefor of five hundred dollars, and no license shall be issued except to individuals who are, and have been for at least two years, citizens of the State of Tennessee.

No wholesale alcoholic, spirituous beverage license shall be issued until the applicant has secured a basic permit to engage in the wholesale liquor business from the federal government.

Each representative or salesman of any wholesale licensee in this state must obtain a permit from the city upon the order of the mayor before soliciting orders from retail licensees. The fee for such permit shall be ten dollars. No other person shall be allowed to solicit orders for alcoholic beverages from retail licensees and retail licensees shall not give an order to anyone other than the holder of a wholesale salesman's permit. Every wholesale licensee shall, before employing any person to dispense alcoholic beverages, secure from the city, upon

the order of the mayor, an employee's permit authorizing such person to serve as an employee in the place of business of the wholesaler. It is made the duty of the wholesaler to see that every person dispensing alcoholic beverages in his place of business has an employee's permit as above required, which permit must be on the person of such employee or upon the premises of the licensee at all times and be subject to inspection by the mayor or his duly authorized agent. The applicant for such employee's permit shall pay to the city the sum of one dollar therefor. (1973 Code, § 2-109)

8-110. Books to be kept by wholesalers; inspection fee. All wholesalers of spirituous liquor shall keep a book in which they shall cause each purchaser of spirituous liquor to enter his name, address, and the amount, serial and stamp number of such liquor. It shall be the duty of the police department of the city to inspect such books at regular intervals and make such other investigations as will promote the enforcement and tend to prevent the violation of the liquor laws of the city.

Each wholesaler, on taking out a license and on the first day of July thereafter, shall, as a part of the application for such license, pay and agree to pay the sum of \$250.00 as an inspection fee, all of which wholesale inspection fees shall be used in enforcing the liquor laws; provided, however, that after the initial payment of \$250.00 with such application a renewal fee from year to year shall not be required. (1973 Code, § 2-110)

8-111. Wholesale stores, etc., not to be located within three hundred feet of churches or schools. No wholesale license shall be issued to any person where the wholesale store or warehouse is located within three hundred feet of any church or school measured by the nearest point adjacent thereto. (1973 Code, § 2-111)

8-112. Regulations as to purchase and sale, location of premises, etc. (1) License required for sale or purchase. No retailer shall purchase any alcoholic beverages from anyone other than a wholesaler licensed under this chapter. No wholesaler shall sell any alcoholic beverages to anyone other than a retailer licensed under this chapter.

(2) Retailer limited to one place of business. No retailer shall, directly or indirectly, operate more than one place of business, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(3) [Deleted.]

(4) Requirements as to wholesalers. No alcoholic beverage for sale to the retailer or his representative, shall be sold except by a licensed wholesaler, who sells for resale on his premises and who carries on no other business, directly or indirectly, and whose wholesale business in alcoholic beverages is not operated as an adjunct to, or supplementary to, the business of any other person, either by way of lease of such wholesale premises or otherwise, for any business other than that permitted by the terms of his wholesale license.

(5) Sales in connection with other business prohibited. No licensee shall sell alcoholic beverages at retail in connection with any wholesale business or as a part of, or in connection with, any other business or in the same store where any other business is carried on.

(6) Location of premises; entrances and exits. No wholesaler or retailer shall be located except on the ground floor and shall have one main entrance opening on a public street; such place of business shall have no other entrance for use by the public except as hereafter provided. When a wholesale or retail store is located on the corner of two public streets such wholesale or retail store may maintain a door opening on each of the public streets; provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public; and provided, further, that every wholesale and retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances. (1973 Code, § 2-112, as amended by Ord. #599, Jan. 2005)

8-113. License fee to be paid by applicant; penalty. The license fee for every license issued under this chapter shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter. In addition to all other penalties provided for violations of this chapter, a violation of this section shall authorize and require the revocation of the license the fee for which was paid by another, and also the revocation of the license, if any, of the person so paying for the license of another. (1973 Code, § 2-113)

8-114. Sunday sales prohibited. Retail dealers in spirituous or vinous liquors shall not engage in the sale of such liquors between the hours of 11 P.M. on Saturdays and 8 A.M. on Monday. (1973 Code, § 2-114)

8-115. Price lists, etc., to be posted. Each retail licensee shall have conspicuously displayed within the interior of the licensed premises not less than four copies of a printed price list of the liquors offered for sale, and one typed or printed copy of this chapter. (1973 Code, § 2-115)

8-116. Slot machines, etc., on premises of retailers. No retail dealer shall permit on his premises any slot machines or mechanical music boxes or pinball machines of any kind or character. (1973 Code, § 2-116)

8-117. Location of bars with respect to retail stores. It shall be unlawful, within one hundred feet of any retail liquor store, to operate or conduct in the city any place of business to which the public are admitted for the consumption of alcoholic beverages, as defined by Pub. Acts 1939, ch. 49. (1973 Code, § 2-117)

8-118. Solicitation of orders. No holder of a license issued under this chapter shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This section shall not be construed so as to prohibit the solicitation by a distiller, rectifier, or vintner of an order from any licensed wholesaler at the licensed premises of such wholesaler, nor to prohibit the solicitation by a licensed wholesaler of an order from any retailer at the licensed premises. (1973 Code, § 2-118)

8-119. Employment of minors. No wholesaler or retailer, or any employee thereof, engaged in the physical storage, sale, or distribution of alcoholic beverages shall be a person under the age of eighteen years. It shall be unlawful for any wholesaler or retailer to employ any person under eighteen years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under such age on his place of business to engage in the storage, sale, or distribution of alcoholic beverages. (1973 Code, § 2-119)

8-120. Employment of non-citizens. No person shall be employed in the storage, sale, or distribution of alcoholic beverages except a citizen of the United States. (1973 Code, § 2-120)

8-121. Sales to minors. No retailer shall sell any alcoholic beverages to a person known to be a minor. (1973 Code, § 2-121)

8-122. Effect of conviction of felony involving moral turpitude.

No wholesaler or retailer shall be a person who has been convicted of a felony involving moral turpitude within ten years prior to the time he or the concern with which he is connected shall receive a license; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction and in case of any such conviction occurring after a license has been issued and received, the license shall immediately be revoked, if such convicted felon be an individual licensee, and, if not, the partnership, corporation, or association with which he is connected shall immediately discharge him.

No wholesaler or retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who within ten years prior to the date of his employment shall have been convicted of a felony involving moral turpitude, and in case an employee should be so convicted, he shall be immediately discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction. (1973 Code, § 2-122)

8-123. Effect of conviction of violating laws relating to alcoholic beverages. None of the licenses or permits provided by this chapter, or which may be issued hereunder, shall under any condition be issued to any person who, within ten years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee, of any other state, or the United States, prohibiting or regulating the sale, possession, transportation, storing, or otherwise handling alcoholic beverages or who has during said period been engaged in business, alone or with others, in violation of any of such laws or rules and regulations promulgated pursuant thereto, as they exist at the time of the adoption of provisions in this chapter or may exist hereafter. (1973 Code, § 2-123)

8-124. Keeping in unsealed bottles or containers. No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottle or other unsealed container. (1973 Code, § 2-124)

8-125. Unstamped merchandise. No retail licensee as herein defined shall own, store, or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of the state. (1973 Code, § 2-125)

8-126. Sales to persons intoxicated, etc. No retailer shall sell any alcoholic beverages to any person who is drunk, nor to any person accompanied by a person who is drunk. (1973 Code, § 2-127)

8-127. Sales on credit. No holder of a license for the sale of alcoholic beverages for wholesale or retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit, except holders of wholesale licenses may sell on not more than ten days credit. (1973 Code, § 2-128)

8-128. Sales of more than 20 gallons of alcoholic beverages, record, etc. No retailer shall sell on any one day to any one individual more than twenty (20) gallons of alcoholic beverages unless the purchaser is known to the retailer and the retailer believes in good faith that the purchaser is not engaged in the unlawful sale of alcoholic beverages. In all sales of more than twenty (20) gallons of alcoholic beverages by retailers to any one person, the retailer shall cause the purchaser to enter upon a book, kept by the retailer as a public record, the name, address, date, and quantity of such alcoholic beverages sold to such purchaser. Any false statement made by the purchaser shall be a misdemeanor. (1973 Code, § 2-129)

8-129. Name and license number to be printed on window. Each person licensed to sell alcoholic beverages at retail shall have printed on the front window of the licensed premises the name of the licensee, together with the inscription, "City Retail License No..." in uniform letters of not less than four inches in height. (1973 Code, § 2-130)

8-130. Inspection fee on retailers. (1) Pursuant to Tennessee Code Annotated, § 57-3-501, there is hereby levied upon every licensed retailer of alcoholic beverages located and doing business within the corporate city limits/city boundaries of the City of Fairview, Tennessee, an inspection fee of five percent (5%) of the wholesale price, paid by such retailer to a wholesaler, of all alcoholic beverages supplied by a wholesaler of alcoholic beverages to such retailer: said fee to be collected by the wholesaler as hereinafter provided.

(2) The inspection fee shall be collected by the wholesaler from the retailer following notice given the wholesaler by the recorder of the City of Fairview, Tennessee, of the existence of this section. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(3) Every wholesaler making sale of alcoholic beverages to retailers thereof located and doing business within the corporate limits of the City of Fairview, Tennessee, shall furnish the city a report monthly, which report shall contain a list of the alcoholic beverages sold to each retailer located within the municipality, the wholesale price of the alcoholic beverages sold to each retailer

and the amount of tax due. Such monthly reports shall be furnished the City of Fairview not later than the 20th day of the month following the month in which the sales were made. All inspection fees collected by a wholesaler from any retailer located within the City of Fairview shall be paid to the city at the time the monthly report is made. Wholesalers collecting and remitting the above inspection fee to the city shall be entitled to reimbursement for this collection service of a sum equal to five per cent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the city.

(4) Failure of any such wholesaler to collect or timely report and/or pay the inspection fee collected to the city, as aforesaid, shall result in a penalty of ten per cent (10%) of the inspection fees due the city, which shall be payable to the city.

(5) The City of Fairview, Tennessee, shall have the authority to audit the records of all wholesalers and retailers subject to the provisions of this chapter in order to determine the accuracy of the reports of the wholesalers.

(6) The inspection fee herein provided for shall be in lieu of all other gross receipt inspection fees imposed upon wholesalers or retailers of alcoholic beverages by the city. (1973 Code, § 2-131, as amended by Ord. #653, Dec. 2006)

CHAPTER 2

BEER¹

SECTION

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8-201. Lawful but subject to regulation. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive, or manufacturer beer of alcoholic content of not more than such weight, volume, or alcoholic content as is allowed by the statutory laws of the State of Tennessee, or any other beverages of like alcoholic content, within the corporate limits of the City of Fairview, Tennessee, subject to all of the regulations, limitations and

¹State law reference

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

restrictions hereinafter provided, and subject to the rules and regulations promulgated by authorized public officials or boards. (1973 Code, § 2-201)

8-202. "Beer" defined. The term "beer," as used in this chapter, shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five per cent (5%) by weight. (1973 Code, § 2-202)

8-203. Beer board established. (1) Membership. There is hereby established a beer board to consist of seven (7) members; five (5) members shall be members of the board of commissioners; the other two (2) members shall be citizens and residents of the City of Fairview. All members of the beer board shall be appointed by the board of commissioners of the city and will serve until replaced by the board of commissioners.

(2) Compensation. All members of the beer board shall serve without compensation.

(3) Term of office. Except for the initial appointments, the terms of the seven (7) members shall be for four (4) years each. The two (2) citizens and residents of the City of Fairview first appointed as members of the beer board shall be appointed for terms of one (1), and three (3) years respectively so that the terms of members expire every other year. The members of the board of commissioners first appointed as members of the beer board shall have his/her term to run concurrently with his/her term of office. The board will elect a chairman who will preside when present and a vice chairman who will preside in the chairman's absence. (1973 Code, § 2-203)

8-204. Meetings of the beer board. All meetings of the beer board shall be open to the public. The beer board will establish a regular monthly meeting date and time and will publish the date and time for the meetings in a newspaper of local circulation. The board shall meet at the designated times and place whenever there is business to come before the board. (1973 Code, § 2-204)

8-205. Record of beer board proceedings to be kept. The recorder shall make a separate 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; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. The recorder shall also maintain an up-to-date list of the names and addresses of all beer permit holders. (1973 Code, § 2-205)

8-206. 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. (1973 Code, § 2-206)

8-207. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the City of Fairview in accordance with the provisions of this chapter. (1973 Code, § 2-207)

8-208. Permit required for engaging in the beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to T.C.A. § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (1973 Code, § 2-208)

8-209. Restrictions upon granting permits. No permit shall be issued to sell any beverage coming within the provisions of this chapter:

(1) In violation of any provisions of the state law.

(2) In violation of the zoning ordinance of the City of Fairview, Tennessee.

The judgment of the beer board on such matters shall be final except as same is subject to review at law under Tennessee Code Annotated, § 57-5-108.

(3) (a) For any location which is less than five hundred (500) feet from a church, licensed day care center or nursery, school, or official designated entrance to a public park. No retailer's (on-site consumption) permit shall be issued to an applicant whose location is less than five hundred (500) feet from a church, school, licensed day care center or nursery, or official designated entrance to a public park; unless and until the person or entity applying for a permit shall file with the application for said permit a duly executed and recorded waiver (on the form provided by the City of Fairview, Tennessee) of the five hundred (500) feet distance requirement from a church, school, licensed day care center or nursery, or official designated entrance to a public park as contained in this section. The distance shall be measured by a straight line from the nearest corner of the building of a potential licensee to the nearest corner of the church, school, licensed day care center or nursery, or to the center of the official designated entrance of a public park, where the centerline intersects with the margin of the public road. The provisions regarding the distance requirements shall not apply to permittees holding

a permit issued prior to the approval date of this section and in violation of such provisions. Provided, renewal of such permits shall only be granted to those permittees as defined in this chapter, holding valid permits on the effective date of this amendment, and to transferees of such permittees who were operating under valid permits prior to the location of any church, school, nursery or day care center, or official designated entrance to a public park within five hundred (500) feet of the licensee.

(b) Off-site consumption (package stores). For any location which is less than one hundred (100) feet from a church, licensed day care center or nursery, school, or official designated entrance to a public park. No retailer's off-site consumption (package store) permit shall be issued to an applicant whose location is less than one hundred (100) feet from a church, school, licensed day care center or nursery, or official designated entrance to a public park, unless and until the person or entity applying for a permit shall file with the application for said permit a duly executed and recorded waiver (on the form provided by the City of Fairview, Tennessee) of the one hundred (100) feet distance requirement from a church, school, licensed day care center or nursery, or official designated entrance to a public park as contained in this section. The distance shall be measured by a straight line from the nearest corner of the building of a potential licensee to the nearest corner of the church, school, licensed day care center or nursery, or to the center of the official designated entrance of a public park, where the centerline intersects with the margin of the public road. The provisions regarding the distance requirements shall not apply to permittees holding a permit issued prior to the approval date of this section and in violation of such provisions. Provided, renewal of such permits shall only be granted to those permittees as defined in this chapter, holding valid permits on the effective date of this amendment, and to transferees of such permittees who were operating under valid permits prior to the location of any church, school, nursery or day care center, or official designated entrance to a public park within one hundred (100) feet of the licensee. (1973 Code, § 2-209, as amended by Ord. #523, Aug. 2002; Ord. #540, April 2003; and Ord. #596, Dec. 2004)

8-210. Applications for retail permits; requirements as to applicants; regulations to be followed and shown in the application.

Applications may be made by owners, operators, or managers of businesses located within the city limits of Fairview. All applications for retail beer permits will be accompanied by an application fee of two hundred fifty dollars (\$250.00) and shall reflect, or be subject to the following:

(1) That neither the applicant, nor any other persons having an interest in the business, nor any persons employed by the applicant in such

distribution or sale shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture or transportation of intoxicating liquor or any crimes involving moral turpitude within the past 10 years.

(2) The location of the premises at which the business shall be conducted.

(3) The owner or owners of such premises.

(4) The names and addresses of all other persons or firms who have any financial interests whatsoever in the beer business proposed to be established.

(5) Whether the applicant will permit dancing in the establishment, and if so whether or not he will have at least seven hundred and fifty (750) square feet of dancing area.

(6) Whether the applicant will operate the business in person or by agent and, if by agent, the name and address of such agent.

(7) That no person will be employed in the storage, sale, or manufacture of such beverages except those who are citizens of the United States.

(8) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant.

(9) That no sale of such beverages will be made except in accordance with the permit granted.

(10) That if the application for a permit is to sell "not for consumption on the premises," that no sale will be made for consumption on the premises and that no consumption will be allowed on the premises thereof.

(11) That no sale will be made to minors and that the applicant will not permit minors or disorderly or disreputable persons to loiter around the place of business.

(12) That the applicant will be responsible for any gambling¹ on his premises and his permit shall be subject to revocation by reason of the same.

(13) The applicant will not allow any liquor with an alcoholic content greater than five percent (5%) to be consumed on his premises.

(14) That the applicant must secure a certificate or a statement from the health department or health officer that the premises which the application covers meets the requirements of § 8-219 of this municipal code.

(15) (a) The application shall be made in accordance with and upon forms furnished by the City of Fairview, Tennessee. Each application shall be accompanied by copies of the applications for a background check by the person applying for the permit. The background check must be applied for to the Tennessee Bureau of Investigation (TBI). No permit will

¹Tennessee Code Annotated, § 39-17-509, passed subsequent to the enactment of this section, prohibits enforcement of this section.

issue (except as outlined in (b) herein) prior to receipt of a favorable report from the TBI.

(b) For good cause shown, and upon request by the person seeking a permit and only after all documents required in (a) above have been submitted to the city recorder, the city recorder or other appropriate city official may receive and accept a written request from the permit applicant that a temporary beer permit be issued to an applicant for a period not to exceed thirty (30) days from original issue. Upon expiration of the thirty (30) days, the temporary permit will expire without further action by the city. Upon request by an applicant for a temporary permit, the city recorder or city official will contact the members of the beer board by telephone or electronic means and submit to the beer board members copies of the application submitted and the written request that has been submitted for a temporary beer permit. The beer board shall communicate to the city recorder or other appropriate city official who submitted the request to the beer board member within twenty four (24) hours of the receipt by the individual beer board member of the temporary beer permit request. If a majority of the beer board members approve, the temporary beer permit will issue as outlined herein. The temporary permit shall have affixed on its face the date of issue, the date of expiration and the notation "temporary."

The city recorder or appropriate city official shall record in the file of the permit holder the vote and the reasons therefore by each member of the beer board relative to the application for any temporary beer permit.

(16) No permit shall be issued by the beer board until the application therefor shall have been subscribed to and approved in writing by the city attorney. However, the city attorney is only authorized to disapprove applications when there is a failure to comply with a city ordinance or state law governing the issuance of permits.

(17) Application fees are to cover the expense of review by the city attorney, security checks by law enforcement officials and other administrative costs incident to the application and are not refundable in the event that the board denies the application for any reason. (1973 Code, § 2-210, modified, as amended by Ord. #657, March 2007, Ord. #753, May 2009, and Ord. #800, March 2013)

8-211. Terms and restrictions of permits. Beer permits are effective for a period of one year from the date of issuance. 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 the retail sale of beer may be further restricted by the beer board so as to authorize sales only for "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. (1973 Code, § 2-211)

8-212. Transfer, renewal or lapse of beer permits. (1) Beer permits shall not be transferable from one person to another or from one location to another. A new permit is required in the manner provided.

(2) Upon expiration of a permit, one year from the date of issuance, permits may be renewed for an additional year by permit holders automatically by the permit holder executing a renewal affidavit averring that he is continuing to operate under his license, that the location of his business is not changed, submittal of proof of a current background check by the permit holder in accordance with title 8, chapter 2, § 8-210(15)(a) of the Fairview, Tennessee Municipal Code and upon payment of a renewal fee of twenty-five dollars (\$25.00).

(3) If any permit holder during the term of his permit should cease operation and sell for a period in excess of thirty (30) days, then the permit should lapse and a new application pursuant to these provisions will be required to be submitted and approved prior to resuming beer sales. (1973 Code, § 2-212, as amended by Ord. #754, May 2009)

8-213. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder, together with all other permits, licenses, renewals, and stamps as required by law. (1973 Code, § 2-213)

8-214. 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, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. (1973 Code, § 2-215)

8-215. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years. (1973 Code, § 2-216)

8-216. Issuance of permits to hotels, clubs, etc. It shall be lawful for the beer board to issue permits for the sale of any beverage coming within the provisions of this chapter, to hotels, motels, clubs, or lodges, subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions contained in the permit provided by this chapter. (1973 Code, § 2-217)

8-217. Retail premises: restrictions, frontage, curtains, blinds, etc.

No permit to sell at retail, beverages coming within the provisions of this chapter, shall be issued for the operation of any place except one with enough of the front enclosed in glass and of such design that the interior can be easily seen from the sidewalk or street in front of such place. No curtains, drapes, shades, blinds, screens, or other thing shall be used in the front of any place that hinders a clear and unobstructed view of the interior of such place from the sidewalk or street in front of such place. All places shall be adequately lighted. No permit shall be issued to a place used as a private dwelling. (1973 Code, § 2-218)

8-218. Sanitation requirements for premises covered by on premises permit.

Any person holding a permit under this chapter for sale for consumption on the premises shall keep and maintain the premises in a clean and sanitary condition. The city health officer or any properly authorized person is hereby authorized to enter the premises, at all reasonable hours, for making such inspections as may be necessary. The determination of the sanitary conditions is solely a question for the City of Fairview. (1973 Code, § 2-219)

8-219. Minors; fraudulent evidence of age, etc.

It shall be unlawful for any minor to purchase, attempt to purchase, or to possess any beverage covered under this chapter, or for anyone to purchase such beverage for a minor. It shall be unlawful for any minor to present or offer to any permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase such beverages. Any minor who acts in violation of any one or more of the provisions of this section shall be deemed guilty of a misdemeanor and shall be taken before the juvenile judge for appropriate disposition. (1973 Code, § 2-220)

8-220. Prohibited conduct or activities by beer permit holders.

It shall be unlawful for any beer permit holder to:

(1) Employ any minor under eighteen (18) years of age in the sale, service, or dispensing of beer at retail.

(2) Make or allow any sale of beer at any hour of any day that is inconsistent with the hours authorized by the rules and regulations promulgated by the alcoholic beverage commission of the State of Tennessee (as may be altered by said commission from time to time) for establishments selling liquor by the drink. For clarification, those hours currently are no sales Monday through Saturday 3:00 A.M. to 8:00 A.M. and Sunday 3:00 A.M. to 10:00 A.M. on Sunday. These hours will automatically be changed to conform with any changes to the hours authorized by the rules and regulations promulgated by

the alcoholic beverage commission of the State of Tennessee if and when changes are made.¹

(3) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

(4) Make or allow any sale of beer to a minor under twenty-one (21) years of age.

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

(6) Make or allow any sale of beer to any intoxicated person or to any feeble minded, insane, or otherwise mentally incapacitated person.

(7) Allow drunk or disreputable persons, or persons of questionable character, to loiter about his premises.

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

(9) Allow dancing on his premises specified in the license application unless he pays a one hundred dollar (\$100.00) annual inspection fee.

(10) [Repealed.] this subsection repealed by Ord. #416, § 2, June 1997.

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

(12) Sell or transfer the equipment or assets of the business authorized by permit to another for the purpose of conducting the business on the same premises, unless he shall notify the board in writing immediately upon such sale or transfer, and shall surrender his license within thirty (30) days after said sale or transfer. (1973 Code, § 2-221, as amended by Ord. #375, June 1995, modified, amended by Ord. #416, §§ 1 and 2, June 1997, and Ord. #800, March 2013)

8-221. Changes of management or ownership interest to be reported. Any change of management or ownership by a permit holder, short of the transfer of all assets, must be reported in writing by the permit holder within 30 days of the change. This report must identify all persons newly acquiring an interest in the business stating their exact interest. If the business is operated through an agent, any change of agent must likewise be reported. The report must certify that the new owners, agents, or managers have not been convicted of any of the offenses described in § 8-210(3) of this code. (1973 Code, § 2-222)

8-222. Suspension and revocation of beer permits. (1) All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by the board when holder thereof is guilty of making

¹State law reference

Tennessee Code Annotated, § 57-5-301(2)(5)(A).

a false statement or misrepresentation in his application or of violating any of the provisions of this chapter.

(2) Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board, and the board is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked.

(3) Complaints filed against any permit holder for the purpose of suspending or revoking his permit shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated the provisions of the state beer act or any of the provisions of this chapter, the board is authorized to notify the permittee of said violation, and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violation. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by certified/registered letter or by a member of the police department of the City of Fairview, Tennessee. The notice shall be served upon the permittee at least five (5) days before the date of the hearing. At the hearing, the board shall publicly hear the evidence both in suspended or revoked until a public hearing is held by the board after the above referenced notice has been given to the permittee. Suspensions may be for periods of thirty (30), sixty (60), or ninety (90) days or for other times deemed appropriate by the board depending upon the severity of the violations, and within the discretion of the minors under the age of eighteen (18) years may result in suspensions of permits for six (6) months, one (1) year or two (2) years in the discretion of the 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. 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.

(a) Civil penalty in lieu of revocation or suspension.

(i) 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.

(ii) Penalty, revocation or suspension. 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 and shall be paid to the exclusion of any other penalty that the city may impose.

(b) Loss of clerk's certification for sale to minor. 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 certification for a period of one (1) year from the date of the beer board's determination.

(4) Upon a permit holder receiving three (3) suspensions within a period of one (1) year, the period of suspension for the third charge so sustained by evidence will be not less than one (1) year.

(5) The action of the board in all such hearings shall be final, subject to review by the courts as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location until the expiration of one (1) year from the date said revocation becomes final. (1973 Code, § 2-223, as replaced by Ord. #800, March 2013)

8-223. Employees liable for violations. Any employee of any permittee who violates the provisions of this chapter or any provision of the state beer act while so employed by such permittee shall be guilty of a misdemeanor. (1973 Code, § 2-224)

8-224. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars, (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Fairview, 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. (1973 Code, § 2-225)

CHAPTER 3

ON PREMISES CONSUMPTION OF INTOXICATING LIQUORS

SECTION

8-301. Definition of alcoholic beverages.

8-302. Consumption of alcoholic beverages on premises.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

8-304. Annual privilege tax to be paid to the city clerk.

8-301. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise: alcoholic beverages means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (as added by Ord. #599, Jan. 2005)

8-302. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption, which are regulated by the said code when such sales are conducted within the corporate limits of Fairview, Tennessee. It is the intent of the board of commissioners that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Fairview, Tennessee, the same as if said code sections were copied herein verbatim. It shall be legal to sell and consume alcoholic beverages on premises in the City of Fairview, Tennessee, in accordance with the provisions of this chapter notwithstanding any provision of any previous ordinance(s) of the City of Fairview, Tennessee, to the contrary. (as added by Ord. #599, Jan. 2005)

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Fairview, Tennessee, General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Fairview, Tennessee, alcoholic beverages for consumption on the premises where sold. (as added by Ord. #599, Jan. 2005)

8-304. Annual privilege tax to be paid to the city clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the

premises in the City of Fairview, Tennessee, shall remit annually to the city clerk the appropriate tax described in 8-303. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #599, Jan. 2005)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.
5. CABLE TELEVISION.
6. SEXUALLY ORIENTED BUSINESSES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. "Going out of business" sales.
9-102. Pin ball machines.
9-103. [Repealed.]

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1973 Code, § 5-102)

9-102. Pin ball machines. It shall be unlawful for any person having custody or charge of any pin ball machine to permit any minor under the age of eighteen to play, operate, or use any such machine or to loiter about the same.

For the purpose of enforcing the provisions of this section, the burden of proof shall be upon any person having control or custody of such machine to establish the age of minors using said machine. For this purpose, the possession

¹Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

of a selective service registration card shall be prima facie evidence of the age of any person. (1973 Code, § 5-101)

9-103. [Repealed.] (as added by Ord. #539, March 2003, and repealed by Ord. #688, Dec. 2007)

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.
- 9-214. Violation and penalty.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1973 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable 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, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1973 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.

¹Municipal code reference
Privilege taxes: title 5.

(3) A brief description of the nature of the business and the goods to be sold.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of fifty dollars (\$50.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (1973 Code, § 5-203, as amended by Ord. #379, July 1995)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1973 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the board of commissioners. Such appeal shall be taken by filing with the city manager within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his

last known address at least five (5) days prior to the date set for hearing, or 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. (1973 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the city in the amount of two thousand dollars (\$2,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the City of Fairview and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1973 Code, § 5-206, as amended by Ord. #379, July 1995)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1973 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1973 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1973 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1973 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of commissioners after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee 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.

(3) When reasonably necessary in the public interest the city manager may suspend a permit pending the revocation hearing. (1973 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1973 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1973 Code, § 5-213)

9-214. Violation and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable by a penalty of up to one hundred dollars (\$100) for each offense. Each day a violation occurs shall constitute a separate offense.

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.

9-302. Prerequisites for a permit.

9-303. Denial of a permit.

9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1973 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1973 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of commissioners if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1973 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1973 Code, § 5-304)

CHAPTER 4

POOL ROOMS¹

SECTION

9-401. [Repealed.]

9-402. [Repealed.]

9-403. [Repealed.]

9-404. Gambling, etc., not to be allowed.

9-401. [Repealed.] (1973 Code, § 5-401, as repealed by Ord. #529, Oct. 2002)

9-402. [Repealed.] (1973 Code, § 5-402, as repealed by Ord. #529, Oct. 2002)

9-403. [Repealed.] (1973 Code, § 5-403, as repealed by Ord. #529, Oct. 2002)

9-404. Gambling, etc., not to be allowed.² It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire, to permit any gambling or other unlawful or immoral conduct on such premises. (1973 Code, § 5-404)

¹Municipal code reference
Privilege taxes: title 5.

²Tennessee Code Annotated, § 39-17-509, passed subsequent to the enactment of this section, prohibits enforcement of this section.

CHAPTER 5

CABLE TELEVISION¹

SECTION

- 9-501. Authorization.
- 9-502. Purpose.
- 9-503. Definitions.
- 9-504. Application fee and acceptance: effective date.
- 9-505. Term of franchise.
- 9-506. Revocation of franchise and other penalties.
- 9-507. Transfer of cable television system.
- 9-508. Authority granted by the franchise.
- 9-509. Franchise fee.
- 9-510. Limitations of franchise.
- 9-511. Additional city rights in franchise.
- 9-512. Service area.
- 9-513. Condition of use of streets.
- 9-514. System design and channel capacity.
- 9-515. Interconnection.
- 9-516. Service to government buildings.
- 9-517. Service to single family house or individual dwelling unit.
- 9-518. Parental control devices.
- 9-519. Construction standards.
- 9-520. Operational standards and performance monitoring.
- 9-521. Rates and charges.
- 9-522. Rights of individuals.
- 9-523. Liability and indemnification.
- 9-524. Insurance.
- 9-525. Franchise bond.
- 9-526. Filing and communications with regulatory agencies.
- 9-527. Reports.
- 9-528. Franchise renewal.
- 9-529. Franchise required.
- 9-530. Unauthorized connections or modifications.
- 9-531. Notice.
- 9-532. Captions.

9-501. Authorization. Pursuant to TCA §7-59-101 et seq. the City of Fairview is duly authorized under the laws of the State of Tennessee to grant

¹See Ord. #412 (May 1997) and Ord. #655 (Feb. 2007) of record in the office of the recorder for an ordinance renewing the cable television franchise.

upon reasonable terms a franchise and to contract for the operation of a cable television system to furnish services to the city and its citizens. (1973 Code, § 13-201)

9-502. Purpose. The City of Fairview finds that the continued development of cable communication has the potential of having great benefit and impact upon the citizens of Fairview. Because of the complex and rapidly changing technology associated with cable communications, the city further finds that the public convenience, safety, and general welfare can best be served by establishing and maintaining regulatory powers which should be vested in the city or such city officials as the city shall designate. It is the intent of this chapter and subsequent amendments to provide for and specify the means to attain the best possible public interest and public purpose in these matters. Further, it is recognized that cable communications systems have the capacity to provide not only entertainment and information services to the city's residents, but can provide additional services.

For these purposes, the following goals underlie the provisions contained herein:

- (1) Where economically reasonable, cable television services should be made available to all city residents.
- (2) The system should be capable of accommodating both the present and the reasonably foreseeable future cable television needs of the citizens of the city. (1973 Code, § 13-202)

9-503. Definitions. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the following meanings when used in this chapter:

- (1) "Cable television service." The provision of television reception, communications, and/or entertainment services for direct or indirect compensation, or as otherwise provided by this chapter, and distributing the same over a cable television system.
- (2) "Cable television system." A facility consisting of a set of closed transmission paths and associated signal generation and control equipment that is designed to provide cable television service to multiple subscribers within a community, not including a facility or combination of facilities that serves only to retransmit the television signals of one or more television broadcast stations; or a facility or combination of facilities that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way or public utility easement.
- (3) "Channel." A portion of the electro-magnetic frequency spectrum (or any other means of transmission, including but not limited to optical fibers) which is capable of carrying the equivalent of one (1) six megaHertz television

broadcast signal and includes uses of all or any portion of such band of frequencies.

(4) "County." The unincorporated area of Williamson County.

(5) "City commission." The city commission of the City of Fairview, State of Tennessee.

(6) "Commercial subscriber." All subscribers not defined as either residential or non-commercial.

(7) "FCC." The Federal Communications Commission.

(8) "Cable act." The Cable Communications Policy Act of 1984, as amended, 47 U.S.C. § 521 et seq.

(9) "Franchise." The nonexclusive rights granted pursuant to this chapter to construct, operate, and maintain a cable television system along the public rights-of-way within the city. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the city as required by other ordinances and laws of the city.

(10) "Franchise agreement." A contract entered into between the city and the grantee pursuant to this chapter, containing additional provisions of the franchise granted.

(11) "Grantee." The person, partnership, firm, or corporation to whom a franchise, as herein defined, is granted by the city commission under this chapter and the lawful successor, transferee, or assignee of said person, firm, or corporation.

(12) "Gross revenues." All revenue derived directly by the grantee and its subsidiaries, from or in connection with the operation of the cable television system pursuant to this chapter and the franchise agreement, including, but not limited to, gross annual basic cable service receipts, gross annual premium channels receipts, pay-per-view programming receipts, all other service receipts, gross annual advertising receipts, gross annual receipts from use of commercial channels, installation and reconnection fees, and converter and other equipment rentals.

(13) "Service area." The geographical area within the unincorporated limits of the city as now exist or hereafter are expanded.

(14) "Non-commercial." Any public, educational, or governmental institution.

(15) "Person." Any individual, firm, partnership, association, corporation, or organization of any kind.

(16) "Residential subscriber." A subscriber who receives cable television service in a single family home or in an individual dwelling unit of a multiple dwelling, where the service is not to be utilized in connection with a business trade or profession.

(17) "Street(s)." The surface of and the space above and below any publicly-owned or maintained property or right-of-way, street, road, highway,

freeway, land, path, alley, court, sidewalk, parkway, or drive, now or hereafter existing as such within the city.

(18) "Subscriber." Any person or entity lawfully receiving any portion of the cable television service of a grantee pursuant to this chapter.

(19) "Verifiable outage." That time during which transmission signal at subscriber's point of tie-in to the cable television system is of insufficient quality to provide a reasonably enjoyable audio and visual presentation; and the condition of which has been reported to the grantee in accordance with provisions herein; and the grantee has been given reasonable access to investigate/repair outage. (1973 Code, § 13-203)

9-504. Application fee and acceptance: effective date.

(1) Application fee. (a) Applicants for a new franchise hereunder shall pay an application fee to the City of Fairview of two thousand five hundred dollars (\$2,500) which sum shall be due and payable to the city upon submission to the city of an application for a franchise or as soon thereafter as demanded by the city executive of the city. The application fee shall be nonrefundable.

(b) Applications for renewal of a franchise shall not be accompanied by a filing fee. The franchise fee collected by city shall be used to cover the costs associated with a renewal application.

(2) Acceptance: effective date. (a) Within thirty (30) days after final action granting a franchise, which shall be done by ordinance of the city commission, the grantee shall file with the city clerk a written acceptance acknowledged before a notary public of the conditions required for the franchise. Such acceptance shall acknowledge that the grantee agrees to be bound by and to comply with the provisions of this chapter, the franchise agreement (if any) and applicable law. The acceptance shall be in such form and content as to be satisfactory to and approved by the city attorney. If such acceptance is not filed within said time, then the franchise so awarded may be deemed void and of no further force and effect and the offer of franchise so awarded to grantee may stand revoked, at the option of the city.

(b) Concurrently with the filing of the written acceptance, the grantee shall file with the city clerk the bond and insurance certificate required by this chapter.

(c) The effective date of the franchise shall be the first day of the first month next following the date on which the grantee files the acceptance, bond and insurance certificate as required herein; provided, however, if any of the material required to be filed with the acceptance or the acceptance itself is defective or fails to meet with approval, the franchise shall not be effective until such defect is cured, or such approval is obtained. (1973 Code, § 13-204)

9-505. Term of franchise. The duration of a new franchise granted pursuant to this chapter shall not be more than fifteen (15) years from the effective date. For renewal franchises, a term of no more than ten (10) years may be granted, with the possibility of an extension of five (5) years without formal renewal proceedings in situations in which the performance of the grantee has been especially satisfactory, and as authorized by a two-thirds vote of the city commission. (1973 Code, § 13-205)

9-506. Revocation of franchise and other penalties. (1) Subject to the provisions of this section, city reserves the right to revoke, at any time, any franchise granted hereunder and rescind all rights and privileges associated therewith in the event that:

(a) grantee has not substantially complied with a material provision of this chapter, the franchise agreement, or of any supplemental written agreement entered into by and between the city and the grantee; or

(b) grantee has made a material false statement in the application for the franchise, knowing it to be false, or grantee commits a fraud in its conduct or relations under the franchise with the city; or

(c) grantee becomes insolvent, enters into receivership or liquidation, files for bankruptcy or assignment for benefit of creditors, is unable to pay its debts as they mature, unless the grantee is in legal process of contesting such debts; or

(d) grantee fails to comply with any final federal or state judgement arising directly from the exercise of grantee's rights under its franchise; or

(e) grantee fails to provide or maintain in full force and effect the bond and insurance policies required by this chapter; or

(f) grantee assigns, sells, or transfers its title control or interest in its franchise without the consent of the city commission.

(2) In the event that the city shall make a preliminary decision to revoke a franchise granted hereunder, it shall give the grantee a minimum of sixty (60) days written notice of its intention to terminate and stipulate the cause. A public hearing shall be scheduled for the end of said sixty (60) day period. If during said period, the cause shall be cured to the satisfaction of the city, the city shall declare the notice to be null and void. If the cause is not cured to the satisfaction of the city, before a franchise may be terminated, the grantee must be provided with an opportunity to be heard before the city commission in the public hearing in accordance with due process procedures. After the public hearing, if the city determines that the franchise should be terminated, it shall issue a written decision containing its findings of fact and stating the specific grounds for termination. The decision to terminate a franchise shall be subject to judicial review as provided by writ of certiorari.

(3) In the event the city determines that a franchise should not be renewed at its expiration or that a franchise should be revoked for cause as permitted hereunder, an independent expert shall be appointed to determine the fair market value of the grantee's system. The appointment of said expert shall be based upon the recommendation of two persons, one of whom shall be selected by the city and one of whom shall be selected by the grantee; provided, however, that if the two persons selected are unable to reach an agreement as to their recommendation within sixty (60) days of the written decision of termination, then the matter of appointing an expert shall be submitted to the American Arbitration Association, (unless the city and the grantee mutually agree upon some other arbitrator(s), and the expert designated by the American Arbitration Association or such other arbitrators shall be appointed, the cost of which shall be borne equally by the grantee and the city. The findings of such expert shall be binding on both parties. Upon determination of the fair market value of the grantee's system as provided herein, the grantee shall be required to sell its system to any entity, including the city, which offers said fair market value and which has obtained the approval of the city commission to purchase said system. (1973 Code, § 13-206)

9-507. Transfer of cable television system. (1) No transfer of control of the cable television system other than a pro forma transfer to a parent or a wholly owned subsidiary corporation, or to a partnership with the same general partner as grantee, or hypothecation as the result of a commercial loan shall take place, whether by force or voluntary sale, lease, assignment, foreclosure, attachment, merger, or any other form of disposition, without prior notice to and approval by the city commission, which approval shall not be unreasonably withheld. The notice shall include full identifying particulars of the proposed transaction. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the city may inquire into the qualifications of the prospective controlling party, and the grantee shall assist the city in any such inquiry. The city shall have ninety (90) days within which to approve or disapprove, by ordinance, the proposed transfer of control. If the city fails to act within said ninety (90) day period, the application to transfer control or assign the franchise shall be deemed to be granted.

(2) Approval of such transfer shall be expressly conditioned upon full compliance with the material terms of the franchise and this chapter. The transferee shall agree in writing to comply with all provisions of this chapter and the franchise agreement.

(3) For the purpose of this section, the term "control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of affiliated persons of twenty-five (25) percent of the voting shares of the grantee. (1973 Code, § 13-207)

9-508. Authority granted by the franchise. (1) The grantee of any franchise granted pursuant to the provisions of this chapter shall, subject to the conditions and restrictions set out in this chapter, be authorized to construct or have constructed, operate, and maintain a cable television system, and to engage in the business of providing cable television service in the city as defined herein and in the franchise and for that purpose to erect, install, construct, repair, replace, reconstruct, and maintain such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the cable television system; **provided**, however, that before any pole, wire, or other thing mentioned above which is necessary and appurtenant to the cable television system is placed on or within any street or associated right-of-way, the required permits to do so must be obtained by the grantee from the city; and, **provided further**, that before any such construction is commenced, the plans and specifications thereof must be approved in writing by the city manager of the city of Fairview. It shall be unlawful for any telephone, telegraph, or power company or any other public utility company or person to lease or otherwise make available to any person, any poles, lines, facilities, equipment, or other property for use in connection with the operation of a cable television system or the provision of cable television service, unless such other person holds a valid franchise granted pursuant to the provisions of this chapter.

(2) The authority granted to a grantee pursuant to the provisions of this chapter is not and shall not be deemed to be an exclusive right or permission. The city expressly reserves the right to grant one or more non-exclusive franchises to operate a cable television system to other persons for the entire franchise area at any time under the same substantive terms and conditions as apply to the existing grantee. No such additional franchise granted by the city shall in any way affect the obligations of any other grantee.

(3) If the city grants an additional franchise under this chapter which contains terms deemed more favorable by any existing grantee, said existing grantee may elect to incorporate said terms or provisions into its existing franchise upon notice to the city.

(4) Grantee shall inform all subscribers annually that a copy of the ordinance governing city cable franchises is available from the city manager upon request. (1973 Code, § 13-208)

9-509. Franchise fee. (1) Because the city finds that the administration of a franchise granted pursuant to this chapter imposes upon the city additional regulatory responsibility and expense, a grantee of any franchise hereunder shall pay to the city a sum equal to **five percent (5%)** of its gross revenues. Said fee shall be paid quarterly not later than thirty (30) days after the last day of each quarter. This fee shall be in addition to any and all taxes which are now or may be required hereafter to be paid pursuant to any federal, state, or local law. This fee shall be deemed to reimburse the city for all costs

of regulating the cable television system of the grantee and shall cover the expense of all regulatory requirements including, but not limited to, any performance testing required by the city under the terms of this chapter and any renewal or transfer procedures arising hereunder.

(2) Acceptance of payments hereunder shall not be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable under this chapter or for the performance of any other obligations hereunder. (1973 Code, § 13-209)

9-510. Limitations of franchise. (1) In addition to the limitations otherwise herein appearing, the franchise is subject to the limitation that the grantee shall at all times during the life of any franchise hereunder be subject to the lawful exercise of its police power by the city and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances which the city has adopted or shall adopt applying to the public generally and shall be subject to all laws of the State of Tennessee and the United States.

(2) Time shall be of the essence in any franchise granted hereunder. The grantee shall not be relieved of its obligations to comply promptly with a provision of this chapter by the failure of the city to enforce compliance. Failure of the city to enforce any breach by the grantee shall not constitute a waiver by the city.

(3) Any poles, cable, electronic equipment or other appurtenances of the grantee to be installed in, under, over, along, across or upon a street or associated right-of-way shall be located so as to contribute in no way to unsafe traffic conditions, and cause minimum interference with the public use of the streets, to cause minimum interference with the rights of other users of the streets or of property owners who adjoin any of the streets.

(4) Grantee shall maintain surety and obtain construction permits in accordance with the City of Fairview's Rules and Regulations. In the event of disturbance of any other public property, or private property by grantee, it shall, at its own expense and using reasonable efforts, replace and restore property to the condition existing before the work was done.

(5) Grantee shall contract, maintain and operate the cable television system so as to cause minimum inconvenience to, and greatest concern for, the safety of, the general public. All excavations shall be properly guarded and protected. All excavations shall be filled and the surface restored promptly after completion of the work at grantee's sole cost and expense. The grantee shall at all times comply with all excavation ordinances of the city. Any site(s) used for the storage of maintenance or construction equipment shall be properly zoned for such use, and shall have received specific site plan approval from the Fairview city manager.

(6) The grantee shall, upon reasonable notice from any person holding a building moving permit issued by the city, temporarily alter its facilities to permit the moving of such building. The actual cost of such altering shall be

borne by the person requesting the altering and the grantee shall have the right to request payment in advance. For the provisions of this chapter, reasonable notice shall be construed to mean at least seventy-two (72) hours prior to the move, after which, grantee having failed to make required alteration(s), person requesting alteration(s) may assume right to accomplish temporary alteration(s).

(7) If, at any time, in case of fire or disaster in the city it shall become necessary in the judgement of the city manager of the City of Fairview or his designee to cut or move any of the wires, cable amplifiers, appliances, or appurtenances thereto of the grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the grantee at no expense to the city. (1973 Code, § 13-210)

9-511. Additional city rights in franchise. (1) The city reserves the right upon reasonable notice to require the grantee at his expense to protect, support, temporarily disconnect, relocate or remove from the streets any property of the grantee by reason of traffic conditions, public safety, street construction or excavation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communication lines, tracts, or other types of structure or improvements by governmental agencies. Reasonable notice for this provision of the regulations shall be construed to mean at least **thirty (30)** days except in the case of emergencies where no specific notice period shall be required.

(2) In the event of the failure by the grantee to complete any work required by subsection (1) above or any work required by city law or regulation within the time established, the city may cause such work to be done; and the grantee shall reimburse the city the reasonable costs thereof within thirty (30) days after receipt of an itemized list of such cost.

(3) The grantee shall provide at no cost and, within 180 days of granting franchise, make available to the city manager of the City of Fairview, or his designee:

(a) Audio and video override capability on all activated channels, and

(b) Emergency broadcast capability on the community channel from the city emergency operations center, for emergency use during an emergency or disaster period or threat thereof and for periodic tests.

(4) The grantee shall reserve one (1) channel for public, educational and governmental (PEG) access use initially, and two (2) channels for PEG use once the capacity has been increased to at least fifty-four (54) channels in accordance with section 13-214 herein. With prior approval of the city, such channel(s) may be used by the grantee for other purposes when not required by PEG users. The city or its designee shall assume responsibility for regulation and/or scheduling the use of PEG channels by any and all PEG users.

(5) The city reserves the right during the life of any franchise hereunder to inspect, or cause to have inspected by its designee(s) (including auditor(s)), upon reasonable notice, at reasonable hours, the grantee's contracts and engineering records dealing with gross revenue and technical service provided by grantee, provided that information pertaining to service to individual subscribers will be available pursuant to Section 631 of the Cable Act.

(6) The city reserves the right during the life of any franchise granted hereunder, to install and maintain free of charge upon the poles or in the conduits of a grantee any wire and pole fixtures necessary for municipal networks such as police and fire, on the condition that such installations and maintenance thereof do not interfere with the operations of the grantee.

(7) The city reserves the right during the life of any franchise granted hereunder, to reasonably inspect all construction or installation work performed subject to the provisions of the chapter to ensure compliance with the terms of the chapter. At its own expense, the city may also perform measurements upon and randomly inspect any portion of a grantee's system to ensure compliance with the technical standards under which the grantee is authorized to operate provided that such measurement or inspection does not interfere with the operation of the cable television system.

(8) At any time during the term of the franchise, and upon thirty (30) days notice, the city reserves the right to hold a public hearing for the expressed purpose of reviewing the general and specific performance of the grantee with regard to all franchise provisions contained herein or in any franchise agreement issued hereunder.

(9) Any right or power in or duty impressed upon any officer, employee, department, or board of the city shall be subject to transfer by the city manager of the City of Fairview by law to any other officer, employee, department, or board of the city. The city reserves all rights not specifically granted herein, and the enumerations of the rights herein shall not be construed to be a limitation of any right or power the city may otherwise have.

(10) The city reserves all rights as it may have now or in the future pursuant to the Cable Act and Rules and Regulations of the Federal Communications Commission with regard to the regulation of rates and charges. (1973 Code, § 13-211)

9-512. Service area. (1) The grantee of any franchise hereunder shall, within three (3) years following the effective date of this chapter,¹ offer cable television service to all potential residential subscribers within the city, subject to the provisions of paragraph (2) of this section.

¹These provisions were taken from Ord. #363 which passed third reading July 21, 1994.

(2) The grantee of any franchise hereunder shall offer cable television service to all potential residential subscribers located within one hundred and fifty (150) feet of grantee's feeder cable; and where there exists a minimum density of thirty-five (35) dwelling units per mile or fractional equivalent thereof and the first dwelling unit included in this density is within three hundred (300) feet of grantee's feeder cable. The grantee may elect, but has no obligation, to offer cable television service to areas not meeting the above standard.

(3) Unless otherwise authorized by the city commission, all potential residential subscribers whose dwelling units meet the requirements herein as of the effective date of a franchise granted pursuant to this chapter shall have cable television service available to their dwelling units within twelve (12) months of such effective date. Potential residential subscribers subsequently meeting the requirements of this section, including potential subscribers occupying homes built after the effective date of a franchise, shall have cable television service available to their dwelling units within one hundred twenty (120) days of the time said requirements have been met, except that, upon written request, the city manager may extend such time period by an additional sixty (60) days in the event the grantee encounters difficulties related to weather, availability of equipment or other problems beyond its control. Such extension of time by the city manager shall not be unreasonably denied.

(4) In the event the continued use of a street is denied for any reasonable reason related to public health, safety or welfare, the grantee will make every reasonable effort to provide residential service over alternate routes. (1973 Code, § 13-212)

9-513. Condition of use of streets. (1) The poles used for a distribution system shall be, to the extent possible, those erected and maintained by a power company. Notwithstanding any other provisions of this chapter, no poles except replacements for existing poles shall be erected by or for the grantee, in any street, except when necessary to service a subscriber. Any poles, wires, cable or other facilities to be constructed or installed by grantee on or within the streets shall be constructed or installed only at such locations and depths and in such a manner as to comply with all state statutes and rules and regulations of the State of Tennessee, the County, and any other agency of competent jurisdiction. See paragraph (4) of § 9-510.

(2) The installation of trunk and distribution lines, including service drops to subscribers, shall be made underground in areas where both telephone and power lines are underground or are placed underground and the service poles are removed. (1973 Code, § 13-213)

9-514. System design and channel capacity. The cable television system shall be constructed and operated in a manner as set forth in this chapter. Within three (3) years after the effective date of a franchise agreement,

the cable television system shall have a capacity which permits at least fifty-four (54) channels. (1973 Code, § 13-214)

9-515. Interconnection. Where economically reasonable and technically possible, grantee may connect its system with other cable systems adjoining it so as to provide the widest possible combination of programming in the most efficient manner. (1973 Code, § 13-215)

9-516. Service to government buildings. The grantee shall, upon request therefor, provide and furnish without charge to all public educational institutions and governmental buildings within the service area and within 150 feet of grantee's existing distribution cable, one (1) service outlet. The institutions shall be entitled to receive, free of charge, the grantee's basic cable television service. (1973 Code, § 13-216)

9-517. Service to single family house or individual dwelling unit. Wiring internal to a residence shall not be installed by a grantee without the specific permission of the owner, nor shall the provision of service be conditional upon such wiring unless additional internal wiring is needed to meet the specific service needs of the subscriber. When additional internal wiring is needed, the subscriber shall be allowed the option of having such wiring provided by the technician of his choice, provided that such wiring shall meet minimum standards as established by applicable statutes, codes and regulations. Where internal wiring is to be installed by the grantee, it shall notify the subscriber in advance of the estimated charges for the services to be provided, as well as any ongoing charges related to such wiring or to the use of multiple outlets connected to such wiring. (1973 Code, § 13-217)

9-518. Parental control devices. The grantee shall at all times have available parental control devices for the purpose of controlling premium television programming on individual subscriber television sets. The grantee shall have the right to charge reasonable fees. (1973 Code, § 13-218)

9-519. Construction standards. (1) Grantee shall construct, install, operate, and maintain the cable television system in a manner consistent with all laws, chapters, construction standards, governmental requirements, and the construction and operational standards contained in this chapter and any franchise agreement.

(2) All installation and maintenance of electronic equipment shall be of a permanent nature, durable, and installed in accordance with the applicable sections of the National Electric Safety Code, the National Electrical Code of the National Bureau of Fire Underwriters, and all state and local codes where applicable.

(3) Antenna supporting structures (towers) shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable local or state codes and regulations, and shall receive specific site plan approval from the city's manager and the board of zoning appeals.

(4) All construction methods and standards shall conform to standard industry practices at the time of construction, and as specified herein and in any franchise agreement.

(5) Any contractor used by a grantee for construction, installation, operation, maintenance, or repair of system equipment must be properly licensed under the laws of the state to which the contractor is licensed, and all local chapters.

(6) The city does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the locations shall be verified by excavation. (1973 Code, § 13-219)

9-520. Operational standards and performance monitoring.

(1) The cable television system shall be operated in compliance with the service standards established by the National Cable Television Association (NCTA) as adopted by the NCTA Board of Directors on February 14, 1990, and as may be subsequently amended.

(2) The grantee shall put, keep and maintain all parts of the system in good condition throughout the entire franchise term.

(3) The grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(a) Service repair response time to a subscriber outage call shall not exceed forty-eight (48) hours except in circumstances beyond the reasonable control of the grantee; and

(b) Trained technicians shall respond on a seven (7) days a week basis, during normal viewing hours (defined as 8:00 AM until 11:00 PM), whenever five (5) or more verifiable subscriber complaints of outage are received.

(c) The grantee shall have a local, publicly listed telephone number. The grantee shall provide the means to accept complaint calls twenty-four (24) hours a day, seven (7) days a week.

(d) In the event of a verifiable outage in which all service is demonstrably lost to a customer or group of customers for a period of time greater than four (4) hours, credit will be granted to such affected customer or customers upon request by such affected customer or customers according to the following schedule:

Outage lasting more than four (4) hours, but less than twelve (12) hours: one half day's credit.

Outage lasting more than twelve (12) hours, but less than twenty-four(24) hours: one day's credit.

Outage lasting more than twenty-four (24) hours, but less than thirty-six (36) hours: one and one half day's credit.

Outage lasts more than thirty-six (36) hours, but less than forty-eight (48) hours: two days' credit.

Outage lasts more than forty-eight (48) hours: two days' credit for the first forty-eight (48) hours, one day's credit for each additional day or fraction thereof.

All customers within the city shall receive conspicuous written notice of this policy from the grantee no less than once a year.

(e) If unspecified otherwise herein, NCTA standards for telephone answering time shall apply, regardless of number of subscribers.

(4) The grantee shall maintain a business office for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunction and similar matters and for bill payment and other customer transactions. Said business office shall be located within the city, unless otherwise permitted by the franchise agreement. The grantee shall provide the city manager with the name, address and phone number of the local manager or other agent responsible for receiving complaints.

(5) Subject to the privacy provisions of Section 631 of the Cable Act, the grantee shall keep a maintenance service log indicating the nature of each service complaint, the date and time it was received, the disposition of the complaint and the date and time of the disposition. The log shall be made available for periodic inspection by the city manager or his designee.

(6) Whenever it appears that the grantee is not complying with the service standards as established herein or in the franchise agreement, the city commission may at any time order the grantee to appear before it for a show cause hearing. At said hearing, the grantee may be questioned by and/or on behalf of the city commission. The grantee may present evidence to show that it is in fact in compliance with service standards or that its non-compliance is for reasons beyond its control. If the city commission, by majority vote, determines that the grantee has not complied with the service standards established herein or in the franchise agreement, and that such non-compliance is without adequate justification, it may enforce such penalties or initiate such

remedial procedures as may be provided for herein or in the franchise agreement and/or it may direct that the grantee be cited for violation of this chapter and subjected to punishment. (1973 Code, § 13-220)

9-521. Rates and charges. Grantee shall file with the city schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto, sixty (60) days prior to the desired effective date of such rates and charges. Grantee shall have the right to pass through to its subscribers all taxes and fees related to the provision of cable television service, and may designate that portion of a subscriber's bill attributable to the franchise fee as a separate item on the bill. (1973 Code, § 13-221)

9-522. Rights of individuals. (1) The grantee shall not deny service, deny access, deny employment, or otherwise discriminate against subscribers or other users, or any citizen on the basis of race, color, religion, national origin, sex or sexual orientation. The grantee shall comply at all times with all other applicable federal, state, and local laws and regulations, and all executive and administrative orders relating to nondiscrimination.

(2) Grantee shall comply with individual privacy provisions contained in the Cable Act. (1973 Code, § 13-222)

9-523. Liability and indemnification. (1) The grantee shall, at its sole cost and expense, fully indemnify, defend, and save harmless the county, its officers, councils, commissions, and employees against any and all actions, liability, judgments, executions, claims or demands whatsoever by others, including, but not limited to, copyright infringement and all other damages arising out of the installation or operation or maintenance of the cable television system authorized herein, whether or not any act of omission complained of is authorized, allowed, or prohibited by this chapter and any franchise granted hereunder. Grantee shall further indemnify and save the city harmless against all liabilities to others arising out of such construction, operation and maintenance, including, but not limited to, any liability for damages by reason of, or arising out of any failure by, grantee to secure licenses from the owners, authorized distributors or licensees of programs to be transmitted or distributed by the grantee, and against any loss, cost, expense, and damages resulting therefrom, including reasonable attorney's fees, arising out of the grantee's exercise or enjoyment of this franchise, irrespective of the amount of any comprehensive liability policy required hereunder.

(2) The foregoing liability and indemnity obligations of the grantee pursuant to this section shall not apply to damages occasioned by acts of the city, its agents, or employees, nor shall it be deemed a waiver of any defense of contributory negligence which the grantee may assert against the city, its agents, or employees. (1973 Code, § 13-223)

9-524. Insurance. (1) At the time of filing written acceptance of the franchise, the grantee shall file with City of Fairview either a copy of the policy declaration; or an insurance binder for the following:

(a) A Comprehensive General Liability contract (CGL) indemnifying, defending, and holding harmless the city, its officers, councils, commissions, agents, or employees from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the grantee under the franchise granted hereunder with a minimum of liability of one million dollars (\$1,000,000) for personal injury or death of any one or more person(s) in any one occurrence. Renewal certificates of such insurance shall be promptly forwarded to City of Fairview, P. O. Box 69, Fairview, Tennessee 37062, as such renewals are made, and such insurance shall be constantly kept in force and effect during the term of this franchise.

(b) Property damage insurance indemnifying, defending and holding harmless the city, its officers, councils, commissions, agents, and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of a grantee under the franchise granted hereunder with a minimum liability of one million dollars (\$1,000,000) for property damage to any one or more person(s) in any one occurrence.

(2) Such insurance as provided for in this section shall be provided at the grantee's sole cost and expense and be kept in full force and effect by the grantee during the existence of the franchise and until the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incidental to the maintenance and operation of the cable television system as defined in the franchise.

(3) All the foregoing insurance contracts shall be issued and maintained by companies admitted or approved to do business in the State of Tennessee and shall carry an A. M. Best rating of A or above, and shall require thirty (30) days' written notice of any cancellation or reduction in coverage to both Fairview City and the grantee herein. (1973 Code, § 13-224)

9-525. Franchise bond. (1) The amount of the franchise bond required by the cable television franchise ordinance to be maintained in full force and effect throughout the term of the franchise shall be no less than twenty-five thousand dollars (\$25,000). The franchise bond shall be issued by a company authorized to do business in the State of Tennessee and which is rated "A" or better by the A. M. Best Company; or which meets all alternative criteria as may be established by the city for the acceptance of bonds.

(2) The rights to the city with respect to the bond are in addition to all other rights of the city, whether reserved by this chapter or authorized by law; and no action, proceeding or exercise of right with respect to such bond shall affect any other right the city may have. (1973 Code, § 13-225)

9-526. Filing and communications with regulatory agencies. The grantee shall maintain copies of all petitions, applications, and communications, relative to any franchise granted pursuant to this chapter transmitted by the grantee to, or received by the grantee from all Federal and State regulatory commissions or agencies having competent jurisdiction to regulate the operations of any cable television system authorized hereunder. Said copies shall be available for inspection by the city during regular business hours of the grantee. (1973 Code, § 13-226)

9-527. Reports. (1) The grantee shall file annually with the city manager not later than four (4) months after the end of its fiscal year during which it accepted a franchise hereunder and within four (4) months after the end of each subsequent fiscal year, a letter containing the amount of the gross revenues for the previous fiscal year certified by grantee's controller or chief financial officer.

(2) The grantee shall file annually with the city manager or his designee copies of all reports submitted to the FCC and any other regulating body for the preceding fiscal year, along with any related correspondence. The grantee shall simultaneously file with the city executive annual reports on the status of current capital projects and plans for future capital projects affecting the grantee's cable system within the city.

(3) The grantee shall at all times keep on file with the city manager or his designee a current list of its partners and stockholders with an interest of ten percent (10%) or greater, its officers and directors and bond holders.

(4) The grantee shall maintain on file with the city manager or his designee a current, true and accurate map or plat of all existing and proposed installations. (1973 Code, § 13-227)

9-528. Franchise renewal. Upon completion of the term of any franchise granted pursuant to this chapter, the procedures for franchise renewals as established by the cable act will apply. (1973 Code, § 13-228)

9-529. Franchise required. It shall be unlawful for any person to construct, operate, or maintain a cable television system in the city unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise granted pursuant to this chapter. It shall also be unlawful for any person to provide cable television service in the city unless such person shall have first obtained and shall currently hold a valid franchise granted pursuant to the provisions of this chapter. All franchises granted by the city pursuant to this chapter shall contain the same substantive terms and conditions. Any violation under this section shall be a Class C misdemeanor, and every day in which a violation occurs, or is allowed to continue, shall be a separate violation. (1973 Code, § 13-229)

9-530. Unauthorized connections or modifications. (1) It shall be unlawful for any person without the expressed consent of the grantee, to make any connection, extension, or division whether physically, acoustically, inductively, electronically, or otherwise with or to any segment of the cable television system as installed by grantee for any purpose whatsoever, other than that connection provided at the residence in order to provide service.

(2) It shall be unlawful for any person to willfully interfere, tamper, remove, obstruct, or damage any part, segment, or content of a franchised cable television system as installed and owned by grantee for any purpose whatsoever.

(3) Any person found guilty of violating this section may be punished as prescribed by Tennessee State Statute. (1973 Code, § 13-230)

9-531. Notice. Whenever under the terms of the franchise either party shall be required or permitted to give notice to the other, such notice shall be in writing and if to be served on the city, it shall be delivered either by first class U. S. mail or by handing such notice to the city manager at the city administrative offices, and if to grantee, then by delivering by first class U. S. mail or by handing such notice to such officer at such address as grantee shall from time to time direct. The original name and address of the officer on behalf of grantee shall be included in grantee's acceptance of the franchise. (1973 Code, § 13-231)

9-532. Captions. The captions to sections are inserted solely for convenience and shall not affect the meaning or interpretation of the chapter. (1973 Code, § 13-233)

CHAPTER 6

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-601. Title.
- 9-602. Definitions.
- 9-603. Prevention of sexual activity.
- 9-604. Involvement of minors.
- 9-605. Specified criminal activity by operators, employees, entertainers and others.
- 9-606. Prohibited hours of operation.
- 9-607. Duties and responsibilities of operators, entertainers and employees.
- 9-608. Prohibited activities.
- 9-609. Reports.
- 9-610. Inspections.
- 9-611. Applicability of state statutes.
- 9-612. Violations.

9-601. Title. This chapter shall be known and may be cited as the "Sexually Oriented Business Ordinance." (As added by Ord. #477, Jan. 2000)

9-602. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

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

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

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, computer software or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" or

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

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical area" and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of the principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

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

(b) Live performances which are characterized by "specified sexual activities" or by the exposure of any of the "specified anatomical areas," even if partially covered or opaque material or partially or completely covered by translucent material including swim suits, lingerie, or latex covering; or

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

(4) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has a significant or substantial portion of such exhibition any actual or simulated performance of "specified sexual activities" or the viewing of "specified anatomical areas."

(5) "Adult motel" means a hotel, motel or similar commercial establishment which:

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

(b) Offers a sleeping room for rent for a period of time that is less than ten hours.

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

(7) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear

in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(8) "Codes department" means the department or division of the city which is authorized to enforce building codes and other provisions of this code of ordinances.

(9) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

(10) "Entertainer" means any person who provided entertainment within a sexually oriented business 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.

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

(12) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services for the purposes of sexual stimulation or where one or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

(13) "Nude model studio" means a commercial establishment where a person appears semi-nude or in a state of nudity, or displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio as defined herein shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(b) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude or semi-nude model is on the premises at any one time.

(14) "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than

a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(15) "Operator" means a person operating, conducting or maintaining a sexually oriented business or a person who is identified in any report filed with the city as the operator of a sexually oriented business.

(16) "Sauna" means an establishment or place primarily in the business of providing for the purposes of sexual stimulation:

- (a) A steam bath or dry heat sauna; or
- (b) Massage services.

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

(18) "Sexual conduct" means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of that person or another person.

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

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (b) For purpose of sexual stimulation, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(20) "Sexually oriented business" includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, sexual encounter center, massage parlor, or sauna, and further means any premises to which patrons or members of the public are invited or admitted and 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 entertainment, when such is held, conducted, operated or maintained for a profit, direct or indirect.

(21) "Sexual stimulation" means to excite or arouse the prurient interest or to offer to solicit acts of "sexual conduct" as defined in this chapter.

(22) "Specified anatomical areas" means:

- (a) Less than completely and opaquely covered:
 - (i) Human genitals;
 - (ii) Pubic region;

- (iii) Buttocks; and
- (iv) Female breast below a point immediately above the top of the areola, and

(b) Human male genitals in a discernible turgid state, even if completely opaquely covered.

(23) "Specified criminal activity" means any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; rape; sexual assault; molestation; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state or other states or countries; for which:

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

(b) Less than ten years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction is of a felony offense; or

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

provided further that the fact that a conviction is being appealed shall have no effect whatsoever on the provisions of this article.

(24) "Specified services" means massage services, private dances, private modeling, or acting as an "escort" as defined in this chapter.

(25) "Specified sexual activities" means:

(a) Human genitals in a state of sexual arousal;

(b) Acts of human masturbation, oral copulation, sexual intercourse or sodomy; or

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (As added by Ord. #477, Jan. 2000)

9-603. Prevention of sexual activity. (1) No person who owns, operates or manages a sexually oriented business shall permit "specified sexual activities," as defined in this chapter, to occur on the premises.

(2) No commercial building, structure, premises or portion thereof shall be designed for or used to promote high-risk sexual conduct.

(3) No person who owns, operates, causes to be operated or manages a sexually oriented business, other than an adult motel, which exhibits on the premises in any one or more viewing rooms or booths of less than 150 square feet of floor space, a film, video cassette, other reproduction or live entertainment which depicts "specified sexual activities" or "specified anatomical areas," shall cause or allow any deviation from the following requirements:

(a) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video equipment. No manager's station may exceed 32 square feet of floor area. If the premises has two or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the manager's stations. Each such area shall remain unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials. All viewing rooms and booths shall have at least one side open so that the area inside is visible from a manager's station. The view required in this subsection must be by direct line of sight from the manager's station.

(b) No alteration in the configuration or location of a manager's station may be made without the prior approval of the codes department.

(c) At least one employee shall be on duty and situated in each manager's station at all times that any patron is present inside the premises.

(d) No viewing room or booth may be occupied by more than one person at any time.

(e) Each viewing room or booth shall be lighted in such a manner that persons within are visible from a manager's station. The illumination level of each viewing room or booth, when not in use, shall be a minimum of ten foot candles at all times, as measured from the floor. The illumination level of all other portions of the premises open to the public shall be a minimum of ten foot candles at all times.

(f) No patron shall be permitted access to any area which has been designated as an area in which patrons will be not allowed.

(g) Each viewing room or booth shall be totally separated from adjacent viewing rooms and booths and any non-public areas by walls. All such walls shall be solid and extended from the floor to a height of not less than six feet and shall be of light colored, nonporous, non-absorbent, smooth textured and easily cleanable material. No such wall may be constructed of plywood or composition board. No opening or aperture of any kind shall be allowed to exist between viewing rooms or booths. No

person shall make or attempt to make an opening or aperture of any kind between viewing rooms or booths.

(h) All floor coverings in viewing rooms or booths shall be light colored, nonporous, non-absorbent, smooth textured, easily cleanable surfaces, with no rugs or carpeting.

(i) Their premises shall be maintained in a clean and sanitary manner at all times.

(j) No occupant of a viewing room or booths shall be allowed to damage or deface any portion therein or to engage in any type of sexual activity, cause any bodily discharge or litter while inside. (As added by Ord. #477, Jan. 2000)

9-604. Involvement of minors. An operator of a sexually oriented business is in violation of this article if:

(1) The operator is less than 18 years of age.

(2) Any officer, director, partner, stockholder or other individual having a direct or beneficial financial interest in the operator is less than 18 years of age, if the operator is a corporation, partnership or other form of business organization.

(3) Any employee of the sexually oriented business is less than 18 years of age.

(4) Any entertainer at the sexually oriented business is less than 18 years of age. (As added by Ord. #477, Jan. 2000)

9-605. Specified criminal activity by operators, employees, entertainers and others. (1) No person may own or operate a sexually oriented business within the city if:

(a) He has a record of "specified criminal activity," as defined in this article, the owner of operator is an individual.

(b) Any officer, director partner or other individual having at least a 10% direct or beneficial financial interest in the operator has a record of "specified criminal activity" as defined in this article, if the owner or operator is a corporation, partnership or other form of business organization.

(2) No operator of a sexually oriented business may allow any employee who has a record of "specified criminal activity," as defined in this article, to work on the premises of the business.

(3) No operator of a sexually oriented business may allow any entertainer who has a record of "specified criminal activity," as defined in this article, to perform on the premises of the business.

(4) No operator or employee of a sexually oriented business may knowingly allow any "specified criminal activity" to occur on the premises of the business.

(5) No operator or employee of a sexually oriented business may allow any patron or customer who has carried out any "specified criminal activity" on the premises of the business to reenter the premises.

(6) The police department may at any time investigate the criminal record of any person identified pursuant to § 9-609(4) or of any employee of a sexually oriented business or any entertainer performing at a sexually oriented business. (As added by Ord. #477, Jan. 2000)

9-606. Prohibited hours of operations. No sexually oriented business, except for an adult motel, shall be open between the hours of 11:00 P.M. and 8:00 A.M. No adult motel may allow any guest to check into a room between the hours of 11:00 P.M. and 8:00 A.M. (As added by Ord. #477, Jan. 2000)

9-607. Duties and responsibilities of operators, entertainers and employees. (1) The operator of each sexually oriented business shall maintain a register of all employees, showing the name, all aliases, home address, age, birth date, sex, weight, color of hair and eyes, telephone number, social security numbers, driver license or their state identification number and state of issuance, date of employment and termination, and duties of each employee. The above information for each employee shall be maintained on the premises during his or her employment and for a period of three years following termination.

(2) The operator shall make such information available for inspection immediately upon request by the city manager or his authorized representative or by the police department or codes department. Alternatively, if the city manager or his authorized representative, the police department or the codes department request that copies of any such information be delivered to them, the operator shall have such copies delivered within three days of the request.

(3) An operator shall be responsible for the conduct of all employees on the premises of the sexually oriented business and any act or omission of any employee constituting a violation of the provisions of this part shall be deemed the act or omission of the operator.

(4) There shall be posted and conspicuously displayed in the common areas of each sexually oriented business a list of any and all entertainment and services provided on the premises. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the city manager or his authorized representative or by the police department or codes department.

(5) No operator or employee of a sexually oriented business shall allow any person under the age of 18 years on the premises of a sexually oriented business.

(6) A sign shall be conspicuously displayed in the common area of the premises of each sexually oriented business, and shall read as follows:

This sexually oriented business is regulated by the City of Fairview, Tennessee. Employees, entertainers and customers are not permitted to engage in any type of sexual contact.

(7) Operators of sexually oriented businesses that provide "specified services," as defined in this article, for customers or patrons shall comply with the following requirements:

(a) For each "specified service," such customers or patrons shall be provided with written receipts. Operators shall keep copies of such receipts for at least three years, showing:

- (i) "Specified service" provided.
- (ii) Cost of "specified service."
- (iii) Date and time of service provided.
- (iv) Name of person providing the "specified service."
- (v) Method of payment for service.

(b) Copies of all published advertisements for the business shall be kept for at least three years.

(c) Copies of the receipts and advertisements required under this section shall be made available immediately upon request by the city manager or his authorized representative or by the police department or codes department.

(8) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that the line of sight between the manager's station(s) and each viewing room or both remains unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials.

(9) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that the illumination required by this article is maintained at all times during business hours.

(10) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that no openings of any kind exist between viewing rooms or booths.

(11) The operator of his/her agent shall, during each business day, regularly inspect the walls of all viewing rooms and booths to determine if any openings or holes exist. If such openings exist, it is the duty of the operator to immediately repair the damage. No patron shall be permitted access of a viewing room or booth where such an opening exists. It shall be the duty of the operator and all employees on the premises to ensure that such rooms or booths are unoccupied by patrons until the opening is repaired and covered. (As added by Ord. #477, Jan. 2000)

9-608. Prohibited activities. (1) No operator, entertainer or employee of a sexually oriented business shall perform or offer to perform any specified sexual activities on the premises of the business, or allow or encourage any

person on the premises to perform or participate in any specified sexual activities.

(2) 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 18 inches above the immediate floor level and removed at least six feet from the nearest entertainer, employee, and/or customer.

(3) No business shall advertise that it offers or provides any entertainment or service which would fail under the definitions of "sexual conduct," "sexual simulation" or "specified sexual services" as defined in this chapter.

(4) No operator or employee shall serve or allow to be served or consumed any intoxicating liquor or malt beverage on the premises of a sexually oriented business.

(5) No operator or employee shall knowingly allow possession, use or sale of controlled substances on the premises of a sexually oriented business.

(6) The possession of weapons by any patron or customer on the premises of a sexually oriented business shall be prohibited. Notice of such prohibition shall be posted on the premises. No operator or employee shall knowingly allow a patron or customer on the premises of a sexually oriented business to have a weapon in his possession.

(7) No hotel, motel or similar commercial establishment may knowingly allow a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours. (As added by Ord. #477, Jan. 2000)

9-609. Reports. Any person operating or desiring to operate a sexually oriented business shall file a report with the codes department at least 30 days prior to the opening of the business and no later than November 1 of each year thereafter. The report shall be filed in triplicate with and dated by the codes department upon receipt. One copy of the dated report shall be returned to the operator and one copy shall be promptly provided to the police department. The report shall be upon a form provided by the codes department and shall include the following information, which shall be sworn by the operator to be true and correct under oath:

(1) The name under which the sexually oriented business is or will be operated.

(2) The location and all telephone numbers for the sexually oriented business.

(3) The type of sexually oriented business which is being or will be operated, using the terms included in the definition of "sexually oriented business" provided in this article, if applicable, and a complete description of all types of entertainment and services provided or to be provided by the business.

(4) If the operator is an individual, or for any individual who owns or will own at least a 10% direct or beneficial interest in the business:

- (a) Legal name and any other names or aliases used by the individual.
 - (b) Mailing address and residential address and telephone number.
 - (c) Business address and telephone number.
 - (d) A recent photograph of the individual.
 - (e) Age, date and place of birth.
 - (f) Height, weight, and hair and eye color.
 - (g) Date, issuing state and number of the individual's driver's license or other state identification card information.
 - (h) Social security number.
 - (i) Proof that the individual is at least 18 years of age.
 - (j) The business, occupation or employment of the individual for five years immediately preceding the date of the report.
- (5) If the operator is a partnership:
- (a) The partnership's complete name
 - (b) The names of all partners and the information required above for all individuals who own or will own at least 10% direct beneficial interest in the business.
 - (c) Whether the partnership is general or limited.
 - (d) A copy of any printed partnership agreement.
- (6) If the operator is a corporation:
- (a) The corporation's complete name, address and telephone number.
 - (b) The date and state of the corporation.
 - (c) The corporation's federal tax identification number.
 - (d) Evidence that the corporation is in good standing under the laws of the state of incorporation.
 - (e) The names and capacity of all officers, directors and principal stockholders and the information required above for all individuals who own or will own at least a 10% direct or beneficial interest in the business.
 - (f) The name and address of the registered corporate agent for service of process.
- (7) The sexually oriented business or similar business history of the operator and of each individual listed under § 9-609(4) above, including:
- (a) The name and location of each sexually oriented business or similar business currently or previously owned or operated by such operator or individual.
 - (b) If the operator or individual is or was a partner, officer, or director or holds or held at least a 10% direct or beneficial interest in a partnership, corporation or other business entity which operates or operated or is or was majority owner of any sexually oriented business or

similar business, the name and location of each such business and the owning or operating business entity.

(c) Whether such operator or individual, has had any license or permit issued to a sexually oriented business or similar business denied, suspended or revoked.

(d) The name and location of each sexually oriented business or similar business for which the license or permit was denied, suspended or revoked, and the dates and reasons for each such suspension or revocation.

(8) Whether the operator or any of the operator's officers or directors or any individual listed under § 9-609(4) above has a record of any "specified criminal activity" as defined in this article, and, if so, the "specified criminal activity" or activities involved and the date, place and jurisdiction of each.

(9) If the premises are leased or being purchased under contract, a copy of such lease or contract.

(10) A sketch or diagram showing the configuration of the premises, including the total amount of floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises of an accuracy of plus or minus six inches. The codes department may waive this requirement if the report adopts a sketch or diagram that was previously submitted and the operator certifies that the configuration of the premises has not been altered since it was prepared. This requirement does not excuse the operator from compliance with all other applicable requirements for approval of building plans.

(11) For the initial report, a current certificate and straight-line drawing prepared within 30 days prior to the filing of the report by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property of the business filing the report; the boundary lines of any residential zoning district within 1,000 feet of said property; and the property lines of any parcel which includes an established religious facility, child care or educational facility, public park or recreation area, family entertainment business, liquor store or residence within 1,000 feet of said property. For purposes of this section, a use shall be considered existing or established if it is in existence at the time a report is submitted.

(12) A signed statement by the operator that the operator is familiar with the provisions of this article and is and will continue to be in compliance therewith, provided that if the operator is not an individual, such statement shall be signed by each individual who owns or will own at least a 10% direct or beneficial interest in the operator.

(13) Any other reasonably available information determined by the city manager, codes department or police department to be necessary in determining

whether the operator and the sexually oriented business meet the requirements of this article. (As added by Ord. #477, Jan. 2000)

9-610. Inspections. In order to effectuate the provisions of this article, the police department, codes department, city manager and/or his authorized representatives are empowered to:

(1) Conduct investigations of the premises of any sexually oriented business or any business believed by any of them to be a sexually oriented business at any time such business is occupied or open for business.

(2) Inspect all licenses and records of any sexually oriented business and its operators and employees for compliance with this article at any time such business is occupied or open for business.

(3) Conduct investigation of persons engaged or believed to be engaged in the operation of any sexually oriented business. (As added by Ord. #477, Jan. 2000)

9-611. Applicability of state statutes. The provisions of this article are not intended to supersede any obligations or requirements, including licensing requirements, imposed by state statute and shall be in addition thereto. (As added by Ord. #477, Jan. 2000)

9-612. Violations. (1) Each of the following acts and omissions shall be considered a civil offense against the city:

(a) Failure to file any report required under this article at the time required or submittal of false or misleading information or omission of any material facts in any report required under this article.

(b) Any operator, entertainer, or any employee of the operator, violates any provision of this article.

(c) Any operator, entertainer, or any employee of the operator, violates any provision of this article.

(d) Any operator fails to maintain the premises of a sexually oriented business in a clean, sanitary and safe condition.

(2) Upon a second or subsequent violation by an operator, entertainer or employee of a sexually oriented business, of any part of this article, or of any state statute regarding nudity, sexually oriented businesses or adult entertainment, such business shall be deemed a nuisance and shall also be subject to an order of closure, and/or to cease and desist, by chancery court action seeking injunctive relief to enforce the provisions of this article, provided that such second or subsequent violation occurs after a conviction or plea or nolo contendere has been obtained for the previous such violation. (As added by Ord. #477, Jan. 2000)

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

1. IN GENERAL.
2. DOGS AND CATS.

CHAPTER 1**IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Pen or enclosure to be kept clean.
- 10-103. Adequate food, water, and shelter, to be provided.
- 10-104. Keeping in such manner as to become a nuisance prohibited.
- 10-105. Cruel treatment prohibited.
- 10-106. Inspections of premises.
- 10-107. Responsibility for disposal of dead animals.
- 10-108. Violation and penalty.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1973 Code, § 3-101)

10-102. 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. (1973 Code, § 3-102)

10-103. Adequate food, water, and shelter to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended. (1973 Code, § 3-103)

10-104. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1973 Code, § 3-104)

10-105. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. A violation of this section shall subject the offender of a penalty up to three hundred and fifty dollars (\$350) for each offense. (1973 Code, § 3-105, modified)

10-106. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where any animal or fowl is allegedly kept. (1973 Code, § 3-106)

10-107. Responsibility for disposal of dead animals. Persons who harbor within the city limits, dogs, cats or other animals which die or which may be killed on their own, or upon the public rights of way shall be required to dispose of the animals' remains. (1973 Code, § 3-107)

10-108. Violation and penalty. Any violation of any section of this chapter other than § 10-105 shall subject the offender to a penalty up to fifty dollars (\$50) for each offense. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Terms defined.
- 10-202. Rabies vaccination and registration required.
- 10-203. Standards for vaccination.
- 10-204. Dogs and cats to wear tags.
- 10-205. Running at large prohibited.
- 10-206. Vicious dogs shall be securely restrained.
- 10-207. Unprovoked attack by a dog.
- 10-208. Reporting of dog bites.
- 10-209. Seizure.
- 10-210. Impoundment, confinement and disposition.
- 10-211. Nuisance prohibited.
- 10-212. Confinement of female dogs in season.
- 10-213. Disposition of dead dogs and cats.
- 10-214. Interference with or violation of orders issued by the rabies officer, health officer of any law enforcement agency.
- 10-215. Violations--penalty.

10-201. Terms defined. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(1) "Health officer" shall mean the health officer and/or health department of Williamson County, Tennessee.

(2) "Leash" shall mean any cord, chain, rope, thong or other device affixed to a dog or cat used to restrain the movement of the dog or cat, and which cord, chain, rope, thong or other restraining device is no greater than fifteen feet in length.

(3) "Owner" shall mean any person, firm, business, corporation or other entity having a right of property in either a dog or cat, or who keeps or harbors a dog or cat, or who has a dog or cat in his care or custody, or who permits a dog or cat to remain on or about any premises which is owned, rented, and/or leased by such person, firm, business, corporation or other entity.

(4) "Premises" shall mean any real property titled in the name of or held in fee by or rented or leased to the owner of a dog or cat. For purposes of this chapter, land surrounding apartments, condominiums and mobile home courts shall not be considered premises of the tenant for the purposes of this chapter unless such land is owned outright in fee or otherwise, or rented by lease or other rental agreement.

(5) "Rabies officer" shall mean the rabies control officer and/or rabies control department of Williamson County, Tennessee.

(6) "Running at large" shall mean a dog who is off the premises of the owner and that is not under the control of an owner by leash as defined herein. A dog shall not be considered to be "running at large" when the dog is a hunting dog employed by the owner in hunt and/or chase or in training for hunt and chase and when under such circumstances, is accompanied by the owner, nor when a dog is guarding or driving stock, nor when a dog is being moved from one place to another by an owner and is under control of the owner.

(7) "Vaccination" shall mean the process whereby an animal is immunized against rabies using a vaccine and a technique approved by the board of health.

(8) "Vicious dog" shall mean a dog that has bitten, maimed or killed one or more human beings in one or more unprovoked attacks. A dog is also considered to be vicious that has been or is enrolled in a program which trains such dog to attack upon command, signal or reflex and to guard, protect or patrol premises, including a dog used as an attack, search and security dog for any law enforcement agency. Attacks by dogs resulting in bites, maimings, and killings are presumed to be unprovoked unless otherwise shown. (1973 Code, § 3-201)

10-202. Rabies vaccination and registration required. It shall be unlawful for any owner to own, keep, harbor or permit to remain on or about any premises of such owner any dog or cat over six months of age that has not been vaccinated against rabies and registered in accordance with provisions of the "Tennessee Anti-Rabies Law" Tennessee Code Annotated, §§ 68-8-101 through 68-8-114, as may be amended from time to time. A certificate of such vaccination shall be issued by a licensed veterinarian duly authorized to administer such a vaccination or by any agent of the health officer and such certificate shall be kept by the owner, as defined herein, subject to the inspection of the health officer or police officer of the City of Fairview. (1973 Code, § 3-202)

10-203. Standards for vaccination. It shall be the duty of the veterinarian, duly licensed by the state board of veterinary medical examiners and approved by the board of health, to administer such a vaccination and to perform such vaccination in such a manner as meets the standards prescribed by the health officer, and the laws of the State of Tennessee. (1973 Code, § 3-203)

10-204. Dogs and cats to wear tags. (1) It shall be unlawful for any owner to own, keep, harbor or permit to remain on or about the premises of such owner any dog or cat six months of age and older that does not wear a tag evidencing that the dog or cat has been vaccinated in accordance with the provisions of § 10-202 of this chapter.

(2) It shall be presumed that any dog or cat not wearing a tag as required herein has not been vaccinated, unless otherwise established. Proof of vaccination, however, shall not relieve an owner of a dog or cat not wearing the required tag from penal sanction for violation of § 10-202 of this chapter.

(3) Tags evidencing that a dog or cat has been vaccinated in accordance with the provisions of this chapter shall be obtained from the rabies officer or any agent(s) that he may from time to time designate and pursuant to such requirements as the rabies officer may set forth, including the right of the rabies officer to charge a reasonable fee for such tag. Each tag shall contain an individual serial number, the name of the owner, and the date of vaccination. In the event that a tag shall be lost, the rabies officer, on request by the owner, shall issue a duplicate tag, for which the owner may be required to pay a reasonable fee as determined by the rabies officer. No refunds shall be available on any tag.

(4) The rabies officer shall require that each owner present satisfactory proof that the dog or cat for which a tag is sought has received a vaccination in accordance with the provisions of this chapter.

(5) Upon purchasing any tag, as herein provided, the owner shall receive a certificate of receipt. Each certificate shall contain the following information:

- (a) Whether the tag is purchased for a dog or cat;
- (b) The owner's name, address and telephone number;
- (c) Type or breed and color of the dog or cat;
- (d) Date and place of vaccination; and
- (e) Serial number on tag issued.

(6) A tag, as herein provided, shall not be transferable from one dog or cat to another, and it shall be unlawful to transfer any tag.

(7) Any owner moving into the City of Fairview, or any owner being a resident of an area annexed, shall, within four weeks of moving or being annexed, acquire a tag, as herein provided, or be in violation of this section. (1973 Code, § 3-204)

10-205. Running at large prohibited.¹ It shall be unlawful for any owner, as defined herein, or other person who has control or custody over a dog, whether such control or custody shall be temporary or otherwise, to allow a dog to run at large. (1973 Code, § 3-205)

10-206. Vicious dogs shall be securely restrained. (1) It shall be unlawful for any owner, as defined herein, or other person who has control or custody over a dog, whether such control or custody shall be temporary or

¹State law reference

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

otherwise, to own, keep, harbor or permit to remain on or about the premises of such owner a vicious dog unless such vicious dog shall be securely restrained or confined to an area so as to prevent contact with other animals and persons. Any person having control or custody over a vicious dog, as stated above, shall obtain approval from the rabies control officer as to the adequacy of the restraint or confinement used to secure the vicious dog so as to prevent contact with other animals and persons. A vicious dog not restrained or confined as provided herein may be seized by the rabies officer or any law enforcement agency for impoundment or confinement.

(2) It shall be unlawful for any owner to own, keep, harbor or permit to remain on or about the premises of such owner a vicious dog without posting notice on the premises in an area in plain view to the general public that a vicious dog is on the premises.

(3) A violation of this section shall subject the offender to a penalty up to three hundred and fifty dollars (\$350) for each offense. (1973 Code, § 3-206, modified)

10-207. Unprovoked attack by a dog. (1) The owner of any dog that attacks by biting, maiming or killing a person shall submit such dog to seizure, confinement, and examination, including both external examination and submission of the dog to internal biological testing, as may be required by the rabies officer, health officer, and/or any law enforcement authorities. For purposes of this section, an attack shall not be considered unprovoked if a dog bites, maims, or kills a person under circumstances that establish that the dog's conduct was reasonable.

(2) The owner of a dog that kills or maims one or more persons in one or more unprovoked attacks shall be required to have the dog destroyed on written order of the rabies officer. An owner may appeal to city court for review of the order of the rabies officer by filing a petition in the court within five days of receipt of the written order issued by the rabies officer. (1973 Code, § 3-207)

10-208. Reporting of dog bites. (1) It shall be unlawful for any owner of a dog, or other person who has control or custody over a dog, whether such control or custody shall be temporary or otherwise, to fail to report to the rabies officer or police department any incident of such dog biting one or more persons, provided that such owner or other person having control or custody over the dog shall have knowledge of or a reasonable basis to know that a biting occurred.

(2) It shall be unlawful for any person who provides medical treatment to another for a dog bite to fail to report the bite to the rabies officer or police department. (1973 Code, § 3-208)

10-209. Seizure. (1) Any dog or cat that is not wearing a tag as required by § 10-204 of this chapter, or any vicious dog not restrained and confined as provided in § 10-206 of this chapter, or any dog or cat that has

contracted or is suspected of having contracted rabies, or any animal that has been bitten by a dog, cat or other animal that has contracted or is suspected of having contracted rabies, or any dog running at large, as defined herein, or any dog that has attacked by biting, maiming or killing one or more persons may be seized by the rabies officer, health officer and/or any law enforcement agency, and their agents.

(2) Seizure may be accomplished by any means deemed necessary to subdue and seize the dog or cat by the rabies officer, health officer and/or law enforcement agency, and their agents, including the use of a tranquilizer gun. Such authorities shall also have the authority to exercise the use of a deadly force against any dog or cat or other animal that has contracted or is suspected of having contracted rabies, or that is attacking or threatening to attack by biting, maiming or killing one or more persons. (1973 Code, § 3-209)

10-210. Impoundment, confinement and disposition. (1) Any dog or cat seized under § 10-209 of this chapter may be impounded and/or confined to such areas as prescribed by the rabies officer.

(2) When any dog or cat wearing a tag or other emblem to identify the owner shall be seized and impounded or confined, the rabies officer shall cause notice of such seizure to be sent by mail to the owner, such notice to be addressed to the last known mailing address of the owner. Notice shall provide the reason that the dog or cat has been seized and impounded or confined, and shall state that the owner must appear to claim the dog or cat within seven days subsequent to the date the notice was mailed, and that upon failure to so appear the rabies officer shall dispose of or destroy the dog or cat. For purposes of this section, the three days shall include the day of seizure as one day, regardless of the time of day such dog or cat is seized.

(3) When any dog or cat lacking a tag or other emblem to identify the owner shall be seized and impounded or confined, the rabies officer shall hold such dog or cat for three days, unless directed by the rabies officer, health officer and/or any law enforcement agency to impound or confine the dog or cat for an additional period of time. For purposes of this section, the three days shall include the day of seizure as one day, regardless of the time of day such dog or cat is seized.

(4) If the owner appears to claim or redeem the dog or cat, he shall pay to the rabies officer a fee as established by a fee schedule implemented by the health officer and/or rabies officer for each day that the dog or cat has been held in impoundment or confinement. The fee schedule shall be uniform in application and may be amended from time to time by the health officer and/or rabies officer. On payment of the fee, and if the rabies officer, health officer and/or law enforcement agencies for cause do not require the dog or cat to remain impounded or confined, the owner may receive into custody the dog or cat. Should the rabies officer, health officer, and/or any law enforcement agencies direct that a dog or cat remain impounded or confined for any period

of time, such direction shall be in writing and a copy shall be provided the owner on request. No fees shall be assessed against an owner whose dog or cat is directed to be impounded or confined by the rabies officer, health officer, and/or any law enforcement agency.

(5) At the expiration of the time required by this section or by the rabies officer, health officer and/or any law enforcement agency for the impoundment or confinement of a dog or cat, the rabies officer may dispose of or destroy such dog or cat by any method or means determined reasonable by the rabies officer.

(6) The seven-day or three-day impoundment or confinement period, as set forth in paragraphs (2) and (3) of this section may be waived by the rabies officer and his agents when any dog or cat seized is determined to be suffering from an infectious or dangerous disease or is determined to be suffering from an illness or physical injury that requires immediate medical treatment. When the seven-day or three-day period is waived, the rabies officer shall attempt to contact by telephone the name of any owner as stated on the tag or on any other emblem of identification found on the dog or cat prior to disposition of the dog or cat. In instances where the impoundment or confinement period is waived, the dog or cat involved may be disposed of by any reasonable means as determined by the officer.

(7) Any dog or cat that has contracted rabies or that is suspected of having contracted rabies or that has attacked by biting, maiming or killing one or more persons shall be impounded or confined subject to the directions and order regarding the place of impoundment, or confinement, the care, custody, treatment, observation, examination (including both external and internal biological examination) and disposition of such dog or cat as issued by the rabies officer, health officer and/or law enforcement agency.¹ (1973 Code, § 3-210)

10-211. Nuisance prohibited. It shall be unlawful for an owner to keep, harbor, or permit to remain on or about the premises of such owner any dog that by frequent barking, howling, or whining disturbs the peace of the immediate neighborhood. It shall further be unlawful for any owner to permit his premises to become a threat to public health by reason of such owner's keeping or harboring of any dogs or cats. For the purpose of this section, a premise shall be deemed a threat to public health when the owner shall fail to remove the remains of dead dogs or cats or shall fail to remove fecal material of dogs or cats resulting in the creation of a harborage for rats or other rodent carriers of contagious diseases. (1973 Code, § 3-211)

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

10-212. Confinement of female dogs in season. It shall be unlawful for any owner of a dog, as defined herein, or any other person having control or custody over a dog, whether such control or custody be temporary or otherwise, to fail to confine a female dog in an enclosed area during the time such dog is in season or in heat. The confinement shall prevent the female dog from leaving the confined area and shall be sufficient to prevent the female dog from coming in contact with other dogs. Any dog not so confined may be seized pursuant to the provisions in §§ 10-209 and 10-210 of this chapter. (1973 Code, § 3-212)

10-213. Disposition of dead dogs and cats.¹ Persons who own, keep or harbor dogs and other animals which die shall be required to dispose of such dog or other animal's remains. (1973 Code, § 3-213)

10-214. Interference with or violation of orders issued by the rabies officer, health officer or any law enforcement agency. It shall be unlawful for any person to interfere with or hinder any rabies officer, health officer or any law enforcement agency while such officers are in the performance of their duties prescribed in accordance with this chapter. It shall further be unlawful for any person to violate any orders issued by the rabies officer, health officer or any law enforcement agency regarding the seizure, impoundment or confinement of a dog or cat as provided herein. (1973 Code, § 3-214)

10-215. Violations--penalty. Any person found in violation of any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). (1973 Code, § 3-215)

¹Municipal code reference

Failure to dispose of dead animal: § 11-807.

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. GAMBLING, FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PERSON.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
6. FIREARMS, WEAPONS AND MISSILES.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. MISCELLANEOUS.
9. OFFENSES IN PARKS.
10. MISDEMEANORS OF THE STATE ADOPTED.
11. OBSCENITY, MORALS.
12. LOITERING, ETC.
13. DESIGNATION OF A LEGAL RESIDENCE INSIDE A COMMERCIAL BUILDING.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking beer, etc., on streets, etc.
11-102. Minors in beer places.
11-103. Public drunkenness.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or an open container of any type of an alcoholic beverage (regardless of alcoholic content)

¹Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

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

in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless, in the case of beer only, the place has a beer permit and license for on premises consumption. (1973 Code, § 10-229)

11-102. Minors in beer places. No minor under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1973 Code, § 10-222, modified)

11-103. Public drunkenness. It shall be unlawful for any person to be drunk in a public place or in any other place open to public view. (1973 Code, § 10-228)

CHAPTER 2

GAMBLING, FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

11-202. Gambling.

11-203. Promotion of gambling.

11-201. Fortune telling, etc. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. A violation of this section shall subject the offender to a penalty up to seventy-five dollars (\$75) for each offense. (1973 Code, § 10-235, modified)

11-202. Gambling.¹ It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1973 Code, § 10-215)

11-203. Promotion of gambling.¹ It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1973 Code, § 10-216)

¹Tennessee Code Annotated, § 39-17-509, passed subsequent to the enactment of this section, prohibits enforcement of this section.

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (1973 Code, § 10-201)

CHAPTER 4**OFFENSES AGAINST THE PEACE AND QUIET****SECTION**

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1973 Code, § 10-202, as amended by Ord. #633, July 2006))

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(1) Miscellaneous blowing horns. The sounding of any horn or signal device on any prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

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

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 10:00 P.M. and 6:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 10:00 P.M. and 6:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 6:00 A.M. and 10:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 10:00 P.M. and 6:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 10:00 P.M. and 6:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

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

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

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

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

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

(a) City vehicles. Any vehicle of the city while engaged upon necessary public business.

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

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

(d) Events conducted by or permitted by government entities. Events sponsored by or directly conducted by city, county, state, or federal governments or their duly authorized agents. Any event for which the person or entity responsible for the event has applied for and been issued a valid permit to conduct the event at the time or times specified in the permit. (1973 Code, § 10-234, and amended by Ord. #633, July 2006)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

- 11-501. Escape from custody or confinement.
- 11-502. Impersonating a government officer or employee.
- 11-503. False emergency alarms.
- 11-504. Resisting or interfering with an officer.
- 11-505. Coercing people not to work.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1973 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1973 Code, § 10-211)

11-503. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1973 Code, § 10-217)

11-504. Resisting or interfering with an officer. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his municipal duties. (1973 Code, § 10-210)

11-505. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1973 Code, § 10-231)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

- 11-601. Air rifles, etc.
11-602. Throwing missiles.
11-603. Discharge of firearms.

11-601. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, or air rifle, capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. A violation of this section shall subject the offender to a penalty of up to seventy-five dollars (\$75) for each offense. (1973 Code, § 10-213, modified)

11-602. Throwing missiles. It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. A violation of this section shall subject the offender to a penalty of up to one hundred fifty dollars (\$150) for each offense. (1973 Code, § 10-214, modified)

11-603. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. A violation of this section shall subject the offender to a penalty of up to two hundred fifty dollars (\$250) for each offense. (1973 Code, § 10-212, modified)

CHAPTER 7

**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE
WITH TRAFFIC****SECTION**

- 11-701. Trespassing.
- 11-702. Malicious mischief.
- 11-703. Interference with traffic.
- 11-704. Violation and penalty.

11-701. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall 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. (1973 Code, § 10-226)

11-702. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1973 Code, § 10-225)

11-703. 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 unreasonably prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1973 Code, § 10-233)

11-704. Deposits of debris on city streets. (1) No person shall drive or move any truck or other vehicle within the corporate limits of the city unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or other public place.

(2) No person shall drive or move any vehicle or truck within the corporate limits of the city, the wheels or tires of which carry onto or deposit in any street, alley, or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind, sufficient in amount to create a hazard to the public in the full utilization of the street, alley or other public place.

(3) No person shall drive a vehicle upon the city streets of Fairview loaded with sand, gravel, or other materials or debris that could be blown upon

the streets without a cover over the materials to prevent such materials from being blown or scattered.

(4) No person shall knowingly permit employees, sub-contractors, or independent contractors, to violate subsections (1), (2), or (3) of this section. (As added by Ord. #478, March 2000)

11-705. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty of up to one hundred dollars (\$100) for each offense. (As renumbered by Ord. #478, March 2000)

CHAPTER 8

MISCELLANEOUS

SECTION

- 11-801. Abandoned refrigerators, etc.
- 11-802. Caves, wells, cisterns, etc.
- 11-803. Posting notices, etc.
- 11-804. Curfew for minors.
- 11-805. Wearing masks.
- 11-806. Smoking prohibited at public meetings at city hall.
- 11-807. Failure to dispose of dead animal.
- 11-808. Fireworks prohibited around flammable materials.

11-801. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. A violation of this section shall subject the offender to a penalty of up to one hundred fifty dollars (\$150) for each offense. (1973 Code, § 10-223, modified)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. A violation of this section shall subject the offender to a penalty of up to one hundred fifty dollars (\$150) for each offense. (1973 Code, § 10-232, modified)

11-803. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. A violation of this section shall subject the offender to a penalty of up to fifty dollars (\$50) for each offense. Each posting of such unauthorized notice shall constitute a separate offense. (1973 Code, § 10-227, modified)

11-804. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1973 Code, § 10-224)

11-805. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood

whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1973 Code, § 10-230)

11-806. Smoking prohibited at public meetings at city hall. It shall be unlawful for any person to smoke tobacco or any other plant, substance or material during the conduct of any public meeting held at the city hall. (1973 Code, § 10-236)

11-807. Failure to dispose of dead animal.¹ Whenever any person is put on notice, in writing, by any employee of the City of Fairview of the location of remains of a dead animal, which said animal prior to its death, was owned or harbored by the person, it shall be unlawful for the person to fail or refuse to dispose of the dead animal forthwith, but in any event, within two (2) full days of receiving the notice thereof. (1973 Code, § 10-237)

11-808. Fireworks prohibited around flammable materials. It shall be unlawful for any person to ignite or discharge any otherwise permissible articles of fireworks within two hundred fifty (250) feet of any location where paints, oils, or varnishes are for sale or use, or where resin, turpentine, gasoline or any other flammable substance is sold or stored. (1973 Code, § 10-238)

¹Municipal code reference

Disposition of dead dogs and cats: § 10-213.

CHAPTER 9

OFFENSES IN PARKS

SECTION

- 11-901. Hours of public park use.
- 11-902. Vehicles.
- 11-903. Speed limits.
- 11-904. Use of alcoholic beverages and controlled substances.
- 11-905. Littering and dumping.
- 11-906. Pet control.
- 11-907. Weapons, firearms and fireworks.
- 11-908. Swimming.
- 11-909. Water vessels.
- 11-910. Cutting of timber.
- 11-911. Fires.
- 11-912. Excessive or malicious noise.
- 11-913. Hunting or disturbing habitat of animals prohibited.
- 11-914. Removal of trees, shrubs and other plants prohibited.
- 11-915. Damage, removal or destruction of park property.
- 11-916. Riding bicycles on horses when riding trails are closed.

11-901. Hours of public park use. It shall be unlawful for any person or persons to occupy the public parks at any time between the hours of sunset to sunrise, without first obtaining the written permission from the park director or the parks department designee. Such written permission must be retained and displayed upon request by proper authorities by the person or persons granted the exception while they occupy the public parks at anytime other than the normal authorized times. (1973 Code, § 10-301, as amended by Ord. #419, § 1, June 1997, Ord. #512, Oct. 2001, and Ord. #638, Aug. 2006)

11-902. Vehicles. It shall be unlawful for any person to operate any motor vehicle where restrictions prohibiting motor vehicles are posted.¹ (1973 Code, § 10-302)

11-903. Speed limits. It shall be unlawful to operate or drive a motor vehicle upon any street, road or trail within any city park property at a rate of speed in excess of fifteen miles per hour (15 mph) unless speeds are posted, except that within the Fairview Nature Park, it shall be unlawful to operate any vehicle on Bowie Lake Road in excess of eighteen miles per hour (18 mph) and on any other street, road or trail within the Fairview Nature Park in excess of fourteen miles per hour (14 mph). (1973 Code, § 10-303, as amended by Ord. #388, Oct. 1995)

¹Municipal code reference

Vehicles and operators to be licensed: § 15-119.

11-904. Use of alcoholic beverages and controlled substances. It shall be unlawful for any person to sell, distribute, drink or consume or have an open container of any type of alcoholic beverage (regardless of alcoholic content) in or on any city park properties. It shall be unlawful for any person to consume or otherwise use any illegal or nonprescriptive drugs or any controlled substance in or on any city park properties. (1973 Code, § 10-304)

11-905. Littering and dumping. It shall be unlawful for any person, firm or corporation to dump refuse or waste of any form into any stream or on any public park property. (1973 Code, § 10-305)

11-906. Pet control. It shall be unlawful to allow any pet to roam park properties unattended and without being on a leash or tether, except in designated areas or for special events. (1973 Code, § 10-306)

11-907. Weapons, firearms and fireworks. It shall be unlawful to possess, sell, distribute or discharge any firearms or fireworks near or within city park properties, except as a participant in an organized approved activity. Any organized activity in the park involving the use of firearms or fireworks must first be approved by the board of commissioners.

The foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties.

This prohibition shall apply to persons who are hunting with shotguns for game in season within city limits but on private property with the landowner's permission. It shall be considered a violation of the foregoing prohibition that in no event, shall such shotguns be discharged within 300 feet of any city park property boundary. (1973 Code, § 10-307)

11-908. Swimming. It shall be unlawful for any person to enter any body of water located in city park properties, except where permitted by posted sign. (1973 Code, § 10-308)

11-909. Water vessels. It shall be unlawful for any person, firm or corporation to operate any vessel upon park property waters without written permission from the city manager, park director or park superintendent where such activity is permitted by posted sign. All passengers of any vessel operated on park property waters must wear proper flotation devices at all times. Operation of such vessels shall conform to rules and regulations as stated in

(applicable Tennessee codes). (1973 Code, § 10-309, as amended by Ord. #418, § 1, June 1997)

11-910. Cutting of timber. It shall be unlawful for any person, firm or corporation to cut, fell, remove, harvest or otherwise destroy timber on any city park property, unless written permission from the city manager has been obtained. (1973 Code, § 10-310)

11-911. Fires. It shall be unlawful for any person to start or maintain a fire within any city park property, except in those designated areas equipped with fireplaces or grilles, unless a permit has been obtained from the park director. (1973 Code, § 10-311)

11-912. Excessive or malicious noise. The creation of any unreasonably loud, disturbing and unnecessary noise is prohibited within or around all city park properties. Noise of such character, intensity or duration as to be detrimental to the life or health of wildlife or any individual, or in disturbance of the public peace and welfare is prohibited. (1973 Code, § 10-312)

11-913. Hunting or disturbing habitat of animals prohibited. It shall be unlawful for any person to hurt, trap, or willfully wound or kill any wildlife within the park, or to willfully disturb the habitat of animals, including the nests of swans and other birds. Fishing, where allowed, is excepted from this prohibition. (1973 Code, § 10-313)

11-914. Removal of trees, shrubs and other plants prohibited. It shall be unlawful to remove any trees, shrubs, or other plant life from the park, without express authorization from the City of Fairview. (1973 Code, § 10-314)

11-915. Damage, removal or destruction of park property. It is unlawful to willfully vandalize, damage, remove or destroy any real or personal property, fixture or improvement within the park. (1973 Code, § 10-315)

11-916. Riding bicycles or horses when riding trails are closed. It is unlawful to ride horses or bicycles in the riding trails in the Bowie Nature Park during those times when the trails have been closed by the City of Fairview. (as added by Ord. #436, § 1, June 1998)

CHAPTER 10**MISDEMEANORS OF THE STATE ADOPTED****SECTION**

11-1001. Misdemeanors of the state adopted.

11-1001. Misdemeanors of the state¹ adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the Common Law to be misdemeanors are hereby designated and declared to be offenses against the City of Fairview also. Any violation of any such law within the corporate limits is also a violation of this section. (1973 Code, § 10-101)

¹State law reference

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

CHAPTER 11

OBSCENITY, MORALS

SECTION

- 11-1101. Disorderly houses.
- 11-1102. Immoral conduct.
- 11-1103. Obscene literature, etc.
- 11-1104. Indecent or improper exposure or dress.
- 11-1105. Window peeping.
- 11-1106. Profanity, etc.

11-1101. Disorderly houses. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Furthermore, it shall be unlawful for any person to knowingly visit any such house for the purpose of engaging in such activities. (1973 Code, § 10-203)

11-1102. Immoral conduct. No person shall commit, offer, or agree to commit, nor shall any person secure or offer another for the purpose of committing, a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for any such purpose. (1973 Code, 10-204)

11-1103. Obscene literature, etc. It shall be unlawful for any person to publish, sell, exhibit, distribute, or possess for the purpose of loaning, selling, or otherwise circulating or exhibiting, any book, pamphlet, ballad, movie film, filmstrip, phonograph record, or other written, printed, or filmed matter containing obscene language, prints, pictures, or descriptions manifestly intended to corrupt the morals. (1973 Code, § 10-205)

11-1104. Indecent or improper exposure or dress. It shall be unlawful for any person to publicly appear naked or in any dress not appropriate to his or her sex, or in any indecent or lewd dress, or to otherwise make any indecent exposure of his or her person. (1973 Code, § 10-206)

11-1105. Window peeping. No person shall spy, peer, or peep into any window of any residence or dwelling premise that he does not occupy nor shall

he loiter around or within view of any such window with the intent of watching or looking through it. (1973 Code, § 10-207)

11-1106. Profanity, etc. No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or around any place of business open to the use of the public in general. (1973 Code, § 10-208)

CHAPTER 12**LOITERING, ETC.****SECTION**

11-1201. Loitering.

11-1202. Prowling.

11-1203. Vagrancy.

11-1201. Loitering. It shall be unlawful for any person without legitimate business or purpose to loaf, loiter, wander, or idle in, upon, or about any way or place customarily open to public use. (1973 Code, § 10-218)

11-1202. Prowling. It shall be unlawful for any person to prowl or wander about the streets, alleys, or other public or private ways or places, or be found abroad at late or unusual hours in the night without any visible or lawful business and when unable to give a satisfactory account of himself. (1973 Code, § 10-219)

11-1203. Vagrancy. It shall be unlawful for any person to beg or solicit alms or, if without apparent lawful means of support, to willfully neglect to apply himself to some honest occupation. (1973 Code, § 10-221)

CHAPTER 13

**DESIGNATION OF LEGAL RESIDENCES
INSIDE COMMERCIAL BUILDINGS**

SECTION

11-1301. Maintenance of a legal residence inside a commercial building.

11-1301. Maintenance of a legal residence inside a commercial building. It shall be unlawful for any person or entity to occupy a residence which is a part of or attached to any commercial building (which can be legally utilized as a residence authorized by the zoning codes of the city) unless and until the said portion utilized as a residence has been labeled or designated as follows:

THIS BUILDING BEING USED AS A RESIDENCE.

The sign shall be constructed of an all weather material with white reflective lettering on a red background. The entire dimensions of the sign shall be eighteen inches wide by twelve inches (18" x 12") high. The lettering on the sign shall be two (2") inches high. The sign shall be located on the building in a position and place approved by the City of Fairview Fire Chief or his designated agent.

For the purposes of this chapter a "commercial building" is a building in an area zoned commercial the principle use of the building is for commercial activities and has a residence within or attached to the building, which is otherwise legal within the city except for the lack of the residence designation. A violation of this section shall subject the offender to a penalty of up to fifty dollars (\$50.00) dollars for each offense. Each day of occupancy of such a residence without proper designation as required by this chapter shall constitute a separate offense. (as added by Ord. #780, Jan. 2012)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. GAS CODE.
4. RESIDENTIAL CODE.
5. ENERGY CONSERVATION CODE.
6. PROPERTY MAINTENANCE CODE.
7. MECHANICAL CODE.
8. ACCESSIBILITY CODE.
9. [DELETED.]
10. [DELETED.]
11. [DELETED.]

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. License, tax and permit fees.
- 12-104. Violations and penalty.
- 12-105. [Deleted.]

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,² 2009 edition, is adopted by reference as fully as

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, DC 20001.

if copied herein in its entirety and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the building code.

One (1) copy of the building code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #366, Nov. 1994, modified, as amended by Ord. #556, Oct. 2003, and replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-102. Modifications. (1) Definitions. Whenever the building code refers to the "Chief Appointing Authority," it shall be deemed to be a reference to the mayor. When the "Building Official" is named it shall, for the purposes of the building code, mean such person as the mayor shall have appointed or designated to administer and enforce the provisions of the building code.

(2) Section 903, "Automatic Sprinkler Systems," of the International Building Code, 2009 edition, is adopted in its entirety with the following modifications to the following sections:

- (a) Section 903.2.1.1 Group A-1 (1) The fire area exceeds 5,000 square feet.
- (b) Section 903.2.1.3 Group A-3 (1) The fire area exceeds 5,000 square feet.
- (c) Section 903.2.1.4 Group A-4 (1) The fire area exceeds 5,000 square feet.
- (d) Section 903.2.3 Group E (1) Throughout all Group E fire areas greater than 5,000 square feet.
- (e) Section 903.2.4 Group F (1) A Group F-1 fire area exceeds 5,000 square feet.
- (f) Section 903.2.7 Group M (1) A Group M fire area exceeds 5,000 square feet.
- (g) Section 903.2.8 Group R A Group R an automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area except for one- and two-family dwellings.
- (h) Section 903.2.9 Group S-1 (1) A group S-1 fire area exceeds 5,000 square feet.
 - (i) Section 903.2.9.1 Repair Garages.
 - (i) Buildings having two or more stories above grade plane, including basements, with a fire area containing a repair garage exceeding 5,000 square feet.
 - (ii) Buildings no more than one story above grade plane, with a fire area containing a repair garage exceeding 5,000 square feet.
 - (j) Section 903.2.10 Group S-2 enclosed parking garages.

- (i) Where the fire area of the enclosed parking garage exceeds 5,000 square feet. (1973 Code, § 4-102, as amended by Ord. #366, Nov. 1994, modified, and replaced by Ord. #784, May 2012)

12-103. License, tax and permit fees. Any licensed contractor applying for a building permit is required to pay a license tax annually in the amount of fifty dollars (\$50.00). No contractor or builder shall be licensed by the city unless he shall have first complied with Tennessee Code Annotated, title 62, chapter 6.

Building permit fees for new construction and/or remodeling will be collected by the building inspector and determination of the value of construction. Said fees are to be paid prior to issuance of any permit. The contractor/builder may submit actual costs or bids to substantiate a lower cost for the particular project, which may be accepted by the building inspector for determining valuation. The fees shall be as follows:

- (1) Where the valuation does not exceed five hundred dollars (\$500.00), no fee shall be required unless an inspection is necessary, in which case there shall be a thirty dollar (\$30.00) minimum fee.

- (2) For a valuation over five hundred dollars (\$500.00) up to and including fifteen thousand dollars (\$15,000.00), the fee shall be thirty dollars (\$30.00) for the first five hundred dollars (\$500.00), plus six dollars (\$6.00) per each additional one thousand dollars (\$1,000.00) or fraction thereof.

- (3) For a valuation over fifteen thousand dollars (\$15,000.00) up to and including fifty thousand dollars (\$50,000.00), the fee shall be one hundred twenty dollars (\$120.00) for the first fifteen thousand dollars (\$15,000.00), plus five dollars (\$5.00) for each additional thousand or fraction thereof.

- (4) For a valuation over fifty thousand dollars (\$50,000.00) up to and including one hundred thousand dollars (\$100,000.00), the fee shall be two hundred ninety-five dollars (\$295.00) for the first fifty thousand dollars (\$50,000.00), plus four dollars (\$4.00) for each additional thousand or fraction thereof.

- (5) For a valuation over one hundred thousand dollars (\$100,000.00) up to and including five hundred thousand dollars (\$500,000.00), the fee shall be four hundred ninety-five dollars (\$495.00) for the first one hundred thousand dollars (\$100,000.00), plus three dollars (\$3.00) for each additional thousand or fraction thereof.

- (6) For a valuation over five hundred thousand dollars (\$500,000.00), the fee shall be one thousand six hundred ninety-five dollars (\$1,695.00) for the first five hundred thousand dollars (\$500,000.00), plus one dollar (\$1.00) for each additional thousand or fraction thereof, or the cost of an appropriate consulting engineer plus twenty-five percent (25%).

- (7) For any special or temporary building permits required by this section the fee shall be as follows:

Basement	\$10.00 per square foot
Garage	\$15.00 per square foot
Storage building	\$ 8.00 per square foot
Barns	\$ 8.00 per square foot
Additions	\$25.00 per square foot
Decks	\$ 8.00 per square foot
Carports	\$10.00 per square foot

(8) For any temporary permits required by this section the fee shall be one hundred dollars (\$100.00), with the exception of those organizations that are qualified as tax exempt charitable corporations under the Internal Revenue Code of the United States of America. For those charitable organizations the temporary permit fee shall be twenty-five dollars (\$25.00).

(9) For any reinspection, the fee shall be fifteen dollars (\$15.00).

(10) Electrical permit fee. For each electrical permit issuance, the fee shall be five dollars (\$5.00).

(11) Mechanical permit fees. The schedule of mechanical permit fees shall be as follows:

For issuing permit	\$10.00
Fee for inspecting heating, ventilating, ductwork, air conditioning and refrigeration systems shall be for the first \$1,000.00 or fraction thereof, of valuation of the installation plus for each \$1,000.00 or fraction thereof.	\$10.00
Fee for inspecting repairs, alterations and additions	
To existing system shall be	\$ 5.00
Plus	\$ 2.00
for each \$1,000.00 or fraction thereof.	
In all buildings, except one- and two-family dwellings, where self-contained air conditioning units of less than two tons are to be installed, the fee charged shall be that for the total cost of all units combined.	
Reinspection fee is an additional	\$15.00

(12) Plumbing permit fees. The schedule of plumbing permit fees shall be as follows:

For issuing permit	\$10.00
For each plumbing fixture	\$ 2.50
For each house sewer	\$ 5.00
For each house sewer having to be replaced	\$ 5.00
For each septic tank	\$ 5.00
For each water heater and/or vent	\$ 2.50
For installation, alteration or repair of water piping and/or water treating equipment	\$ 5.00
For repair or alteration drainage or vent piping	\$ 5.00
For vacuum breakers or backflow protective devices installed subsequent to the installation of the piping or equipment served:	
One to five	\$ 2.50
Over five, each	\$ 1.50
Reinspection fee is an additional	\$15.00

(1973 Code, § 4-103, as amended by Ord. #379, July 1995, Ord. #571, May 2004, Ord. #637, Jan. 2007, and Ord. #772, March 2011, and replaced by Ord. #784, May 2012)

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1973 Code, § 4-105, modified, as replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-105. [Deleted.] (as replaced by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Violations and penalty.
- 12-204. [Deleted.]

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code,² 2009 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the plumbing code.

One (1) copy of the plumbing code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #366, Nov. 1994, modified, as replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-202. Modifications. Definitions. Wherever the plumbing code refers to the "Chief Appointing Authority," it shall be deemed to be a reference to the board of commissioners.

Wherever "Code Official" is named or referred to, it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the plumbing code. Section 107 of the plumbing code is hereby deleted.

Within the plumbing code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, DC 20001.

who has duties corresponding to those of the named official shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned. (Ord. #366, Nov. 1994, modified, as amended by Ord. #772, March 2011, and replaced by Ord. #784, May 2012)

12-203. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #784, May 2012)

12-204. [Deleted.] (as replaced by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

CHAPTER 3

GAS CODE¹

SECTION

- 12-301. Title and definitions.
- 12-302. Purpose and scope.
- 12-303. Modifications.
- 12-304. Use of existing piping and appliances.
- 12-305. Bond and license.
- 12-306. Gas inspector and assistants.
- 12-307. Powers and duties of inspector.
- 12-308. Permits.
- 12-309. Inspections.
- 12-310. Certificates.
- 12-311. Nonliability.
- 12-312. Violations and penalty.
- 12-313. [Deleted.]

12-301. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the city. The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers.

(2) "Certificate of approval" means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

(3) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.

(4) "Inspector" means the person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the city manager.

(5) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals. (as replaced by Ord. #784, May 2012)

12-302. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances

¹Municipal code reference

Gas system administration: title 19, chapter 1.

installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the International Fuel and Gas Code,¹ 2009 edition, and all subsequent amendments and additions to said code, which are hereby adopted by and incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #366, Nov. 1994, modified, as replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-303. Modifications. Within the gas code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the named official shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned. (Ord. #366, Nov. 1994, as replaced by Ord. #784, May 2012)

12-304. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (as replaced by Ord. #784, May 2012)

12-305. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the city manager a good and sufficient bond in the penal sum of ten thousand dollars (\$10,000.00), with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the city recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

(2) Upon approval of said bond, the person desiring to do such work shall secure from the city recorder a nontransferable license which shall run

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, DC 20001.

until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay any applicable license fees to the city recorder.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (as replaced by Ord. #784, May 2012)

12-306. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of commissioners. (as replaced by Ord. #784, May 2012)

12-307. Powers and duties of inspector. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

(2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or fixture or appliance without authorization by the inspector and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (as replaced by Ord. #784, May 2012)

12-308. Permits. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the city manager; however,

permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

(2) When only temporary use of gas is desired, the recorder may issue a permit for such use, for a period of not to exceed sixty (60) days, provided the consumer's gas piping to be used is given a test equal to that required for a final piping inspection.

(3) Except when work in a public street or other public way is involved the gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (as replaced by Ord. #784, May 2012)

12-309. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six inches (6") in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (as replaced by Ord. #784, May 2012)

12-310. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (as replaced by Ord. #784, May 2012)

12-311. Nonliability. This chapter shall not be construed as imposing upon the municipality any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the municipality, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector. (as repealed by Ord. #772, March 2011, and replaced by Ord. #784, May 2012)

12-312. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense, or the license of such person may be revoked, or both fine and revocation of license may be imposed. Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-313. [Deleted.] (as deleted by Ord. #784, May 2012)

CHAPTER 4

RESIDENTIAL CODE

SECTION

- 12-401. Residential code adopted.
- 12-402. Modifications.
- 12-403. Violations and penalty.
- 12-404. [Deleted.]

12-401. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code,¹ 2009 edition, with appendix G, exclusive of section R313.2, is adopted by reference as fully as if copied herein in its entirety and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the residential code.

One (1) copy of the residential code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #366, Nov. 1994, modified, as replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-402. Modifications. Wherever the residential code refers to the "Building Official," it shall mean the person appointed or designated by the mayor to administer and enforce the provisions of the residential code. Wherever the "Chief Appointing Authority" is referred to it shall mean the mayor. (Ord. #366, Nov. 1994, modified, as replaced by Ord. #784, May 2012)

12-403. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-404. [Deleted.] (as replaced by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, DC 20001.

CHAPTER 5

ENERGY CONSERVATION CODE¹

SECTION

- 12-501. Energy conservation code adopted.
- 12-502. Modifications.
- 12-503. Violations and penalty.
- 12-504. [Deleted.]

12-501. Energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the International Energy Conservation Code,² 2006 edition, and all subsequent amendments or additions to said code as prepared and adopted by International Code Council, are hereby adopted and incorporated by reference as a part of this code as fully as if herein copied verbatim hereinafter referred to as the energy conservation code.

One (1) copy of the energy conservation code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #366, Nov. 1994, modified, as replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-502. Modifications. When the "Code Official" is named it shall, for the purposes of the energy code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the energy code.

Within the energy conservation code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the named official shall be

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, DC 20001.

deemed to be the responsible official insofar as enforcing the provisions of the code are concerned. (Ord. #366, Nov. 1994, modified, as replaced by Ord. #784, May 2012)

12-503. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy conservation code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-504. [Deleted.] (as replaced by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

CHAPTER 6**PROPERTY MAINTENANCE CODE****SECTION**

- 12-601. Property maintenance code adopted.
12-602. Modifications.
12-603. Violations and penalty.
12-604. [Deleted.]

12-601. Property maintenance code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Property Maintenance Code,¹ 2009 edition, and all subsequent amendments or additions to said code as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as fully as if copied herein verbatim as a part of this code and are hereinafter referred to as the property maintenance code.

One (1) copy of the property maintenance code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #366, Nov. 1994, modified, as repealed by Ord. #772, March 2011, and replaced by Ord. #784, May 2012)

12-602. Modifications. Definitions. Wherever the property maintenance code refers to the "Codes Official" it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the property maintenance code. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the board of commissioners.

Within the property maintenance code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the named official shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned. (Ord. #379, July 1995, as repealed by Ord. #772, March 2011, and replaced by Ord. #784, May 2012)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, DC 20001.

12-603. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1973 Code, § 4-303, as amended by Ord. #366, Nov. 1994, repealed by Ord. #772, March 2011, and replaced by Ord. #784, May 2012)

12-604. [Deleted.] (as repealed by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

CHAPTER 7

MECHANICAL CODE¹

SECTION

12-701. Mechanical code adopted.

12-702. Modifications.

12-703. Violations and penalty.

12-704. [Deleted.]

12-705. [Deleted.]

12-701. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the International Mechanical Code,² 2009 edition, and all subsequent amendments or additions to said code as prepared and adopted by the International Code Council are hereby adopted and incorporated by reference as fully as if copied herein verbatim as a part of this code.

One (1) copy of the mechanical code shall be kept on file in the office of the city recorder for the use and inspection of the public. (1973 Code, § 4-201, as amended by Ord. #366, Nov. 1994, modified, and replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-702. Modifications. Wherever the mechanical code refers to the "Code Official," it shall mean the person appointed or designated by the mayor to administer and enforce the provisions of the mechanical code. (1973 Code, § 4-202, as amended by Ord. #366, Nov. 1994, modified, and replaced by Ord. #784, May 2012)

12-703. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein

¹Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, DC 20001.

adopted. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1973 Code, § 4-203, modified, as replaced by Ord. #784, May 2012)

12-704. [Deleted.] (1973 Code, § 4-204, as replaced by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

12-705. [Deleted.] (as repealed by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

CHAPTER 8

ACCESSIBILITY CODE¹

SECTION

- 12-801. Adoption.
- 12-802. Violation.
- 12-803. [Deleted.]
- 12-804. [Deleted.]
- 12-805. [Deleted.]

12-801. Adoption. Pursuant to authority granted by Tennessee Code Annotated, § 68-120-201, and for the purpose of requiring that any public building which is constructed, enlarged, or substantially altered or repaired shall be designed and constructed to make such building accessible to and useable by physically handicapped persons. The North Carolina Accessibility Code, Volume 1-C, 1996 edition with the 2002 and 2004 revisions, is hereby adopted and incorporated by reference as fully as if copied herein verbatim as a part of this Fairview Municipal Code, and is hereinafter referred to as the accessibility code.

One (1) copy of the accessibility code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #366, Nov. 1994, modified, as replaced by Ord. #772, March 2011, and Ord. #784, May 2012)

12-802. Violation. Any person who shall be adjudged to have violated any section of the accessibility code shall be guilty of a misdemeanor and shall upon conviction be liable to a fine, not to exceed fifty (\$50.00) dollars. Each day that a violation continues shall constitute a separate offense. (Ord. #366, Nov. 1994, modified, as replaced by Ord. #784, May 2012)

12-803. [Deleted.] (as replaced by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

12-804. [Deleted.] (as replaced by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16

Utilities and services: titles 18 and 19.

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12-21

12-805. [Deleted.] (as repealed by Ord. #772, March 2011, and deleted by Ord. #784, May 2012)

CHAPTER 9

[DELETED]

(as deleted by Ord. #784, May 2012)

CHAPTER 10

[DELETED]

(as deleted by Ord. #784, May 2012)

CHAPTER 11

[DELETED]

(as deleted by Ord. #784, May 2012)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. RULES AND REGULATIONS FOR THE MOVING OF BUILDINGS OR STRUCTURES.
3. NUISANCES.
4. TREE PLANTING AND PROTECTION.
5. SLUM CLEARANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Removal of vegetation, plants, or trees.
- 13-108. Adulterated food, drugs, and cosmetics.
- 13-109. Communicable diseases.
- 13-110. Spitting.
- 13-111. Violations and penalty.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the board of commissioners shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1973 Code, § 8-901)

13-102. 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. (1973 Code, § 8-905)

¹Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.
Toilet facilities in beer places: § 8-221(11).

13-103. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1973 Code, § 8-906)

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder, city manager, codes enforcement official or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1973 Code, § 8-907, as amended by Ord. #674, July 2007)

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 health officer and dispose of such animal in such manner as the health officer shall direct. (1973 Code, § 8-908)

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 offense 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. (1973 Code, § 8-909)

13-107. Removal of vegetation, plants, or trees. It shall be unlawful for any property owner to fail to comply with a written order of the codes enforcement officer or the chief of police to cut such vegetation, plants, or trees within ten (10) days from the date of notice, that are declared by this section to be dangerous, or a hazard to health. Failure on the part of such owner or tenant to cut or remove the vegetation, plants or trees as ordained in this section shall provide the necessary authority for the city to conduct such removal with the total cost of such work being assessed against the owner of such property in addition to any fine that may be levied under the general penalty clause. Any lot being mowed by the city will be charged at a rate determined by the city manager as the going rate for lawn service plus five dollars (\$5.00) administrative costs. (1973 Code, § 8-911)

13-108. Adulterated food, drugs, and cosmetics. It shall be unlawful and a violation of this section for any person to violate within the City of Fairview any provisions of the state food, drug, and cosmetic laws. (1973 Code, § 8-902)

13-109. Communicable diseases. When there exists or is suspected to exist in any household a communicable disease other than a venereal disease or a common childhood disease it shall be the duty of any attending physician and the head or other responsible person in such household possessing knowledge of the facts to immediately notify the health officer. The health officer shall thereupon make such investigation and issue such quarantine orders as may reasonably be necessary to protect the public health. It shall be unlawful for any person to violate any such orders of the health officer. (1973 Code, § 8-903)

13-110. Spitting. It shall be unlawful for any person to spit upon any public street or sidewalk or upon the floors or walks of any public place. (1973 Code, § 8-910)

13-111. Violations and penalty. Violations of this chapter shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

**RULES AND REGULATIONS FOR THE MOVING OF BUILDINGS
OR STRUCTURES****SECTION**

- 13-201. Permit required.
- 13-202. Application for permit.
- 13-203. Rejection of application.
- 13-204. Bond required.
- 13-205. Notices required.
- 13-206. Public safety requirements.
- 13-207. Additional requirements for relocation of any building or structure within the City of Fairview.
- 13-208. Fee.
- 13-209. Exemptions.
- 13-210. Violations.

13-201. Permit required. No building or structure shall be moved through or across any street or highway within the City of Fairview without first obtaining a permit from the building inspector. (1973 Code, § 5-501)

13-202. Application for permit. Applicants for a permit under this chapter must first file with the building inspector a written application setting forth the following information:

- (1) Type and kind of building or structure to be moved.
 - (2) The extreme dimensions of the length, height and width of the building or structure.
 - (3) The structure's present location and proposed new location.
 - (4) The approximate time such building or structure will be upon the streets, and contemplated route that will be taken from present to new location.
- (1973 Code, § 5-502)

13-203. Rejection of application. The building inspector shall reject any application for permit, the permit shall not be issued and the building or structure shall not be moved over the streets or highways of the City of Fairview if, in his/her opinion:

- (1) The moving of any building or structure will cause serious injury to persons or property, or;
- (2) The moving of any building or structure will cause serious injury to the streets or other public improvements, or;
- (3) The building or structure to be moved has deteriorated more than fifty percent (50%), or;

(4) The moving of the building or structure will violate any of the requirements of the building or plumbing code or of the zoning regulations. (1973 Code, § 5-503)

13-204. Bond required. Prior to the issuance of such permit, the building inspector shall require the person desiring such permit to execute a bond with corporate surety to the building inspector's satisfaction.

(1) Such bond shall be made payable to the City of Fairview and for such amount as the building inspector prescribes.

(2) Such bond shall indemnify the City of Fairview against any damage caused by the moving of such building or structure to streets, curbs, sidewalks, shade trees, highways and any other property which may be affected by the moving of a building or structure.

(3) Such surety bond shall be conditioned upon liable for strict compliance with the terms of said permit, as to route to be taken and limit of time in which to effect such removal and to repair or compensate for the repair and to pay said applicable governing body as liquidated damages an amount to be prescribed by the building inspector not exceeding fifty dollars (\$50.00) for each and every day's delay in completing such removal or in repairing any damages to property or public improvement or in clearing all public streets, alleys or highways of all debris occasioned thereby.

(4) The mover shall have liability insurance of one million dollars (\$1,000,000.00) or more. Evidence of such insurance shall be furnished to the building inspector's office prior to moving any building or structure. (1973 Code, § 5-504)

13-205. Notices required. Upon the issuance of such permit, the mover shall cause notice to be given to the sheriff's office, all telephone or light companies and all other whose property may be affected by such move. Receipt of such and any instructions, comments or notices shall be furnished by the mover to the building inspector before the building or structure is moved. (1973 Code, § 5-505)

13-206. Public safety requirements. (1) The owner or person moving a building or structure shall employ at their expense, two vehicles with safety equipment notices and flashing devices to be placed before and after the structure being moved to divert and caution traffic.

(2) No building or structure shall be moved before 10:00 P.M. or after 6:00 A.M. All buildings or structures shall be moved to their final location in a time period not to exceed five days after the building or structure has either been moved from its original location or has entered the City of Fairview.

(3) Every building or structure shall have sufficient lights continuously burning between sunset and sunrise for the protection of the public.

(4) There shall be a minimum of five (5) red lights on each street side of the building or structure; such red lights shall be attached to the building or structure in such a fashion as to indicate extreme width, height and size.

(5) The owner or person moving the building or structure shall obtain all necessary permits and meet all requirements of the State of Tennessee as defined in Tennessee Code Annotated, title 55. (1973 Code, § 5-506)

13-207. Additional requirements for relocation of any building or structure within the City of Fairview. (1) No permit to move any building or structure to a location within the City of Fairview shall be issued until the building board of adjustments and appeals finds, after a public hearing, that the building or structure is structurally sound, that the condition of the building or structure does not constitute a hazard to life or limb, and that the building or structure shall be made to comply with the requirements and limitations of the regulations relating to the zoning and building codes of the City of Fairview.

(2) Notice of hearing. Notice of the public hearing shall be mailed to the owner of the building or structure being moved, the owner of the site to which the building or structure is to be moved and all land owners adjacent to and across the road from the property where the building or structure is being moved not less than five (5) days prior to the hearing by the person applying for the permit.

(3) Plans required. Plans shall be submitted which disclose such alterations, modifications or repairs as are necessary to ensure compliance with the regulations relating to zoning and building or structure codes of the City of Fairview. Also, a timetable of such repairs and alterations shall be submitted.

(4) Plans for restoration of original site. If applicable, plans to restore the site from which the building or structure is moved must be submitted by the owner and approved by the building board of adjustments and appeals.

(5) Time for compliance. The time to bring the structure into conformance with the City of Fairview standards shall not exceed 120 days. However, the building board of adjustments and appeals may extend the time limit, upon appeal by the owner of the structure for cause, to whatever time it feels is necessary. (1973 Code, § 5-507)

13-208. Fee. The fee shall be twenty-five dollars (\$25.00) for moving any building or structure or part of any building or structure through the City of Fairview, or removal from the City of Fairview to be relocated outside the City of Fairview, or relocation of any building or structure within the City of Fairview. (1973 Code, § 5-508)

13-209. Exemptions. The terms of this chapter shall not be applicable to trailers with widths of fourteen feet (14') or less and any building or structure used for agricultural or storage purposes with widths of less than fourteen feet (14'). (1973 Code, § 5-509)

13-210. Violations. (1) Causing damage to private property. No firm, partnership, corporation or any other individual moving any building or structure, or part of any building or structure through, into, or out of the City of Fairview, shall deface, injure, or destroy private property in the City of Fairview.

(2) Penalties. Any company, firm, partnership, corporation or any individual who violates § 13-210(1) of this chapter shall be guilty of a misdemeanor with original jurisdiction in general sessions court for Williamson County, Tennessee, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each separate offense or incident. (1973 Code, § 5-510)

CHAPTER 3

NUISANCES

SECTION

- 13-301. Definition of "nuisance."
- 13-302. Duty of maintenance of private property.
- 13-303. Exterior storage of inoperable automobiles prohibited.
- 13-304. Abatement of nuisance by owners.
- 13-305. Abatement by city.
- 13-306. Enforcement.
- 13-307. Violations.

13-301. Definition of "nuisance." For the purposes of this chapter, the term, "nuisance" is defined to mean any condition or use of residential or commercial premises or building exteriors within the corporate limits of the City of Fairview, which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises (except in licensed junkyards) of any of the following, such actions being hereby declared to be nuisances:

- (1) Lumber, junk, paper, trash or other debris;
- (2) Abandoned, discarded or unused and non-operating objects or equipment such as furniture, stoves, refrigerators, freezers, cans, or containers.
- (3) Exterior storage of inoperable vehicles under § 13-303. (1973 Code, § 8-501, as amended by Ord. #389, Dec. 1995)

13-302. Duty of maintenance of private property. No person owning, leasing, occupying or having charge of any residential or commercial premises shall maintain or keep any nuisances thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. (1973 Code, § 8-502)

13-303. Exterior storage of inoperable automobiles prohibited.

- (1) Definitions. (a) "Inoperable vehicles." Any motor vehicle which cannot be operated lawfully on a public street or highway within the state for any reason other than the lack of current vehicle registration, or which cannot be moved under its own power.
 - (b) "Motor vehicle." Any vehicle which is self-propelled and any device in, upon, or by which any person or property is or may be transported from one location to another, excepting devices moved only by human power.

(c) "Screened from ordinary public view." In a manner which does not constitute a health hazard, attract children, rodents, or pests, and not visible from any public street or road, from private adjacent properties, because of a suitable fence, trees, shrubbery, or opaque covering at least 8 to 12 feet in height. "Suitable fencing" means attractive and well maintained fencing.

(d) "Dismantling licensed shop." An entity licensed by the State of Tennessee engaged in the business of recovering parts for resale from automobiles and trucks which have been wrecked or otherwise rendered inoperable as transportation vehicles; and/or an entity reducing used automobiles and trucks to a condition capable of salvage for metal scrap or scrap processors.

(e) "Impound shops." An entity that operates a tow truck in order to transport vehicles impounded by law enforcement officials and that holds said vehicles for owners, adjusters, or other similar persons.

(2) Dismantling licensed shop. A person shall not keep, store, park, maintain or otherwise permit for a period of more than ten (10) days any inoperable vehicle on private property in connection with the business of a licensed dismantler unless screened from ordinary public view.

(a) Site plan approval. In all cases where a structure (as defined in the Fairview Zoning Ordinance¹) is to be erected, the person under this subsection shall obtain site plan approval and obtain a proper permit under the guidelines in 3.120 and 9.030 of the Fairview Zoning Ordinance.¹

(b) Amortization. Those persons currently operating a licensed dismantling shop shall have a grace period of six (6) months from the day of enactment of Ord. #389, in which to be potentially liable with regards to that person's current place of orientation.

(3) Impound shop. A person shall not keep, store, park, maintain or otherwise permit for a period of more than thirty (30) days any inoperable vehicle on private property in connection with the business of an impound shop unless screened from ordinary public view.

(a) Site plan approval. In all cases where a structure (as defined in the Fairview Zoning Ordinance¹) is to be erected, the person under this subsection shall obtain site plan approval and obtain a proper permit under the guidelines in 3.120 and 9.030 of the Fairview Zoning Ordinance.¹

(b) Amortization. Those persons currently operating an impound shop shall have a grace period of six (6) months from the day of

¹The Fairview Zoning Ordinance is of record in the recorder's office.

enactment on Ord. #389, in which to be potentially liable with regards to that person's current place of operation.

(4) Individual residences and businesses. Individuals or businesses other than dismantling licensed shops or impound shops shall not keep, store, park, maintain or otherwise permit two or more inoperable, unlicensed vehicles. (Ord. #389, Dec. 1995)

13-304. Abatement of nuisance by owners. The owners, tenants, lessees and/or occupants of any lot within the corporate limits of this city upon which such storage is made, and also the owners and/or lessees of said personalty involved in said storage (all of whom are hereinafter referred to collectively as "owners") shall jointly and severally abate said nuisance by the prompt removal of said personalty into completely enclosed buildings authorized to be used for such storage purposes, if within the corporate limits of this city, or otherwise to remove it to a location without said corporate limits. (1973 Code, § 8-504)

13-305. Abatement by city. Whenever said owners fail to abate said nuisance, then the city shall remove the said personalty to a location of its selection, the expenses therefor to be billed to said owners, jointly and severally, said bill to be recoverable in a suit at law.

Then said personalty has been removed and placed in storage by the city, as provided for herein, said personalty shall be sold by the city after the lapse of such time as is provided by law. If the proceeds of such sale are insufficient to pay the costs of abatement, said owner shall be liable to the city for the balance of the costs, jointly and severally, to be recoverable in a suit at law. If the proceeds are in excess of costs, the balance shall be paid to the said owners or deposited with the city recorder for their use. (1973 Code, § 8-505)

13-306. Enforcement. Enforcement of this chapter may be accomplished by the city in any manner authorized by law, and in addition, any person who by reason of another's violation of any provision of this chapter, suffers special damage to himself different from that suffered by other property owners throughout the city generally, may bring an action to enjoin or otherwise abate an existing violation. (1973 Code, § 8-506)

13-307. Violations. Any person who shall violate any of the provisions of this chapter, shall be guilty of a misdemeanor, and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist. (1973 Code, § 8-507)

CHAPTER 4

TREE PLANTING AND PROTECTION¹

SECTION

- 13-401. Title.
- 13-402. Purpose, intent, and definitions.
- 13-403. Establishment of a tree commission.
- 13-404. Duties of the tree commission.
- 13-405. Qualifications of the city arborist.
- 13-406. Duties of the city arborist.
- 13-407. Authority of the city arborist.
- 13-408. Appeal from the decision of the tree commission.
- 13-409. Community tree plan.
- 13-410. Permits required.
- 13-411. Tress on private property.
- 13-412. Tree protection plan.
- 13-413. Abuse of public trees.
- 13-414. Interference with city arborist.
- 13-415. Protection of municipal trees.
- 13-416. Placement of materials on public property.
- 13-417. Enforcement, penalty, and appeals.
- 13-418. Administration guidelines.
- 13-419. Appeal from the decision of the tree commission.
- 13-420. Tree protection plan.
- 13-421. Trees list for initial planting or replacement planting.

13-401. Title. This chapter shall be known and may be referred to as the tree ordinance, for the City of Fairview, Tennessee. (Ord. #409, April 1997, as replaced by Ord. #501, May 2001; Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-402. Purpose, intent, and definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Community tree plan" shall mean written documents that guide the work of the tree commission.

(2) "City arborist" is a person appointed by the Fairview, Tennessee, Board of Commissioners and is a non-voting consultant to the tree commission. The city arborist shall carry out the administration of this chapter, with the exception of the tree protection plan. The city arborist shall serve at the

¹Ord. #409 (April 1997) also provided that "the official city tree shall be the Red Maple."

convenience of the board of commissioners who may replace the city arborist at anytime by a majority vote of the board of commissioners.

(3) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind. The City of Fairview, Tennessee is expressly excluded and not included as a person, firm, partnership, association, corporation, company, or organization of any kind as it relates to the cutting, pruning, or removal of any and all trees in the public rights-of-way or public domain, which may constitute a safety hazard or for any reason need to be removed by the City of Fairview, Tennessee. It being the intent of this definition to reserve solely and exclusively to the City of Fairview, Tennessee the sole and absolute right to prune, trim or remove, as the city in its absolute discretion sees fit, all trees in the city right of way and any tree in the public domain which might be a safety hazard or need removing for any reason by the City of Fairview, Tennessee.

(4) "Street or highway" means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular and pedestrian traffic.

(5) "Public places" shall include all property owned by the city or other governmental entity.

(6) "Property line" shall mean the outer edge of a street or highway right-of-way (R.O.W.).

(7) "Treelawn (R.O.W. edge)" is that portion of a street or highway, not covered by sidewalk or other paving, lying between the property line and the edge of the street.

(8) "Public trees" shall include all trees now or hereafter growing on any street or on any public land unless otherwise indicated. Tree sizes are defined as follows:

(a) "Large trees" are designated as those attaining a height of forty-five (45) feet or more with a mature spread of forty (40) feet or more.

(b) "Medium trees" are designated as those attaining a height of thirty (30) feet to forty-five (45) feet with a mature spread of thirty (30) feet or more.

(c) "Small trees" are designated as those attaining a height of twenty (20) to thirty (30) feet with a mature spread of 20 feet or more.

(9) "Property owner" shall mean the person owning such property as shown by the city tax roll.

(10) "Urban forest" shall mean the collection of trees, shrubs, other vegetation and associated natural features that make up the tree canopy and its growing zone.

(11) "Drip line" shall mean a vertical line extending from the outermost portion of the tree canopy to the ground.

(12) "Tree protective zone" shall mean the area around a tree corresponding to the drip line plus one third of that diameter, in all directions

from the truck. (as added by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-403. Establishment of a tree commission. There shall be a commission to be known and designated as the "tree commission."

(1) The tree commission shall be composed of seven (7) voting members, all citizens of the city. All members should have experience or knowledge of trees or gardening.

(a) Four (4) members shall be appointed by the mayor, with approval of the board of commissioners. The mayor, vice mayor, and chairman of the planning commission shall serve as the other three (3) members.

(b) Of the four (4) members initially appointed by the mayor, one shall be a local contractor/developer. The four (4) shall be appointed to terms as follows: two (2) for two (2) years, one for three (3) years, and one (1) for four years.

(c) Successors to those initial members shall be appointed for terms of three (3) years. Vacancies caused by death, resignation, or otherwise, shall be filled for the unexpired term in the same manner as original appointments are made.

(d) All members shall serve without pay.

(e) The tree commission will submit all proposals for the community tree to the board of commissioners for approval.

(f) Any contract for service or expenditure of city funds shall be submitted to the board of commissioners for approval, prior to commitment. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003, and Ord. #557, Oct. 2003; and amended by Ord. #565, Feb. 2004, and Ord. #662, March 2007)

13-404. Duties of the tree commission. The duties of the tree commission shall be as follows:

(1) To review and hear applications for and determine by vote the granting or denial of permits regulating the planting, pruning, maintenance, and removal of trees on streets and other publicly owned property. Appeals regarding the decisions of the tree commission may be made to the Fairview Board of Commissioners. (See Appendix-item A)¹

¹Appendix-item A has been added to this chapter as § 13-419.

(2) To review all tree protection plan proposals, relating to subdivision development and site development plans, for submission to the planning commission for review. (See appendix-item B)¹ All other tree commission recommendations shall pass directly to the board of commissioners for approval.

(3) To compose and annually review a community tree plan that shall include but not be limited to such elements as an authorized tree specimen list; a tree protection plan, including a tree replacement schedule; and a city tree bank.

(4) To study the urban forest including problems involving the city tree population and seek ways to implement needed work.

(5) To assist the properly constituted officials of the city, as well as citizens and community groups, in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the city limits, whether they are on private or public property.

(6) To provide regular and special meetings at which citizens of the city may discuss the subject of the urban forest.

(7) To encourage and promote the City of Fairview as a tree-friendly city by means of education, public relations, and public programs.

(8) To engage in any other lawful activity in pursuit of the mission of this commission which may benefit the urban forest, including but not limited to such activities as:

(a) Apply for tree city status with the National Arbor Day Foundation.

(b) Conduct seminars and public education programs.

(c) Plan and coordinate an annual Arbor Week Observance.

(d) Develop a community forest preserve.

(e) Organize community tree planting projects.

(f) Establish a heritage tree program.

(9) Operating procedures of the tree commission. (a) Within sixty (60) days after the appointment of the tree commission, the commission shall meet and organize by the election of a chairman, vice-chairman, and standing committee chairs, as needed.

(b) A majority of the members shall constitute a quorum for the transaction of business.

(c) The tree commission shall provide for the adoption of rules and procedures and for the holding of regular and special meetings, as said commission shall deem advisable and necessary in order to perform the duties set forth.

(d) A journal of the proceedings and activities is to be recorded and maintained by the City of Fairview.

¹Appendix - item B has been added to this chapter as § 13-420.

(10) Meetings. The "tree commission" shall meet for its regular meeting on the first Tuesday of the month only upon the call of the tree commission chairman or, in the absence of the tree commission chairman, upon the call of the vice chairman.

(a) The chairman or vice chairman when appropriate shall issue the call for all regular meeting(s) to the person responsible for the keeping of the minutes of the committee meetings. Upon receiving the call for a regular meeting of the tree commission, the person responsible for the keeping of the minutes of the tree commission meetings shall prepare the meeting agenda and deliver a printed copy of the call for the meeting and the agenda for said meeting to all tree commission members and the city manager. Copies of the call for the commission's regular meeting and the agenda shall be either hand delivered or electronically delivered with acknowledgment for all electronically delivered documents acknowledged by the receiver to the sender. Regular meetings notices and agenda must be delivered to all parties at least seven (7) days prior to the regularly scheduled commission meeting.

(b) Upon receipt of the call for a regularly scheduled meeting of the tree commission and the agenda for the said meeting, the city manager shall post or cause to be posted both documents in a conspicuous place in the Fairview City Hall for the public to observe. The city manager shall further cause both documents to be posted on the City of Fairview's web page.

(c) Special meetings of the tree commission may be called if deemed necessary by the tree commission chairman or in his/her absence by the vice chairman or by any two (2) tree commission members. The notification process to the person responsible for preparing the agenda and delivering notice shall be as outlined in subsection (a) of this section except the notice shall be delivered to the afore listed parties not less than twelve (12) hours before the call for the special meeting. The city manager shall take the same actions relative to public notice as outlined in subsection (b) of this section. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003, and amended by Ord. #768, Sept. 2010)

13-405. Qualifications of the city arborist. The city arborist shall be a person skilled or trained in forestry, horticulture or other closely related field. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-406. Duties of the city arborist. The city arborist shall have the following duties:

(1) The city arborist shall administer the rules governing the planting, maintenance and removal of trees on the street or other public sites in the city.

(2) The city arborist shall report to the tree commission on a regular basis and shall be in attendance at all regular and special meetings of the tree commission, tree commission subcommittees or other community meetings as designated by the chairman. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-407. Authority of the city arborist. Pursuant to the deliberations of the tree commission the city arborist shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned trees, to insure safety and to protect and preserve the City of Fairview urban forest. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-408. Appeal from the decision of the tree commission. (See Appendix - item A)¹ (as added by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-409. Community tree plan. The commission shall have the authority to formulate a community tree plan (See Appendix - item D)² with the advice of consultants, city, state and federal agencies, public hearings, and approval of the board of commissioners.

The community tree plan shall include, but not be limited to, the goals and mission of the tree commission; standard tree maintenance and planting specifications and permit application procedures; an authorized tree specimen list indicating types of trees and procedures for planting on city property; a tree protection plan, including a tree replacement schedule to regulate, not only any public trees, but also any site that requires a development contract or a site development agreement; and policies and procedures for establishing and maintaining a city tree bank to be used to provide landscaping on publicly owned City of Fairview property. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-410. Permits required. The following permits are required with respect to trees on public property:

¹Appendix-item A has been added to this chapter as § 13-419.

²Appendix-item D provides: "D Community Tree Plan To Be Developed."

(1) Planting, pruning, maintenance, and removal. (a) No person shall plant, spray, fertilize, prune, or remove, or otherwise disturb any tree on any street or municipal owned property without first procuring a permit from the tree commission. To insure the life, health, and aesthetic value of publicly owned trees, "tree topping" pruning is strictly prohibited where the City of Fairview has jurisdiction.

(2) Planting permit. (a) When making application for a planting permit on public property the person shall illustrate the number and types of trees or other plants to be planted.

(b) Whenever any tree shall be planted on public land it shall be planted, fertilized, staked, watered and mulched in accordance with proper planting specifications issued by the city arborist.

(3) Maintenance permit. When making application for a maintenance permit the person shall state the number and kinds of trees to be sprayed, fertilized, pruned or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the city arborist shall find reasonably necessary.

(4) Removal and replacement permit. When making application for a tree removal permit, the city codes department shall notify the arborist. Within ten (10) calendar days, the city arborist, shall visit the site and inventory the number and kinds of trees to be removed, their size, locations, health/age condition, recommend the method of removal, and provide such other information as the tree commission shall find reasonably necessary to make a fair determination of whether a permit should be issued.

(5) Construction permit. No person shall change any natural drainage, excavate any ditches, tunnels, trenches, or lay any drive, within a radius of ten (10) feet of any public tree, without first obtaining a permit from the tree commission. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-411. Trees on private property. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct views of any street or alley intersection.

It shall be the duty of any person owning or occupying real property, bordering on any street, park or other public land, on which there may be trees that are diseased or insect infested, to remove, spray or treat such trees in such manner that they will not infect or damage nearby public vegetation or cause harm to the community or citizens therein.

The tree commission may order trees on private land that cause obstruction, represent an insect or disease problem or otherwise present a

danger to public health or safety, to be pruned, removed or treated, at owner's expense. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-412. Tree protection plan. (See Appendix - item B)¹ The enforcement of the tree protection plan shall be the responsibility of the City of Fairview Codes Department. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-413. Abuse of public trees. No person shall intentionally damage, cut, carve, transplant, or remove any public tree, attach any rope, wire nails, advertisements, posters, or other contrivance to any public tree, allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with them, or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-414. Interference with city arborist. No person shall hinder, prevent, delay, or interfere with the city arborist while engaged in carrying out the provisions of this chapter. (Ord. #409, April 1997, as renumbered and replaced by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

¹Appendix-item B has been added to this chapter as § 13-420.

13-415. Protection of municipal trees. (See Appendix - item C)¹ (as added by Ord. #501, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-416. Placing materials on public property. No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, fertilizer to the roots of any tree growing therein. Sunlight to any public tree can not be permanently blocked by placement of materials without written authorization of the city arborist. (as added by Ord. #501, Appendix A, May 2001, and replaced by Ord. #528, Oct. 2002; Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-417. Enforcement, penalty, and appeals. Any person violating or failing to comply with provisions of this chapter, with respect to public trees, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined fifty (\$50) per tree for the first offense, up to \$500 per tree for the second offense, and up to \$1,000 per tree for all subsequent offenses, plus court cost for each offense. Any fine collected will go to the City of Fairview Tree Bank. (as added by Ord. #528, Oct. 2002; and replaced by Ord. #552, Sept. 2003; and Ord. #557, Oct. 2003)

13-418. Administrative guidelines. (1) Permits may be applied for as set forth below:

¹Appendix - item C provides:

"C Protection of Municipal Trees.

All public trees shall be protected during demolition or construction.

1. All trees on any street or other publicly owned property near any demolition, excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box. The "Construction Tree Guard" shall be not less than four (4) feet high and eight (8) feet square, (or a distance in feet from the tree trunk, equal to the diameter of the trunk, at DBH), whichever is greater. All building material, dirt, or other debris shall be kept outside the Construction Tree Guard.
2. No person shall change natural drainage, excavate any ditches, tunnels, trenches, or lay any drive, within a radius of ten (10) feet from any public tree without first obtaining a written permit from the Tree Commission."

(a) Application for permits must be made to the Fairview City Codes Department, not less than two calendar weeks in advance of the time the work is to be done.

(b) Standards of issuance. Determined by a majority vote of its members, the tree commission shall issue the permit provided for herein if the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit shall be void if its terms are violated.

(c) Notice of completion shall be given within five (5) days to the city arborist for his inspection. (as added by Ord. #528, Oct. 2002, and replaced by Ord. #552, Sept. 2003, and Ord. #557, Oct. 2003)

13-419. Appeal from the decision of the tree commission. (1) If the request for permit is denied, the tree commission will reduce its findings and reasons for denying the permit to a short concise statement. The findings of the tree commission shall be entered into the minutes. An exact copy of the finding of the commission shall be delivered to the person who applied for the permit and whose request was denied.

(2) The person whose request for a permit was denied by the tree commission may appeal to the board of commissioners. The board of commissioners will at the next regularly scheduled meeting (or at a special meeting if properly requested) consider all findings presented from the tree commission and render a decision relative to the permit requested.

(3) The board of commissioners shall allow the person who requested the permit, the arborist and the chairman of the tree commission chairman (or their designated representative) to speak for a time period not to exceed five (5) minutes relative to the permit which has been appealed. Each of the speakers may speak only to add emphasis or clarify existing documented evidence previously included in statements and minutes of previous proceedings. No new evidence may be presented at this hearing. (as added by Ord. #557, Appendix-item A, Oct. 2003)

13-420. Tree protection plan. A "tree protection plan" shall be required for any site that requires a development contract or a site development agreement.

(1) General. A tree protection plan for the site shall be prepared by a certified arborist, licensed surveyor, landscape architect, architect, or engineer, and shall include the following:

(a) Location, size, and variety of all trees with four (4) inch or greater DBH

(b) The tree protection plan shall be signed and stamped by the person preparing the plan. The plan shall accompany the preliminary plat of the site.

(2) No clearing, grading or tree removal prior to plan approval. Prior to any clearing, grading or removal of trees from any applicable site, a tree protection plan shall have been reviewed by the tree commission and approved by the planning commission.

(a) The tree protection plan will ensure that the clearing/grading/and/or removal of trees will be performed in accordance with good flood, erosion and sedimentation control practices.

(3) Tree protection during clearing, grubbing and development.

(a) Prior to any site work, the developer/contractor, must erect a temporary barricade of orange NET fencing, having a minimum height of four (4) feet. The fencing will be supported with 4" x 4" post, placed every three (3) feet. The post shall be four (4) feet high and set deep enough in the ground to be stable without additional support.

(b) The protective barricade shall be placed a minimum distance of ten (10) feet from the base of each tree that is four (4) caliper inches DBH or more. For trees greater than ten (10) caliper inches DBH, the protective barricade shall provide a diameter of protection around the tree, in feet, equal to the DBH of the tree (i.e. a 24-inch tree would require a 24-foot protective barrier.)

(c) Nothing shall be placed inside the protective barrier, including but not limited to construction material, machinery, chemical, or temporary soil deposits. When paving, excavation, or hardscape must be done within the barricades, the barricades shall be moved back to a secondary location at the edge of work. Extra care must be taken by the contractor to insure that no damage occurs to the tree or its roots.

(d) Utilities shall not be installed in this tree protection area, UNLESS TRENCHING PLAN IS APPROVED BY THE CITY ENGINEER.

(e) Equipment access, material storage, fuel tanks, chemicals or cement rinsing, vehicle parking and site office location shall be limited to nontree areas.

(f) No trash or debris shall be burned beneath tree.

(g) Grading, filling, and ditching in the tree protection area is prohibited.

13-421. Tree list for initial planting or replacement planting. The following "City of Fairview, Tennessee, trees list" is adopted as the approved tree(s) for initial planting and or replacement of trees within the corporate boundaries of the City of Fairview, Tennessee.

Canapy Trees - Large	
Acer leucoderme - Chalk Maple	Nyssa sylvatica v. sylvatica- Black Gum
Acer rubrum - Red Maple	Oxydendrum arboreum - Sourwood
Acer saccharum - Sugar Maple	Pinus strobus - White Pine
Aesculus flava (A. octandra) - Yellow Buckeye	Pinus taeda - Loblolly Pine
Aesculus glabra - Ohio Buckeye	Pinus virginiana - Virginia Pine
Betula nigra - River Birch (species & cultivars)	Platanus occidentalis - Sycamore
Carya glabra - Pignut Hickory	Quercus alba - White Oak
Carya laciniosa - Shellbark Hickory	Quercus bicolor - Swamp White Oak
Carya ovata - Shagbark Hickory	Quercus coccinea - Scarlet Oak
Carya tomentosa - Mockernut Hickory	Quercus falcata - Southern Red Oak
Castanea alnifolia - American Chestnut	Quercus imbricaria - Shingle (laurel) Oak
Catalpa speciosa	Quercus lyrata - Overcup Oak
Crataegus crusgalii - Cockspur Hawthorn	Quercus macrocarrpa - Burr Oak
Crataegus phaenopyrum- Washington Hawthorn	Quercus marilandica - Blackjack Oak
Crataegus viridis - Green Hawthorne	Quercus michauxii - Swamp Chestnut Oak
Diospyros virginiana - Persimmon	Quercus muhlenburgii - Chinkapin Oak
Fagus grandifolia - American Beech	Quercus nuttallii - Nuttall Oak
Fraxinus americana - White Ash	Quercus pagoda - Cherrybark Oak
Fraxinus pennsylvanica - Green Ash	Quercus palustris - Pin Oak
Fraxinus quadrangulata - Blue Ash	Quercus phellos - Willow Oak
Gymnocladus dioicus - KY Coffeetree	Quercus prinus - Chestnut Oak
Ilex opaca - American Holly	Quercus rubra - Northern Red Oak
Juglans cinerea - Butternut	Quercus shumardii - Shumard Oak
Juniperus virginiana - Eastern Red Cedar	Quercus velutina - Black Oak
Liquidamber styraciflua - Sweetgum	Robinia pseudacacia - Black Locust (cultivars only)
Liriodendron tulipifera - Tulip Poplar	Taxodium distichum - Bald Cypress
Magnolia acuminata - Cucumber Magnolia	Tilia americana - Basswood
Magnolia grandiflora - Southern Magnolia	Tsuga canadensis - Canadian Hemlock
Magnolia macrophylla - Bigleaf Magnolia	Tsuga caroliniana - Carolina Hemlock
Magnolia tripetala - Umbrella Magnolia	Ulmus alata - Winged Elm
Magnolia virginiana - Sweetbay Magnolia	Ulmus serotina - September Elm

Cultivars for all species listed will also be considered.

<u>Understory Trees - Small</u>	
Amelanchier sp. - Serviceberry	Halesia diptera magniflora - Two-winged Silverbell
Aralia spinosa - Devil's Walking Stick	Hamamelis virginiana - Witchhazel
Asimina triloba - Pawpaw	Ilex decidua - Possomhaw
Carpinus caroliniana - American Hornbeam	Ostrya virginiana - Ironwood/Hophornbeam
Castanea pumila - American Chinkapin	Prunus americana - American Plum
Cercis canadensis - Redbud	Prunus serotina - Wild Black Cherry
Chionanthus virginicus - Fringetree	Ptelea trifoliata - Wafer Ash / Hoptree
Cladrastis kentuckea - Yellowwood	Rhamnus caroliniana - Carolina Buckthorn
Cornus florida - Dogwood	Rhus coppalina - Shining Sumac
Cornus foemina - Swamp Dogwood	Rhus glabra - Smooth Sumac
Cotinus obovatus - American Smoketree	Rhus typhina - Staghorn Sumac
Halesia carolina - Carolina Silverbell	Viburnum prunifolium - Blackhaw Viburnum
Halesia diptera magniflora - Two-winged Silverbell	Viburnum rufidulurn - Rusty Blackhaw

Cultivars for all species listed will also be considered. (as added by Ord. #654, Jan. 2007)

CHAPTER 5

SLUM CLEARANCE

SECTION

- 13-501. Findings of board.
- 13-502. Definitions.
- 13-503. "Public officer" designated; powers.
- 13-504. Initiation of proceedings; hearings.
- 13-505. Orders to owners of unfit structures.
- 13-506. When public officer may repair, etc.
- 13-507. When public officer may remove or demolish.
- 13-508. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-509. Basis for a finding of unfitness.
- 13-510. Service of complaints or orders.
- 13-511. Enjoining enforcement of orders.
- 13-512. Additional powers of public officer.
- 13-513. Powers conferred are supplemental.
- 13-514. Structures unfit for human habitation deemed unlawful.

13-501. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city commission finds that there exists in the city structures which are unfit for human occupation or use 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 city. (as added by Ord. #777, Oct. 2011)

13-502. 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 city commission charged with governing the city.

(3) "Municipality" shall mean the City of Fairview, Tennessee, and the areas encompassed within the existing corporate city limits or as hereafter annexed.

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

(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 city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(8) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 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. (as added by Ord. #777, Oct. 2011)

13-503. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building official of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building official. (as added by Ord. #777, Oct. 2011)

13-504. 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 city 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. (as added by Ord. #777, Oct. 2011)

13-505. 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. (as added by Ord. #777, Oct. 2011)

13-506. 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." (as added by Ord. #777, Oct. 2011)

13-507. 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. (as added by Ord. #777, Oct. 2011)

13-508. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of Williamson County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be 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. In addition, the city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city 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, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Williamson 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 City of Fairview, Tennessee to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #777, Oct. 2011)

13-509. 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 or 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 City of Fairview, Tennessee. 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. (as added by Ord. #777, Oct. 2011)

13-510. 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 printed and published in the city. 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 Williamson County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #777, Oct. 2011)

13-511. 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. (as added by Ord. #777, Oct. 2011)

13-512. 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 city 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 and in compliance with legal requirements for gaining entry;

(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. (as added by Ord. #777, Oct. 2011)

13-513. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city 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. (as added by Ord. #777, Oct. 2011)

13-514. Structures unfit for human habitation or use deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation or use 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 city. Violations of this section shall subject the offender to a penalty of fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #777, Oct. 2011)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Removal for cause.

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 nine (9) members; two (2) of these shall be the mayor or a person designated by the mayor, and another commissioner selected by the board of commissioners; the other seven (7) members shall be appointed by the board of commissioners. All members of the planning commission shall serve as such with their compensation to be set by resolution of the board of commissioners. Except for the initial appointments, the terms of the seven (7) members appointed by the board of commissioners shall be for three (3) years each. The seven (7) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), five (5) six (6) and seven (7) years respectively so that the terms of members expire each year. The terms of the mayor and the commissioner selected by the board of commissioners shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the board of commissioners, which shall also have the authority to remove any appointive member at its will and pleasure. (1973 Code, § 11-101, as amended by Ord. #589, Sept. 2004, and Ord. #661, March 2007)

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. (1973 Code, § 11-102)

14-103. Removal for cause. Any member of the planning commission, the board of zoning appeals or the board of adjustment and review, whose term

is not expired may be removed from office by the Fairview City Commission and a replacement for the unexpired term may be appointed, upon three (3) successive absences by the member from regularly scheduled or specially called meetings. (1973 Code, § 11-103, as amended by Ord. #660, March 2007)

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 City of Fairview shall be governed by Ordinance #134, titled "Zoning Ordinance, Fairview, Tennessee," and any amendments thereto.¹

14-202. Violations and penalty. Violations of the zoning ordinance shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

14-203. Fees to be charged to defray costs of administering zoning ordinance. The following fee schedules are established to partially defray the processing and administrative costs associated with each type of application required in the zoning ordinance. All fees are to be paid at the time of filing. Fees shall be waived for the following:

- (1) Applications initiated by any federal or state agency or any department of the City of Fairview or the County of Williamson; and
- (2) Any changes in zoning initiated by the planning commission and board of commissioners to implement the general plan. (Ord. #453, Feb. 1999)

14-204. Schedule of Fees. Development review fees are as follows:

- (1) Subdivisions, including re-approvals.
 - (a) Preliminary plat \$100 + \$20 per acre
+ \$5 per lot
 - (b) Final plat \$25 + \$5 per lot
(major and minor)
 - (c) Re-approval \$25
- (2) Planned unit developments:
 - (a) Preliminary approval \$300 + \$25 / acre for the
portion proposed for
residential use, plus \$500.00 + \$100 / acre for the
portion proposed for
nonresidential use

¹Ordinance #134, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

(In determining the amount of the preliminary approval fees, the entire acreage within the PUD shall be considered, without subtraction of areas proposed for roads, utility easements, open space, etc. Open space areas shall be characterized as residential or non-residential according to whether the area with which such open space is most closely associated is residential or non-residential. If a road or other easement not intended to be part of a lot divides a residential from a non-residential area, the dividing line between the two areas shall be considered to be the centerline of such road or easement.)

(b) Final master plan approval	
Residential portions	\$100 + \$10 per dwelling unit
Non-residential portions	\$25 + \$01/s.f. of building gross floor area

(Ord. #453, Feb. 1999)

14-205. Professional consultant review fee deposits. Each applicant who files a subdivision, or planned unit development plat, shall deposit with the city a sum of money to be utilized for review by professional consultants. Any sums not actually utilized by the consultants may be returned to the applicant when the entire review process is completed. Those deposits will be as follows:

(a) Residential portions for site	\$15 per dwelling unit
(b) Non-residential portions of site plans	\$.02 per square foot of building gross floor area

(Ord. #453, Feb. 1999)

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. Reckless driving.
- 15-104. Driving under the influence.
- 15-105. One-way streets.
- 15-106. Unlaned streets.
- 15-107. Laned streets.
- 15-108. Yellow lines.
- 15-109. Miscellaneous traffic-control signs, etc.
- 15-110. General requirements for traffic-control signs, etc.
- 15-111. Unauthorized traffic-control signs, etc.
- 15-112. Presumption with respect to traffic-control signs, etc.
- 15-113. School safety patrols.

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, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-114. Driving through funerals or other processions.
- 15-115. Clinging to vehicles in motion.
- 15-116. Riding on outside of vehicles.
- 15-117. Backing vehicles.
- 15-118. Projections from the rear of vehicles.
- 15-119. Causing unnecessary noise.
- 15-120. Vehicles and operators to be licensed.
- 15-121. Passing.
- 15-122. Damaging pavements.
- 15-123. Bicycle riders, etc.
- 15-124. Gross vehicular weight limits on vehicles using city streets.
- 15-125. Careless driving.
- 15-126. Limiting access to public streets across and from public and private property.

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. (1973 Code, § 9-101)

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. (1973 Code, § 9-106)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1973 Code, § 9-107)

15-104. Driving under the influence. No person shall drive or operate any automobile or other motor driven vehicle while under the influence of an intoxicant, or while under the influence of narcotic drugs, or while under the influence of drugs producing stimulating effects on the central nervous system. (1973 Code, § 9-108)

15-105. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1973 Code, § 9-109)

15-106. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1973 Code, § 9-110)

15-107. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1973 Code, § 9-111)

15-108. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1973 Code, § 9-112)

15-109. 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 city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1973 Code, § 9-113)

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

15-110. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,¹ published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1973 Code, § 9-114)

15-111. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1973 Code, § 9-115)

15-112. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1973 Code, § 9-116)

15-113. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1973 Code, § 9-117)

15-114. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1973 Code, § 9-118)

15-115. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any

¹This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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. (1973 Code, § 9-120)

15-116. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any 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. (1973 Code, § 9-121)

15-117. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1973 Code, § 9-122)

15-118. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1973 Code, § 9-123)

15-119. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1973 Code, § 9-124)

15-120. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1973 Code, § 9-125)

15-121. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1973 Code, § 9-126)

15-122. Damaging pavements. No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1973 Code, § 9-119)

15-123. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city 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, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle 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.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

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 to knowingly permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1973 Code, § 9-127)

15-124. Gross vehicular weight limits on vehicles using city streets. It shall be unlawful for any person to operate a vehicle upon a street in the municipal city limits of Fairview, Tennessee, with a gross vehicular weight in excess of posted weight limit signs upon that street. (1973 Code, § 9-128, as amended by Ord. #475, Jan. 2000, and as replaced by Ord. #479, March 2000)

15-125. Careless driving. Every person operating a vehicle upon the streets within the City of Fairview, or upon any private road or driveway or parking area, shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic and use of these streets and private areas, and all other attendant circumstances, so as not to endanger the life, limb or property of any person. Failure to drive in such manner shall constitute careless driving and a violation of this section. (1973 Code, § 9-129)

15-126. Limiting access to public streets across and from public and private property. When the property has been duly posted with signs in accordance with the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U.S. Department of Transportation (reference in municipal code § 15-110), with the words "no thru traffic," no person shall operate a motor driven or non motor driven vehicle in a manner that crosses the public or private property from one public street to another public street.

Signs for public property shall be the property and responsibility of the City of Fairview, Tennessee. Signs for private property shall be the property and responsibility of the private property owner.

Notwithstanding any language in this section to the contrary, this section shall not apply to any vehicle owned and operated by the city, county, state or federal governments when the operator is crossing the property restricted by this section in performance or furtherance of their official capacity

of performing their respective job tasks. Further, the owner of the private property is exempt from the application of this section provided that their exit from one public street across their property and entrance to the second public street from their property is in accordance with applicable city ordinances and state statutes.

Violators of this section shall be subject to the provisions of § 15-707, Violations and penalty. (as added by Ord. #634, July 2006)

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. (1973 Code, § 9-102)

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 park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1973 Code, § 9-103)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1973 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1973 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones.
- 15-304. In congested areas.
- 15-305. Along Tennessee Highway 100.
- 15-306. Along Tennessee Highway 96.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of twenty-five (25) miles per hour, on city street; fifteen (15) miles per hour on cul-de-sacs, except where official signs, expressly approved as to type, speed limit, and location by resolution of the board of commissioners, have been posted indicating other speed limits, in which case, the posted speed limit shall apply. (1973 Code, § 9-201)

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. (1973 Code, § 9-202)

15-303. In school zones. During a school recess or while children are going to or leaving school during its opening or closing hours, it shall be unlawful for any person to operate or drive a motor vehicle at a speed in excess of twenty-five (25) miles per hour along State Highway 100 beginning at a point located 100 feet East of the centerline of the new Fairview High School upper driveway and continuing therefrom to the point where Highway 100 crosses the western-most city limit of the City of Fairview or on any city street adjacent to a school. (1973 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1973 Code, § 9-204)

15-305. Along Tennessee Highway 100. It shall be unlawful for anyone to operate a motor vehicle at a speed in excess of 45 miles per hour over and along Tennessee State Highway 100 throughout the City of Fairview,

Tennessee, except in school zones, as provided in Fairview Municipal Code § 15-303. (1973 Code, § 9-205)

15-306. Along Tennessee Highway 96. It shall be unlawful for anyone to operate a motor vehicle at a speed in excess of 50 miles per hour on Highway 96 N. from Highway 100 to the northern city limits of Fairview. (1973 Code, § 9-206)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1973 Code, § 9-301)

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. (1973 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1973 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1973 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1973 Code, § 9-305)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of a blue light or an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1973 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1973 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1973 Code, § 9-403)

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1973 Code, § 9-405)

15-505. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1973 Code, § 9-406)

15-506. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any

such sign or marking the stop shall be made a vehicle length short of the signal. (1973 Code, § 9-407)

15-507. At flashing traffic-control signals. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(1) **Flashing red (stop signal).** When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) **Flashing yellow (caution signal).** When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1973 Code, § 9-408, modified)

15-508. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1973 Code, § 9-409)

¹State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.
- 15-607. Permits required prior to obstructing traffic; proof of financial responsibility required.

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 the City of Fairview shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley 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. (1973 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1973 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the

street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1973 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the city, nor:

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within fifty (50) feet of a railroad crossing.
- (7) Within twenty (20) feet 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 (75) feet of the entrance.
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (10) Upon any bridge.
- (11) Alongside any curb painted yellow or red by the city.
- (12) Along the sides of and within any cul-de-sac located within the corporate boundaries of the City of Fairview, Tennessee.
 - (a) Cul-de-sac is defined as a minor street having only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement; definition includes: dead-end, turn-around, or turnabout.
 - (b) A cul-de-sac begins at the point that the curb, sidewalk or roadway surface breaks away from the line of the roadway and begins the curve or radius of the cul-de-sac. (1973 Code, § 9-504, as amended by Ord. #761, Oct. 2009)

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 city as a loading and unloading zone. (1973 Code, § 9-505)

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. (1973 Code, § 9-506)

15-607. Permits required prior to obstructing traffic; proof of financial responsibility required. It shall be unlawful for any person or entity to obstruct traffic on any city street prior to obtaining a permit from the

City of Fairview. Any person, or entity, including, but not limited to utilities, or private contractors for utilities, who are required to perform work on city streets, or near city streets in a manner that will cause them to obstruct traffic, must apply for and obtain a permit prior to commencing such work.

Upon such an application for a permit being filed, and prior to such a permit being issued, the chief of police shall determine whether it will be necessary to have a person direct traffic. If it is determined that traffic direction is required, the chief of police may prescribe the persons and equipment necessary to direct traffic. The applicant will be responsible for the costs of directing traffic, including the compensation of the person, or persons directing the traffic, and a reasonable cost of any equipment necessary to direct the traffic. Such costs shall not exceed \$25.00 per hour for the person directing traffic, and \$25.00 per day for city vehicles, if any city vehicles are required to be used.

In addition, prior to any permit being issued the applicant must provide the city with proof of liability insurance in a sum not less than one million (\$1,000,000) dollars to compensate any persons who may be injured in an accident resulting from obstruction of the traffic, and indemnifying the City of Fairview for any such injury. (As added by Ord. #480, April 2000)

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. Use of driver's license in lieu of bail.
- 15-707. Violation 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, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city 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. (1973 Code, § 9-601)

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. (1973 Code, § 9-602)

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 ten (10) days during the hours and at a place specified in the citation. (1973 Code, § 9-603, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

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. 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, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1973 Code, § 9-604)

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 through 55-16-109. (1973 Code, § 9-605)

15-706. Use of driver's license in lieu of bail. (1) Any person issued a citation or arrested and charged with a violation of any municipal ordinance of the City of Fairview regulating traffic, except driving under the influence of an intoxicant or narcotic drug or leaving the scene of an accident may have the option of depositing his chauffeur's or operator's license issued to him by the Department of Safety of the State of Tennessee with the officer or court demanding bail in lieu of any other security required for his appearance in the city court in answer to any such charge before said court.

(2) Upon the deposit of such chauffeur's or operator's license, either the officer or the court demanding bail shall issue said person a receipt for said license upon a form approved or provided by the Department of Safety of the State of Tennessee.

(3) This section is in furtherance of the provisions of Tennessee Code Annotated, §§ 55-50-801 through 55-50-805, now in effect or as hereafter amended and the provisions hereof shall be governed and controlled in accordance with the procedure of said Tennessee Code Annotated, §§ 55-50-801 through 55-50-805, now in effect or as hereafter amended. (1973 Code, § 9-606)

15-707. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. For other parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued, his fine shall be five dollars (\$5.00). (1973 Code, § 9-603, modified)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. MAJOR STREET PLAN.

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. Official system of street names established.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. 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. (1973 Code, § 12-101)

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 out over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1973 Code, § 12-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited.

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1973 Code, § 12-103)

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 (1973 Code, § 12-104)

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 any public street or alley except when expressly authorized by the board of commissioners after a finding that no hazard will be created by such banner or sign. (1973 Code, § 12-105)

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 statute. (1973 Code, § 12-106)

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. (1973 Code, § 12-107)

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. (1973 Code, § 12-108)

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. (1973 Code, § 12-109)

¹Municipal code reference

Building code: title 12, chapter 1.

16-110. Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1973 Code, § 12-110)

16-111. Official system of street names established. There is hereby established an official system of street names in the City of Fairview as shown on the map entitled Street Numbering Map, date May 11, 1978, as produced by the municipal planning commission, a copy of which is attached to and made part of this ordinance as recorded in the minute book.

Names of streets in the City of Fairview shall remain as shown on said map unless officially changed by specific ordinance passed subsequent to this date.¹

No new streets shall be accepted by the city nor municipal improvements made therein until such streets have been named; if they are extensions of existing streets, the existing names shall be continued, and if not extensions, names recorded shall not duplicate or closely approximate street names already assigned. (1973 Code, § 12-111)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1973 Code, § 12-112)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1973 Code, § 12-113)

16-114. Violations and penalty. Violations of this chapter shall subject the offender to a penalty of up to one hundred dollars (\$100) for each offense.

¹See Ord. #188, #271, #277, and #383 of record in the recorder's office, for amendments.

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Definitions.
- 16-202. Utility district/companies' surety.
- 16-203. Administration.
- 16-204. General policy and construction standards.
- 16-205. Construction permit.
- 16-206. License.
- 16-207. Service line encasement.
- 16-208. Driveway and access.

16-201. Definitions. (1) "City," shall mean the City of Fairview, Tennessee and/or its public works authority.

(2) "Director," shall mean the city manager, director of public works and/or their designee.

(3) "Contractor," shall mean anyone licensed by the State of Tennessee to do work which requires installation or installations in the public right-of-way.

(4) "Emergency," shall mean any event, which may threaten public health or safety, where action is necessary to prevent personal injury, death or the loss or disruption of a private or public utility or service. The burden of proof of the existence of any and all emergency conditions rests with the applicant.

(5) "Excavation," shall mean any operation in which earth, rock, paving or like material, on, or below the surface of the ground, is moved, displaced, dug, trenched, tunneled or in any similar manner disturbed, except the agricultural tilling of soil or gardening.

(6) "Applicant," shall mean a person applying for a permit required by this chapter.

(7) "Permit holder," shall mean a person who has obtained a permit as required by this chapter. An applicant may be any natural or corporate "person," business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a corporation, a limited liability company, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

(8) "Public right-of-way," shall mean the entire width between property lines of every way and place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of traffic, except for private roads and private ways. The definition shall include the area on, above and below the public right-of-way, dedicated to public use, and any dedicated, but unaccepted street or way. The definition shall also include any publicly owned space or park. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

(9) "TDOT," shall mean the Tennessee Department of Transportation.

(10) "Technical and design standards," shall mean the standards cited herein and adopted by the City of Fairview, Tennessee including the Tennessee Department of Transportation (TDOT) Standards and Specifications for Highways and Bridges, latest edition.

(11) "Utility," shall mean a public utility, as defined by state, federal or local statutes or ordinance as they exist at the time of this chapter or as they may be hereinafter amended and shall specifically include the non-regulated activities of such a utility.

(12) "Open-cut excavations," shall mean excavation other than boring, jacking or tunneling. (as added by Ord. #547, July 2003, and amended by Ord. #560, Nov. 2003)

16-202. Utility district/companies' surety. Every utility district, authority, company or individual currently having facilities (transmission lines, etc.) within the city's public streets and/or rights-of-way, plus any other such district, authority, company, or individual that may from time to time have occasion to operate within the city's accepted public road system, shall maintain a continuous performance/surety bond to the City of Fairview, Tennessee in a minimum amount of ten thousand dollars (\$10,000.00). The form and content shall be in accordance with this chapter, Attachment "A" performance/surety form required. Attachment "B" is the permit form required.¹ (1973 Code, § 12-201, as renumbered and amended by Ord. #547, July 2003, and amended by Ord. #680, Sept. 2007)

16-203. Administration. (1) The city manager and public works director are the responsible authorities for the enforcement of this chapter.

(2) An excavation permit is required prior to the commencement of any excavation in the roads, streets and rights-of-way of the City of Fairview, Tennessee. It shall be unlawful for any person, company, or entity to excavate, or to place, deposit or leave upon any street any earth or other material, equipment or structure tending to interfere with the free use of the roads,

¹Attachments "A" and "B" are available in the office of the city recorder.

streets and rights-of-way, unless such person, company or entity shall first have obtained an excavation permit.

(3) All applications for excavation permits shall be in writing and shall be accompanied by a sketch that clearly details the area to be excavated, the length, width, and depth of the proposed excavation and an estimated number of days to complete the excavation. (Sample excavation permit request letters and sketches shall be provided by the City of Fairview, Tennessee upon request).

(4) All federal and state and local requirements for safe operation within the right-of-way shall be followed, including, but not limited to, OSHA, TOSHA, Tennessee Code Annotated and the Manual of Uniform Traffic Control Devices.

(5) The permit holder shall hold harmless the City of Fairview, Tennessee and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of any permits issued under this chapter.

(6) Only contractors and public utilities with a valid permit are permitted to work in the roads, streets and public rights-of-way of the City of Fairview, Tennessee.

(7) Environmental considerations. (a) In the course of any work in the roads, streets or rights-of-way, of the City of Fairview, Tennessee, the permit holder shall not remove any trees or shrubs which exist in the area without first obtaining the approval of the city manager or the director of public works.

(b) Consideration shall be given by all holders relative to elimination of erosion and sedimentation control for all excavations in the streets, roads and rights-of-way of the City of Fairview, Tennessee.

(8) The city manager or the public works director or their designee shall make such inspections as are necessary in the enforcement of this chapter.

(9) Permit holders shall maintain accurate drawings, including plans, and profiles showing the location and character of all underground structures including abandoned installations proximate to their work.

(10) Penalty. Any person, firm, corporation or entity or any type who shall violate any provision of this chapter shall be subject to a fine in an amount established by order of the board of commissioners. Each day of continued violation, and every violation of a provision of this chapter shall constitute a new and separate offense.

(11) If any work performed under any permit issued under this chapter is not completed in compliance with the terms of this chapter, the City of Fairview, Tennessee, may cause such work to be repaired and deduct the costs of such work from the performance guarantee or surety. In the event such repair was undertaken without a permit, the City of Fairview, Tennessee shall prepare a bill for the cost of the repair, plus an additional amount of fifty (50) percent to be paid by the person doing the work. The City of Fairview, Tennessee shall issue no further permits to any person or entity who has

performed such work until the City of Fairview, Tennessee receives payment from the person or entity for the repair work.

(12) Open-cut excavations beneath paved roads or streets for the installation of utility pipelines, cables or conduits is prohibited except when:

(a) The proposed pipeline, cable or conduit has a nominal diameter greater than twelve (12) inches.

(b) A connection is required to an existing pipeline, cable or conduit within the limits of the road or street pavement.

(c) In the opinion of the public works director, the location of other existing infrastructure makes boring, jacking or tunneling not safe or not practical.

(d) An emergency repair is required.

(e) When approved by the board of commissioners.

(13) Working hours. Except for emergency repairs or as approved by the director, working hours shall be between the hours of 8:30 A.M. and 3:30 P.M. prevailing time. Starting or warming up equipment prior to 8:00 A.M. is prohibited. Work on the weekend or legal holidays is prohibited unless specifically authorized by the director. (as added by Ord. #547, July 2003, and amended by Ord. #560, Nov. 2003)

16-204. General policy and construction standards. (1) Protection and restoration of highway items and protection of the traveling public.

(a) Maintenance. The permit holder shall be responsible for maintaining the excavated/construction area in a safe, passable condition satisfactory to the City of Fairview, Tennessee until the project is accepted by the city. A temporary bituminous patch shall be placed on all trenches that cannot be permanently patched within 48 hours of initial disturbance. Permanent restoration of the pavement structure including hot bituminous base and surface shall be made within 15 days of the completion of the project unless the time for restoration is specifically extended by the City of Fairview, Tennessee for good cause shown.

One lane of traffic shall be maintained at all times, unless traffic has been detoured to a route with prior approval of the City of Fairview, Tennessee. The permit holder shall provide traffic control officers, barricades, lights, warning signs and other devices as required to safeguard traffic and pedestrians while the work is in progress.

Two-way traffic shall be maintained during all non-working hours, unless approved by the city manager, the public works director or their designated replacement of the City of Fairview, Tennessee. In the event that two-way traffic cannot be maintained during these hours, the permit holder shall install and maintain barriers and lights, as specified in the

Manual of Uniform Control Devices until a permanent surfacing has been installed.

All equipment, and materials shall be removed and located off the highway during non-working hours.

A highway, street, road or right-of-way excavation permit does not authorize parking or servicing vehicles within such highway, street, road or right-of-way.

(b) Removal and protection of utilities. The permit holder shall not interfere with any existing utility other than their own facilities without the written consent of the utility company, person or entity owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the City of Fairview, Tennessee shall be moved to accommodate the permit holder unless the cost of such work be born by the permit holder. The cost of moving privately owned utilities shall be borne by the permit holder unless he makes other arrangements with the utility owner. The permit holder shall support and protect all pipes, conduits poles, wire or other apparatus which may be in any way affected by the excavation work. Such support will be installed after informing the utility owner and seeking his assistance/advice of the proper method to support the utility to being supported. In case any of said pipes, conduits, poles, wire or apparatus should be damaged, they shall be repaired by the utility, company, person or entity owning them and the expense of such repairs shall be charged to the permit holder. The permit holder shall be responsible for any damage done to any public or private property by reason of the damage any water, sewer, gas, pipe, electric conduit or cable or any other utility. The permit holder shall inform itself as to the existence and location of all underground utilities and protect the same against damage. Above ground utilities abandoned as a result of relocation or replacement shall be removed in its entirety.

No permit holder shall begin any excavation on any City of Fairview, Tennessee streets, roads, rights-of-way, or any other city property unless and until the permit holder has fully complied with all provisions of the "Underground Utility Damage Prevention Act", Tennessee Code Annotated, § 65-31-102 etc., its subsequent revisions and or replacements.

(c) Protection of adjoining property. The permit holder shall at all times and at his own expense preserve and protect from damage any adjoining property by providing proper protection and taking other measures necessary for the purpose. Where the protection of such property is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permit holder shall obtain a release from the owner of such private property and provide a copy of the release to the City of Fairview, Tennessee. The permit holder shall, at its

own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property resulting or directly and proximately resulting from its failure to properly protect said facilities during the period of excavation.

(d) Restoration and replacement. The permit holder shall be responsible for permanently restoring or replacing street, roadway and right-of-way items damaged as a consequence of any construction operations. These items are to be permanently replaced in kind, in the same thickness and to the same grade as originally found and shall include, but not be limited to, the following items:

- (i) Bituminous pavement (Asphalt);
- (ii) Portland Cement Concrete Pavement, including that displaced by blasting, undermined, or broken by construction equipment. Concrete pavement under, bituminous pavement shall be replaced with (flow fill) of equal thickness;
- (iii) Bituminous, concrete and brick sidewalks;
- (iv) Aggregate base and subbase material under roadways, shoulders, and walks;
- (v) Curbing, all types;
- (vi) Gravel surfacing and shoulders;
- (vii) Turf slopes and shoulders;
- (viii) Drainage pipes, structures, and ditches;
- (ix) Guard rail and fencing;
- (x) Property and other survey monuments.

The permit holder shall guarantee the restoration/replacement against defects in material and workmanship for a period of one (1) year from the date of acceptance by the City of Fairview, Tennessee, and shall replace any defective work at the written directive of the City Manager or Public Works Director of Fairview, Tennessee. Failure to replace any defective work shall be cause for the city manager or public works director to revoke the permit holder's permit and no further excavation permits shall be issued to him until the replacement issue is solved.

(e) Emergency coordination. In addition to any other requirements of any section of this section, the permit holder shall furnish the City of Fairview City Manager, Public Works Director, Police Department and the Fire Department with a list of names, addresses, telephone numbers, cell phone numbers of permit holder personnel who may be reached in case of emergency during hours when no work is being performed including weekends and holidays.

(2) Construction standards. (a) All excavations on paved street/road surfaces shall be precut in a neat straight line with saws. Cutouts of the trench lines must be perpendicular or parallel to the trench line. Pavement edges shall be trimmed to a vertical face and neatly aligned

with the centerline of the trench. Unstable pavement over cave-ins shall be removed and aggregate bases restored. Jointed or broken pavement within one (1) foot of the restoration edge shall be removed. Prior to permanent surfacing the pavement shall be saw cut an additional one-foot (1) beyond the disturbed edge and removed.

(b) When multiple openings are located with less than five (5) feet of original pavement remaining between adjacent openings, the permit holder shall neatly cut and remove the area of pavement between these adjacent area and shall patch as one trench.

(c) All previous sections shall also apply to sidewalks. On concrete sidewalks, all cuts shall be made to the nearest joint or score line on either side of the excavation. All sidewalk restorations shall be in accordance with the requirement of Paragraph (2)(d).

(d) All backfilling of streets, roadways and rights-of-way of the City of Fairview, Tennessee shall be done in accordance with the following standards:

(i) All work must be conducted in strict accordance with the latest regulations of OSHA, TOSHA for excavations, and any other applicable safety regulations.

(ii) All work must be protected from freezing during the appropriate season;

(iii) Whenever water is found standing in the excavation area, the water shall be removed by pump or other means before backfilling operations can commence.

(iv) Backfilling of excavations shall be performed by the permit holder as soon as practicable so that the least possible subsequent settling will occur. Backfill material shall be spread in layers not exceeding eight (8") inches in loose depth and compacted to no less than 95% of the maximum dry density of the material as established by ASTM D1557. All backfill shall be crushed gravel or fillable flow as required by the City Manager or Public Works Director of Fairview, Tennessee. Debris removed from the excavation will not be allowed as backfill. The permit holder shall notify the City Manager or Public Works Director of Fairview, Tennessee prior to beginning the backfilling operations to allow adequate time for inspection of the filled area(s).

(v) All excavated material shall be removed from the job site and disposed by the permit holder, in such a manner that will minimize interference with pedestrian and vehicular traffic. No material shall be left within the streets, roads or right-of-way of the City of Fairview, Tennessee once the repair and/or installation is complete.

(e) Temporary resurfacing shall be provided by the permit holder from the time of excavation until final restoration and resurfacing.

Temporary resurfacing shall consist of a minimum of two (2) inches of compacted temporary bituminous surfacing. Such temporary material shall be cold-mix except that the permit holder under this article may or the City of Fairview, Tennessee, may require in some instances hot-mix. The temporary surface material shall be placed and compacted to provide smooth even surface for the safe passage of pedestrian traffic and safe vehicular travel at the legal posted speed. The permit holder shall maintain the temporary paving for the entire period of time until the permanent restoration shall be made. In appropriate instances the City of Fairview, Tennessee may require the permit holder to top off cold-mix with sand to prevent the cold mix from sticking to the feet of pedestrian traffic.

(f) Permanent restoration of the pavement structure shall consist of flowable fill subbase installed from the bottom of the excavation on top of any installed pipes, conduits etc. to the surface or on top of any compacted gravel fill a minimum depth of fifteen (15) inches to within three (3) inches of the surface. The surface shall be minimum three (3) inches of hot mix bituminous asphalt topping and shall be installed in accordance with the latest TDOT specification.

(g) All temporary resurfacing shall be maintained for the safety of pedestrian and vehicular traffic until the permanent, restoration is made. The permit holder shall erect and maintain warning signs, barriers, lights, as specified in the Manual of Uniform Traffic Control Devices until a permanent surfacing has been installed.

(3) Excavations in reconstructed or repaved roads. After a road or street of the City of Fairview, Tennessee has been reconstructed or repaved, an excavation permit shall not be granted for five (5) years unless an emergency condition exists or unless the necessity for making such installation could not have been reasonably foreseen at the time of the reconstruction or repaving. This section shall be void unless the City of Fairview shall have given sixty (60) days notice by register or certified mail of the impending work to all public utilities serving the City of Fairview, Tennessee.

Notwithstanding the foregoing section the board of commissioners may grant an excavation permit to public utilities or individuals to excavate in a street or roadway of Fairview, Tennessee if the proposed excavator agrees to pay in addition to the excavation permit fee an amount equal to the cost per square foot of street to be excavated for reconstruction and or repaving the street for which the excavation permit is sought. Permits issued under this paragraph require the same restoration procedures as permits issued routinely.

(a) Regulation of heavy loads. Upon the recommendation of the city manager and approval of the board of commissioners, and after thirty (30) days' notice published three (3) times in a newspaper of general circulation in the community, the City of Fairview, Tennessee, may post gross vehicle weight limits on city road, or street within the city.

(4) Administration. The City of Fairview will issue excavation permits upon the filing of a proper request for the permits. Each request for an excavation permit shall be accompanied by proof of insurance in the minimum amounts listed below.

(a) Each permit holder shall maintain at all times a minimum of \$1,000,000.00 public liability insurance coverage protecting himself, his agents and the City of Fairview, Tennessee from all such claims for damages or injuries and naming the City of Fairview, Tennessee as an additional insured. Evidence of such coverage shall be a condition precedent to the issuance of any permit to excavate and shall be submitted in a form satisfactory to the City Manager of the City of Fairview, Tennessee. Coverage shall be maintained throughout the period of work performed under this ordinance and shall not be less than the following amounts:

(i) General liability including comprehensive form, premises/operations, underground explosion and collapse hazard, products/completed operations, contractual, independent contractors, broad form property damage and personal injury.
\$1,000,000.00 Bodily Injury and Property Damage Each Occurrence

\$1,500,000.00 Bodily injury and Property Damage Aggregate
\$1,000,000.00 Personal Injury Aggregate.

(ii) Automobile liability including any vehicle, hired vehicle and non-owned vehicle \$1,500,000.00 bodily injury and property damage combined.

(iii) Workers compensation and employer's liability as required by the State of Tennessee.

An excavation permit, issued to any entity may be revoked after notice and hearing, when the holder of the permit has willfully disobeyed any portion of this article. (as added by Ord. #547, July 2003)

16-205. Construction permit. (1) No person shall alter, cut, or repair any shoulder, pavement, or other improvement of public streets that have been accepted by the City of Fairview unless he holds a valid permit issued in his name for the specific construction cut or repair proposed. Said permit shall be obtained prior to beginning construction, alteration, cut or repair of the road.

(2) The permit shall require specific conditions considered vital to the protection of the city's property, as well as the interest, welfare, and safety of the general public. Acknowledgment of receipt of a copy of this regulation shall be a part of the permit application. By issuance of this permit, the contractor will be required to conform to this regulation. Once physical work has commenced upon the road, each contractor as recipient of the permit, agrees to perform the work in accordance with the provisions and conditions of the permit and the rules and regulations governing the construction, alteration or cutting of city

streets. Inspection by an engineering firm, paid for by the contractor and hired by the city may be required for extensive construction as a provision of the permit to ensure proper construction. The permit will also require that the city will be notified prior to any backfilling or prior to bedding of any utility.

(3) Permits for work not being performed for a utility district or other company already having posted surety in accordance with provisions herein, will also require that adequate surety be provided as a requirement for the issuance of the permit. Additional specific surety may also be required from the utility district for major projects that are to be accomplished for an already bonded district, authority, or company if the likelihood exists that damage to city property in excess of \$10,000 could occur. Such surety shall be in an amount established by the board of commissioners or its duly authorized representative, and shall be in accordance with the bonding and surety requirements established in the Fairview Subdivision Regulations, and shall be valid for a minimum of one year.

(4) Construction permit. A one hundred dollar (\$100.00) remitting charge shall be collected for each road cut or road bore. Work being accomplished on the same side of the street as the utility service and not requiring a partial cut or bore or any disturbance of the city street will be exempt from the one hundred dollar (\$100.00) permit fee, but will require an approved permit by the public works director.

(5) Emergency. In addition to other emergency requirements of this section, in the case of an emergency situation where a permit cannot be obtained in a timely manner because of an unanticipated occurrence such as a break in a utility line, a licensed contractor may perform the emergency repair work provided that:

(a) A permit that meets all the requirements of this regulation is applied for no later than the next regular City of Fairview working day; and

(b) The utility district or other company for which the work is being accomplished has posted the appropriate bond in accordance with the provisions herein.

(6) A permit may be denied, suspended or revoked when the city manager has determined that the operation is not being and/or will not be conducted in a manner as prescribed by applicable city regulations. Any violations deemed of a significant nature by the city manager, or unwarranted damages done to the highway, right-way-system, may result in a permit being denied, suspended or revoked. The city manager shall report all such actions to the board of commissioners at their next regularly scheduled meeting.

(7) Failure to obtain a permit, or obtaining a permit under the emergency provisions when no emergency exists, may also be grounds for revocation of future requests for permits. (1973 Code, § 12-202, as renumbered and amended by Ord. #547, July 2003, and amended by Ord. #679, Sept. 2007)

16-206. License. The Department of Commerce and Insurance of the State of Tennessee requires that all persons and companies contracting to perform construction work within the state be qualified and licensed by that department. Requirements for obtaining such a license are determined by the commissioner of the Department of Commerce and Insurance, and may be obtained by contacting the Regulatory Boards Division. All persons and/or the company for which they are employed shall be duly licensed by the Department of Commerce and Insurance, State of Tennessee or other appropriate governmental agency. Proof of currently valid license shall be presented when application is made for a construction permit. (1973 Code, § 12-203, as renumbered by Ord. #547, July 2003, and amended by Ord. #679, Sept. 2007)

16-207. Service line encasement. All utility lines installed as full crossings under new roads and right-of-way being platted and constructed as part of a subdivision of property, or existing property, with proposed dedication to the city, shall be encased in a sleeve or conduit using material and installation procedures approved by the city manager. Location of encasement shall be noted on approved construction plans. These and all other service lines shall be installed in accordance with applicable, local, state and federal ordinances, regulations laws and statutes. (1973 Code, § 12-204, as renumbered and amended by Ord. #547, July 2003)

16-208. Driveway and access. The location and design of driveways and/or accesses providing vehicular access from arterial, collector, and nonresidential local streets proposed for subdivision of property shall be specified in an access plan submitted to the city engineer for review and recommendation to the planning commission for action. Residential access to local streets shall be approved by the codes department. No curbs or city rights-of-way shall be cut, paved, or otherwise altered until a permit approving the access cut has been secured from the codes department or other agency owning or controlling the street right-of-way.

(1) The city engineer shall approve any and all culverts (relative to size and construction material) to be installed as part of any driveway access.

(2) A fee of twenty (\$20.00) dollars shall be collected by the codes department for each driveway cut or access.

(3) This section shall apply to and only to driveways proposed to be installed on existing public streets that have been accepted by and maintained by the City of Fairview, Tennessee. As previously stated, the location and design of driveways and/or accesses providing vehicular access from arterial, collector, and nonresidential local streets proposed for subdivision of property shall be specified in an access plan submitted to the city engineer for review and recommendation to the planning commission for action. (as added by Ord. #595, Dec. 2004)

CHAPTER 3

MAJOR STREET PLAN

SECTION

- 16-301. Plat required as prerequisite for development of property for residential purposes.
- 16-302. Relation of proposed streets to adjoining street system.
- 16-303. Street widths.
- 16-304. Additional width on existing streets.
- 16-305. Restriction of access.
- 16-306. Street grades.
- 16-307. Horizontal curves.
- 16-308. Vertical curves.
- 16-309. Intersections.
- 16-310. Tangents.
- 16-311. Street jogs.
- 16-312. Dead-end streets.
- 16-313. Private streets and reserve strips.
- 16-314. Street names.
- 16-315. Alleys.
- 16-316. Blocks.
- 16-317. Action of planning commission on plats; appeals.
- 16-318. House numbering on city streets.

16-301. Plat required as prerequisite for development of property for residential purposes. No person or corporation shall sell lots or begin development of property for subdivision or residential purposes without filing a formal preliminary plat of said land or development with the planning commission of the city.

From and after the effective date of this chapter (June 1, 1967), any plat for the development of property for subdivision or residential purposes shall set forth the location and width of all streets and roads which shall be in accordance with the following requirements. (1973 Code, § 12-301)

16-302. Relation of proposed streets to adjoining street system. The proposed street system shall extend existing streets or projects. They shall be extended at a width no less than the required minimum width. (1973 Code, § 12-302)

16-303. Street widths. The minimum width of rights-of-way, measured from lot line to lot line, shall be as shown on the major street plan, or if not shown on such plan, shall not be less than as follows:

- (1) Arterial streets and highways..... 80 feet

Arterial streets and highways are those to be used primarily for fast or heavy traffic and will be located on the major street plan.

(2) Collector streets. 50 feet
Collector streets are those which carry traffic from minor streets to the major system or arterial streets and highways and include the principal entrance streets of a residential development and streets for major circulation within such a development.

(3) Minor residential streets. 50 feet
Minor streets are those which are used primarily for access to the abutting residential properties and are designed to discourage their use by through traffic.

(4) Marginal access streets. 50 feet
Marginal access streets are minor streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

(5) Dead-end streets (cul-de-sac). 50 feet
Cul-de-sacs are permanent dead-end streets or courts designed so that they cannot be extended in the future.

(6) Alleys. 20 feet
Alleys are minor public ways used primarily for service access to the back or side of properties otherwise abutting on a street.

In cases where topography or other physical conditions make a street of the required minimum width impracticable, the planning commission may modify the above requirements. Through proposed neighborhood or local business areas the street widths shall be increased ten (10) feet on each side to provide for movement of vehicles into and out of necessary off-street parking areas without interference with traffic. (1973 Code, § 12-303)

16-304. Additional width on existing streets. Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the above minimum street width requirements.

(1) The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.

(2) When the subdivision is located on only one side of any existing street, one-half (½) of the required right-of-way, measured from the center line of the existing roadway, shall be provided. (1973 Code, § 12-304)

16-305. Restriction of access. When a tract fronts on an arterial street or highway, the planning commission may require such lots to be provided with frontage on a marginal access street. (1973 Code, § 12-305)

16-306. Street grades. Grades on major streets shall not exceed seven (7) percent. Grades on other streets may exceed seven (7) per cent but not ten (10) per cent. (1973 Code, § 12-306)

16-307. Horizontal curves. Where a deflection angle of more than ten (10) degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. On streets sixty (60) feet or more in width, the centerline radius of curvature shall be not less than three hundred (300) feet; on other streets, not less than one hundred (100) feet. (1973 Code, § 12-307)

16-308. Vertical curves. Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two hundred (200) feet, said sight distance being measured from the driver's eyes, which are assumed to be four and one-half (4-1/2) feet above the pavement surface, to an object four (4) inches high on the pavement. Profiles of all streets showing natural and finished grades drawn to a scale of not less than one (1) inch equals one hundred (100) feet horizontal, and one (1) inch equals twenty (20) feet vertical, may be required by the planning commission. (1973 Code, § 12-308)

16-309. Intersections. Street intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than sixty (60) degrees. Property line radii at street intersections shall not be less than twenty (20) feet, and where the angle of street intersection is less than seventy-five (75) degrees, the planning commission may require a greater curb radius. Wherever necessary to permit the construction of a curb having a desirable radius without curtailing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded, or otherwise set back sufficiently to permit such construction. (1973 Code, § 12-309)

16-310. Tangents. A tangent of at least one hundred (100) feet in length shall be introduced between reverse curves on arterial and collector streets. (1973 Code, § 12-310)

16-311. Street jogs. Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall not be allowed. (1973 Code, § 12-311)

16-312. Dead-end streets. (1) Minor terminal streets or courts designed to have one end permanently closed shall be no more than five hundred (500) feet long unless necessitated by topography. They shall be provided at the closed end with a turn-around having an outside roadway diameter of at least eighty (80) feet and a street right-of-way diameter of at least one hundred (100) feet or the planning commission may approve an alternate design.

(2) Where, in the opinion of the planning commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property. Such dead-end streets

shall be provided with a temporary turn-around having a roadway diameter of at least eighty (80) feet. (1973 Code, § 12-312)

16-313. Private streets and reserve strips. There shall be no private streets platted in any subdivision. Every lot in subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips controlling access to streets, except where the control of such strips is definitely placed with the community under conditions approved by the planning commission. (1973 Code, § 12-313)

16-314. Street names. Proposed streets which are obviously in alignment with others already existing and named, shall bear the names of existing streets. In no case shall the name for proposed streets duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, driveway, place, or court. Through its index list of street names on file, the planning commission can assist the subdivider in avoiding duplication. (1973 Code, § 12-314)

16-315. Alleys. Alleys shall be provided to the rear of all lots used for business purposes, and shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the planning commission of the need for alleys. (1973 Code, § 12-315)

16-316. Blocks. (1) Length. Blocks shall not be less than 800 feet nor more than 1200 feet in length, except as the planning commission considers necessary to secure efficient use of land or desired features of street pattern. In blocks over eight hundred (800) feet in length, the planning commission may require one (1) or more public cross walks of not less than ten (10) feet in width to extend entirely across the block and at locations deemed necessary.

(2) Width. Blocks shall be wide enough to allow two (2) rows of lots, except where fronting on major streets or prevented by topographical conditions or size of the property; in which case the planning commission will approve a single row of lots of minimum depth. (1973 Code, § 12-316)

16-317. Action of planning commission on plats; appeals. The planning commission of the city shall examine said plat and ascertain if the street requirements comply with the provisions of this chapter and, within a reasonable time following the filing thereof, shall certify to the applicant the approval or disapproval of said plat.

If the planning commission denies approval of any plat and said denial results in undue hardship to any applicant, said applicant shall have the right, within thirty (30) days following the action of the planning commission, to appeal to the Board of Commissioners of the City of Fairview, Tennessee. (1973 Code, § 12-317)

16-318. House numbering on city streets. House numbering on city streets within the City of Fairview shall be in conformity with the street and road numbering plan of Williamson County in order to facilitate the provision of emergency management services. The planning commission shall require compliance with this chapter for all new development within the city. The building inspector of the City of Fairview shall require compliance in previously developed areas of the city. (1973 Code, § 12-318)

TITLE 17

REFUSE, GARBAGE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. Storage of refuse, etc.
- 17-104. Disturbing containers
- 17-105. Collection and/or removal of garbage, refuse and litter.
- 17-106. Disposal of garbage/refuse/litter.
- 17-107. Dumping in streams, sewers, and drains prohibited.
- 17-108. Burning without approval prohibited.
- 17-109. Service of orders.
- 17-110. Violations.

17-101. Definitions. (1) "Ashes." The term "ashes" shall include the waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.

(2) "Collector." The term "collector" shall mean any person, firm, corporation, or political subdivision which collects, transports, or disposes of any refuse/litter within the corporate limits of the City of Fairview.

(3) "Garbage." The term "garbage" shall include all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products, from all public and private residences and establishments.

(4) "Health officer." The term "health officer" shall mean the health authority of Williamson County or his authorized representative.

(5) "Litter." The term "litter" shall include any object or substance which, if dumped, thrown, deposited or left on any public or private property, or is caused to be dumped, thrown, deposited or left on any such property, tends to pollute, mar or deface such property.

(6) "Refuse." The term "refuse" as hereinafter referred to in this chapter shall include garbage, rubbish, ashes, litter, and all other putrescible

¹Municipal code reference

Property maintenance regulations: title 13.

and non-putrescible, combustible, and noncombustible materials originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling and sale of produce, and other similar unwanted materials, but shall not include sewage, body wastes, or recognizable industrial by-products, from all residences and establishments, public and private.

(7) "Rubbish." The term "rubbish" shall include all non-putrescible waste materials except ashes from all public and private residences and establishments. (1973 Code, § 8-101, as replaced by Ord. #778, Oct. 2011)

17-102. Premises to be kept clean. All persons, firms, and corporations within the corporate limits of the City of Fairview are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, litter, offal, filth, and trash. Such persons, firms, and corporations are hereby required to store such refuse in sanitary containers of the type described in this chapter between intervals of collection or to dispose of such material in a manner prescribed by the health officer so as not to cause a nuisance or become injurious to the public health and welfare. (1973 Code, § 8-102, as replaced by Ord. #778, Oct. 2011)

17-103. Storage of refuse, etc. (1) Each owner, occupant, tenant, sub-tenant, lessee, or others using or occupying any building, house, structure, or grounds within the corporate limits of the City of Fairview where refuse materials or substances as defined in this chapter accumulate, or are likely to accumulate, shall provide and keep covered an adequate number of suitable containers. The refuse containers shall be strong, durable and rodent-proof and insect-proof.

(2) No refuse may be burned, except as may be permitted by the provisions of this chapter.

(3) To ensure convenient storage and removal of refuse at sites where construction or demolition of buildings is underway, and to minimize littering in the area, an adequately sized dumpster or similar container acceptable to the city's chief building official or his designee shall be placed at each such site. The disposal of refuse brought to any such container from other places is prohibited. The location of the container shall be identified on the site plan or plot plan and approved as a part of the issuance of the building permit. The container shall be promptly removed upon completion of construction or demolition. At any time, the chief building official or his designee may direct that the container be placed in or moved to a location which will:

(a) Allow more convenient access for removal of waste and debris; or

(b) Be less likely to pose a nuisance for the occupants of any homes or other structures in the area. (1973 Code, § 8-103, as replaced by Ord. #778, Oct. 2011)

17-104. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1973 Code, § 8-106, as replaced by Ord. #778, Oct. 2011)

17-105. Collection and/or removal of garbage, refuse and litter.¹

(1) Collection vehicles. Except for individual residents hauling their own generated refuse/litter, the collection of refuse/litter shall be by means of vehicles for which provisions are made to prevent the scattering of refuse over the streets and thoroughfares by effective coverings or closed truck beds. Hauling in unauthorized vehicles is a misdemeanor.

(2) Permits for collection. Any collector who collects refuse/litter within the city limits of Fairview, Tennessee, shall first obtain a permit from the City of Fairview. Applications for such permits must be submitted to the city recorder along with a non-refundable fee of fifty dollars (\$50.00). Each person or entity seeking to operate a garbage/refuse/litter collection business on the streets of Fairview shall be required to register his name if an individual or the business or organization name if other than an individual, the physical location of the registrant's main office and the mailing address and telephone number of a contact person to whom correspondence and telephone call should be directed. Prior to issuance of such a permit, the city manager, or such other person as he may designate, shall ascertain that the applicant has a properly equipped and maintained collection vehicle, that the collector is apprised of all provisions of this chapter and that the collector has a suitable and appropriate disposal site for refuse/litter collected and that the collector has adequate insurance coverage. Said insurance shall be maintained at all times the collector is operating his collection equipment upon the streets of the City of Fairview and a certificate of insurance shall be filed by the collector with the City of Fairview annually or at any time the insurance provider is changed by the collector. The collector shall notify the city manager in writing of any changes in the information provided pursuant to this section within fifteen (15) days of the effective date of such changes. Collection of garbage/refuse/litter by any person or entity after the date of the adoption of this section without first obtaining a permit from the City of Fairview will be a violation of this section and may be punished as outlined in § 17-110 "Violations."

(3) Insurance requirement. For the purposes of this chapter, "adequate insurance coverage" shall mean that each person or entity required to register under this section shall have filed with the city manager and maintain at all times a certificate of insurance indicating that such person or entity is insured against claims for damages for personal injury and/or property damage which may arise from or out of the work performed in picking up,

¹State law reference

Tennessee Code Annotated, § 16-19-101(19)

hauling, transporting or removing refuse/liter. The amount of insurance coverage to be required shall be no less than one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per occurrence for personal injury damages and no less than one hundred thousand dollars (\$100,000.00) for property damages.

Persons engaged in the removal of self-generated garbage/refuse/litter to a designated and approved landfill, dumpster, convenience center or recycling site shall not be required to register with the city or file a certificate of insurance, nor shall persons assisting with community beautification projects at no charge be so required.

(4) Collection and transportation of garbage/refuse/litter. (a) Vehicle bodies and containers used for the collection and transportation of garbage/refuse/litter shall be impermeable and constructed of durable metal and/or other materials that are easily cleanable. All refuse materials not secured in closed plastic bags shall be kept either in an enclosed, leak-proof compartment or fully covered by tarpaulin during transportation beyond private driveways.

(b) Any person or entity collecting, transporting or hauling garbage/refuse/litter or permitting garbage/refuse/litter to be collected, transported or hauled on or along any public streets or ways shall take such measures as may be necessary to prevent the scattering, blowing or spilling of such garbage/refuse/litter upon streets or adjoining private properties and shall fully comply with applicable federal, state and local regulations. Any such person or entity collecting, transporting or hauling garbage/refuse/litter shall immediately collect any such garbage/refuse/litter which is scattered, blown or spilled.

(c) Responsibility for the disposal of garbage/refuse/litter shall pass to the collector when placed in the collector's vehicle, removed by the collector from containers or removed by the collector from the owner's premises.

(d) All vehicles used in the business of collecting or transporting garbage/refuse/litter shall be identified with an identifying name and telephone number on the sides and rear of the vehicle. Lettering shall not be less than four inches (4") in height.

(e) All vehicles used for the collection or transportation of garbage/refuse/litter shall be operated in a safe and lawful manner. Each person or entity required to register this section shall bear responsibility for the condition of the vehicles used for the collection and transportation of garbage/refuse/litter and the manner in which such vehicles are operated.

(f) The collection of garbage/refuse/litter shall be permitted only during daylight hours, and no earlier than 7:00 A.M. and no later than 7:00 P.M. on any day, except that the city manager may upon request provide written permission for the collection of garbage/refuse/litter

during such other hours where the collection of garbage/refuse/litter will not unreasonably interfere with the peace and quiet of area residents. The city manager may, in his discretion, revoke any such permission so granted.

(g) Those persons or entities who collect garbage/refuse/litter upon the streets of Fairview for the purpose of hauling said garbage/refuse/litter to an approved facility shall not store the collected garbage/refuse/litter etc. for any reason within the corporate limits of the City of Fairview prior to its final proper disposal.

(h) Motorized vehicular equipment or mobile storage facilities utilized by persons or entities who collect garbage/refuse/litter upon the streets of Fairview shall not be stored at any time in the corporate limits of the City of Fairview except within enclosed buildings or in areas screened from the site of public roadways. The screening materials and methods for screening utilized shall be approved by the city manager or his designee. For the purposes of this section, equipment will be considered stored if it is left in any areas of the City of Fairview unattended by at least one (1) person per individual piece of equipment. For the purposes of this chapter, equipment shall be considered unattended if it is left without at least one (1) attending person per piece of equipment for any period of time in excess of eight (8) hours. (1973 Code, § 8-107, as replaced by Ord. #778, Oct. 2011)

17-106. Disposal of garbage/refuse/litter. (1) The disposal of garbage/refuse/litter in any quantity by any person or entity at any place, public or private, within the city, other than at a site or sites designated for garbage/refuse/litter disposal by the board of commissioners, is expressly prohibited.

(2) No person or entity shall dump, throw, deposit or leave litter at any place, public or private, within the city, except in public receptacles or in authorized private receptacles for collection. Persons or entities placing garbage/refuse/litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any public or private place.

(3) No person, while a driver or passenger in a vehicle, shall throw or deposit garbage/refuse/litter upon any street or other public place within the city or upon private property. The driver of a vehicle from which garbage/refuse/litter is thrown or deposited shall bear prima facie liability for such litter. (1973 Code, § 8-108, as replaced by Ord. #778, Oct. 2011)

17-107. Dumping in streams, sewers, and drains prohibited. It shall be unlawful for any person, firm, or corporation to dump garbage/refuse/litter into any form into any stream, ditch, storm sewer, sanitary

sewer, or other drain within the City of Fairview. (1973 Code, § 8-109, as replaced by Ord. #778, Oct. 2011)

17-108. Burning without approval prohibited. (1) It shall be unlawful for any person, firm, corporation or entity to kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained without the permission of the fire chief or his designated representative, or other proper authorization. During construction or demolition of buildings or structures no waste materials or rubbish shall be disposed of by burning on the premises or in the immediate vicinity of the construction or demolition site until a permit or other proper authorization has been obtained.

(2) No person, firm, corporation or entity shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on any private land unless:

(a) The location is not less than fifty feet (50') from any structure and adequate provision(s) is made to prevent fire from spreading within fifty feet (50') of any structure; or

(b) The fire is contained in an approved waste burner located safely not less than fifteen feet (15') from any structure.

(3) Bonfires and rubbish fires shall be constantly attended by a competent person until such fire is extinguished. Such person shall have a garden hose connected to the water supply, or other fire-extinguishing equipment readily available for use. Such person shall be at least eighteen (18) years of age.

(4) The fire chief, or his designated agent, may prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous. (1973 Code, § 8-110, as replaced by Ord. #778, Oct. 2011)

17-109. Service of orders. It shall be the duty of the health officer or his authorized representative to issue orders requiring the proper handling of garbage/refuse/litter on private and public premises. Such orders will be issued to owners, occupants, tenants, or lessees of such properties where violations of this chapter are known to exist and shall require that such violations be corrected within the time specified by the health officer. (1973 Code, § 8-111, modified, as replaced by Ord. #778, Oct. 2011)

17-110. Violations. Any person who shall violate any of the provisions of this chapter, or who shall fail or refuse to obey any notice issued by the department of health, the superintendent of the refuse collection department, or any official of the City of Fairview with reference to the storage, accumulation, or disposal of garbage/refuse/litter as described in § 17-101 of this code, shall be subject to a penalty of up to fifty dollars (\$50.00) for each offense.

Change 13, May 17, 2012

17-7

Each day a violation is allowed to continue from the date of the original citation shall constitute a separate offense. (as added by Ord. #778, Oct. 2011)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER.
2. SANITARY SEWER SERVICES.
3. SEWAGE AND HUMAN EXCRETA DISPOSAL.
4. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WATER²

SECTION

- 18-101. Application and scope.
- 18-102. [Repealed.]
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Main extensions to developed areas.
- 18-108. Main extensions to other areas.
- 18-109. [Repealed.]
- 18-110. Meters.
- 18-111. [Repealed.]
- 18-112. Multiple services through a single meter.
- 18-113. [Repealed.]
- 18-114. Discontinuance or refusal of service.
- 18-115. Re-connection charge.
- 18-116. Termination of service by customer.
- 18-117. Access to customers' premises.
- 18-118. Inspections.
- 18-119. Customer's responsibility for system's property.

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

²The water and sewer departments of the City of Fairview, Tennessee and the property owned by the water and sewer departments was transferred to the Water Authority of Dickson County. See Ord. #616 of record in the office of the recorder.

- 18-120. Customer's responsibility for violations.
- 18-121. Supply and resale of water.
- 18-122. Unauthorized use of or interference with water supply.
- 18-123. Damages to property due to water pressure.
- 18-124. [Repealed.]
- 18-125. [Repealed.]
- 18-126. [Repealed.]
- 18-127. [Repealed.]
- 18-128. [Repealed.]
- 18-129. Intent.

18-101. Application and scope. These rules and regulations are a part of all contracts for receiving water service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1973 Code, § 13-101)

18-102. [Repealed.] (1973 Code, § 13-102, as repealed by Ord. #650, Dec. 2006)

18-103. Obtaining service. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-103, as replaced by Ord. #650, Dec. 2006)

18-104. Application and contract for service. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-104, as replaced by Ord. #650, Dec. 2006)

18-105. Service charges for temporary service. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-105, as replaced by Ord. #650, Dec. 2006)

18-106. Connection charges. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-106, as replaced by Ord. #650, Dec. 2006)

18-107. Main extensions to developed areas. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-107, as replaced by Ord. #650, Dec. 2006)

18-108. Main extensions to other areas. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-108, as replaced by Ord. #650, Dec. 2006)

18-109. [Repealed.]. (1973 Code, § 13-109, as repealed by Ord. #650, Dec. 2006)

18-110. Meters. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-110, as replaced by Ord. #650, Dec. 2006)

18-111. [Repealed.]. (1973 Code, § 13-111, as repealed by Ord. #650, Dec. 2006)

18-112. Multiple services through a single meter. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-113, as replaced by Ord. #650, Dec. 2006)

18-113. [Repealed.]. (1973 Code, § 13-114, as repealed by Ord. #650, Dec. 2006)

18-114. Discontinuance or refusal of service. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-115, as replaced by Ord. #650, Dec. 2006)

18-115. Re-connection charge. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-116, as replaced by Ord. #650, Dec. 2006)

18-116. Termination of service by customer. Per the requirements of the Water Authority of Dickson County, Tennessee. (1973 Code, § 13-117, as replaced by Ord. #650, Dec. 2006)

18-117. Access to customers' premises. The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1973 Code, § 13-118)

18-118. Inspections. The Water Authority of Dickson County shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The Water Authority of Dickson County reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the Water Authority of Dickson County.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the Water Authority of Dickson County liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1973 Code, § 13-119, as amended by Ord. #650, Dec. 2006)

18-119. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the Water Authority of Dickson County shall be and remain the property of the Water Authority of Dickson County. Each customer shall provide space for and exercise proper care to protect the property of the Water Authority of Dickson County on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1973 Code, 13-120, as amended by Ord. #650, Dec. 2006)

18-120. Customer's responsibility for violations. Where the Water Authority of Dickson County furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1973 Code, § 13-121, as amended by Ord. #650, Dec. 2006)

18-121. Supply and resale of water. All water shall be supplied within the Water Authority of Dickson County exclusively by the Water Authority of Dickson County and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the Water Authority of Dickson County. (1973 Code, § 13-122, as amended by Ord. #650, Dec. 2006)

18-122. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the city's stop cocks, hydrants, spigots, fire plugs, or valves without permission or authority from the city. When any stop cock or valve for any customer's premises is turned on or off without permission or authority from the city there shall be a rebuttable presumption that the customer committed such act. (1973 Code, § 13-123)

18-123. Damages to property due to water pressure. The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1973 Code, § 13-124)

18-124. [Repealed.] (1973 Code, § 13-125, as repealed by Ord. #650, Dec. 2006)

18-125. [Repealed.] (1973 Code, § 13-126, as repealed by Ord. #650, Dec. 2006)

18-126. [Repealed.] (1973 Code, § 13-129, as repealed by Ord. #650, Dec. 2006)

18-127. [Repealed.] (1973 Code, § 13-112, as repealed by Ord. #650, Dec. 2006)

18-128. [Repealed.] (as added by Ord. #563, Jan. 2004, as repealed by Ord. #650, Dec. 2006)

18-129. Intent. It is the intent of the Board of Commissioners of the City of Fairview, Tennessee that this section shall be used for the benefit of the city and the Water Authority of Dickson County, Tennessee, and that the provisions of this section shall not preclude or limit either the city or The Water Authority of Dickson County, Tennessee from pursuit of any remedy available to them under appropriate state or federal law wherever and whenever applicable. (as added by Ord. #650, Dec. 2006)

CHAPTER 2

SANITARY SEWER SERVICES¹²

SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Abbreviations.
- 18-204. Use of public sewers.
- 18-205. Private wastewater disposal.
- 18-206. Building sewers and connections.
- 18-207. Pollutant discharge limits.
- 18-208. Pretreatment program administration.
- 18-209. Fees.
- 18-210. Powers and authority of inspections.
- 18-211. Enforcement.
- 18-212. Penalties.
- 18-213. New construction.
- 18-214. Sewage capacity charges.
- 18-215. Permits and tap fees.
- 18-216. Billing.

18-201. Purpose and policy. This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Fairview and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR 403).

Whenever in this section reference is made to the city manager or their agent(s), or designated representative shall include the Water Authority of Dickson County, Tennessee. All reports required to be filed and delivered to the city manager shall be required and filed with the Water Authority of Dickson

¹See Ord. #199, of record in the recorder's office, for: "AN ORDINANCE TO ESTABLISH PUBLIC SEWER CAPITAL FEES, INSTALLATION CHARGES AND SITE PLAN ELECTRICAL AND PLUMBING REQUIREMENTS FOR ALL BUILDING PERMITS ISSUED SINCE SEPTEMBER 1, 1987, TO THE DATE WHEN SERVICE BECOMES AVAILABLE IN THE CITY OF FAIRVIEW."

²The water and sewer departments of the City of Fairview, Tennessee and the property owned by the water and sewer departments was transferred to the Water Authority of Dickson County. See Ord. #616 of record in the office of the recorder.

County, Tennessee. All requirements for permits, inspection results etc. billing information and inspections shall be made to the Water Authority of Dickson County, Tennessee. It being the intention of this section that all actions previously conducted by the city relative to this chapter now be performed by the Water Authority of Dickson County, Tennessee, as allowed by existing statutes, regarding the operation of the sewer services for the City of Fairview, Tennessee.

The objectives to this chapter are:

- (1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
- (4) To provide for equitable distribution of the cost of the municipal wastewater system.

This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users, enforcement of general requirements for all users, authorizes monitoring and enforcement activities, requires industrial user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This chapter shall apply to the City of Fairview and to persons outside the city who are, by contract or agreement with the city, users of the city's Publicly Owned Treatment Works (POTW). Except as otherwise provided herein, the city manager of the city POTW shall administer, implement and enforce the provisions of this chapter. (Ord. #381, Aug. 1995, as amended by Ord. #650, Dec. 2006)

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

- (1) "Act" or "the Act" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*
- (2) "Approval authority" - The Tennessee Department of Environment and Conservation, Division of Water Pollution Control and/or any authorized representative thereof.
- (3) "Approved pretreatment program" - The pretreatment program administered by the City of Fairview approved by the Tennessee Department of Environment and Conservation under 40 CFR.

(4) "Authorized representative" - An authorized representative of a user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the user is a partnership or proprietorship, respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

An authorized representative of the city may be any person designated by the city to act on its behalf.

(5) "Available" - As used in connection with this chapter means a public sewer located at the property line or point at which connection may be made with the city sanitary sewage collection facilities.

(6) "Biochemical Oxygen Demand (BOD)" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures, five (5) days at 20° Centigrade expressed in terms of weight and concentration in milligrams per liter (mg/l).

(7) "Building sewer" - The extension from the building drain to the public sewer or other place of disposal, also called "house connection".

(8) "Building sewer permit" - As set forth in "Building Sewers and Connections" (§ 18-206).

(9) "Categorical standards" - National categorical pretreatment standards or pretreatment standard. Any regulations containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) and 40 CFR 403 which applies to a specific category of industrial users.

(10) "City" - The City of Fairview, its mayor and board of commissioners, or the city manager of the POTW or his/her designee.

(11) "City manager" - The city manager of wastewater facilities, and/or wastewater treatment works and/or of water pollution control for the City of Fairview or his/her authorized deputy, agent or representative.

(12) "Combined sewer" - Any conduit carrying both sanitary sewage and storm water or surface water.

(13) "Compatible pollutant" - Biochemical oxygen demand, suspended solids and fecal coliform bacteria, plus additional pollutants that the POTW is designed to treat and, in fact, does treat to the degree required by the POTW's NPDES permit.

(14) "24-hr., Flow Proportioned Composite Sample" - A combination of individual samples of water or wastewater taken at selected intervals, or based on quantity of flow for some specified period, to minimize the effect of variability of the individual sample. Individual samples may have equal volume or may be proportioned to the flow at the time of the sampling.

(15) "Control authority" - The term shall refer to the "approved authority" defined hereinabove; or the city manager of the POTW or his/her designer if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(16) "Cooling water" - The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(17) "County health department" - The Health Department for Williamson County.

(18) "Dilution stream" - Any wastewater not generated by a process regulated for the specific pollutant by a categorical standard under 40 CFR, Subchapter N.

(19) "Direct discharge" - The discharge of treated or untreated wastewaters directly to the waters of the State of Tennessee.

(20) "Easement" - An acquired legal right for the specific use of land owned by others.

(21) "Environmental Protection Agency or EPA" - The U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or his/her duly authorized representative of said agency.

(22) "Equipment" - All movable, non-fixed items necessary to the wastewater treatment process.

(23) "Federal pretreatment standards" - Federal regulations for pretreatment of industrial wastewater under 40 CFR, Subchapter N and any applicable regulations, as amended.

(24) "Garbage" - The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

(25) "Grab sample" - A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(26) "Holding tank waste" - Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

(27) "Incompatible pollutant" - All pollutants other than compatible pollutants as defined in this section.

(28) "Indirect discharge" - The discharge or the introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act and including holding tank wastes discharged into the system.

(29) "Industrial user" - A source of indirect discharge.

(30) "Industrial waste" - The wastewaters from industrial or commercial processes as distinct from domestic or sanitary wastes.

(31) "Interceptor" - A device designed and installed so as to separate and retain deleterious, hazardous and undesirable matter from domestic wastes

while permitting domestic sewage or liquid wastes to discharge into the sewer system or drainage system by gravity. Interceptor as defined herein is commonly referred to as a grease, oil or sand trap.

(32) "Interference" - The inhibition or disruption of the POTW treatment processes or operations or that which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act (33 USC 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substance Control Act, or more stringent state criteria (including those obtained in any state sludge management plan prepared pursuant to Title IV or SWDA) applicable to the method of disposal or use employed by the POTW.

(33) "Maximum daily concentration" - The maximum concentration per day of a pollutant based on the analytical results obtained from a 24-hour composite sample.

(34) "May" - This is permissive.

(35) "National Pollutant Discharge Elimination System or NPDES Permit" - A permit issued pursuant to Section 402 of the Act (33 USC 1332).

(36) "NPDES state" - a state (as defined in 40 CFR, 122.2) or interstate water pollution control agency with an NPDES permit program approved pursuant to Section 402(b) of the Act. In this definition, the state refers to the State of Tennessee.

(37) "Natural outlet" - Any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

(38) "New source" - Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 USC 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of a proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(39) "Operation and maintenance expenses" - All annual operation and maintenance expenses including replacement cost works as shown by annual audit.

(40) "Pass through" - The allowable concentration of a parameter allowed by the POTW.

(41) "Person" - Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity of any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

(42) "pH" - The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

(43) "Pollutant" - Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural wastes discharged into water.

(44) "Pollution" - The man-made or man-induced alteration of the chemical, physical, biological and/or radiological integrity of water.

(45) "POTW treatment plant" - That portion of the POTW designed to provide treatment to wastewater.

(46) "Pretreatment or treatment" - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process change(s), or other means, except as prohibited by 40 CFR 403.6(d).

(47) "Pretreatment requirements" - Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on a significant industrial user.

(48) "Prohibitive discharge standard" - Any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

(49) "Properly shredded garbage" - The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch in any dimension.

(50) "Publicly Owned Treatment Works (POTW)" - A treatment works as defined by Section 212 of the Act (33 USC 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant but does not include pipes, sewers, or other conveyance not connected to a facility providing treatment. For the purpose of this chapter "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the jurisdiction of the city who are users to the city's POTW.

(51) "Public sewers" - A common sewer controlled by a governmental agency or public utility. In general, the public sewer shall include the main sewer in the street and the service branch to the curb or property line, or a main sewer on private property and the service branch to the extent of ownership by public authority.

(52) "Replacement" - Expenditure for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(53) "Sanitary sewer" - A sewer that carries liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions.

(54) "Sewage" - The spent water of a community. Domestic or sanitary waste shall mean the liquid or waterborne wastes from residences, commercial buildings and institutions and is distinct from industrial sewage. The terms "sewage" and "wastewater" are used interchangeably.

(55) "Sewage system or works" - All facilities for collecting, transporting, pumping, treating and disposing of sewage and sludge, namely the sewerage system and POTW.

(56) "Sewer" - A pipe or conduit that carries wastewater or drainage water.

(57) "Sewer user charges" - A system of charges levied on users of a POTW for the cost of operation and maintenance, including replacement of such works.

(58) "Shall" - This is mandatory.

(59) "Significant industrial user" - Any user of the city's wastewater disposal system who:

(a) Is subject to a categorical pretreatment standard(s) under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or

(b) Has a discharge flow of 25,000 gallons or more per average work day; or

(c) Has a flow greater than 5 percent of the flow in the city's wastewater treatment system; or

(d) Has in its wastewaters toxic pollutants as defined pursuant to Section 307 of the Act or state statutes and rules; or

(e) Is found by the city, state approval authority or the U. S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(60) "Significant violation" - A violation that meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(b) Technical Review Criteria (TRC) - Violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, Fats, Oil and Grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the city manager determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or other order issued hereunder for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation or group of violations which the city manager determines will adversely affect the operation or implementation of the local pretreatment program.

(61) "Slug discharge" - Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge and/or any discharge of water or wastewater in which the concentration of any given constituent or the quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flow rate during normal operation and/or adversely affects the POTW.

(62) "Standard Industrial Classification (SIC)" - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(63) "State" - The State of Tennessee.

(64) "Storm drain or storm sewer" - A drain or sewer for conveying water, groundwater, surface water, or unpolluted water from any source.

(65) "Storm water" - Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(66) "Submission" - The information required by the City of Fairview to administer the approved pretreatment program.

(67) "Surcharge" - A charge for service in addition to the basic sewer user and debt service charge, for those users whose contribution contains biochemical oxygen demand (BOD), chemical oxygen demand (COD), suspended solids (SS) or ammonia nitrogen (N-NH₃) in concentrations which exceed limits specified herein for such pollutants.

(68) "Suspended solids (TSS)" - Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

(69) "Toxic pollutant" - Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA Section 307(a) or other Acts.

(70) "Unpolluted water" - Water of quality equal to or better than the treatment works effluent criteria in effects or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

(71) "User" - Any person who contributes, causes or permits the contribution of wastewater into the POTW. See definition of person.

(72) "User charge" - The charge levied on all users, including but not limited to, persons, firms, corporations, or governmental entities that discharge, cause, or permit the discharge of sewage into the POTW.

(73) "Wastewater" - The spent water of a community. Sanitary or domestic wastes shall mean the liquid and water-carried wastes from residences, commercial buildings and institutions as distinct from industrial wastes. See sewage.

(74) "Wastewater discharge permit" - As set forth in the administration section of this chapter.

(75) "Wastewater facilities" - The structures, equipment and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

(76) "Wastewater treatment works" - An arrangement of devices and structures for treating domestic wastewaters and sludges. Sometimes used synonymously as "waste treatment plant" or "sewage treatment plant".

(77) "Watercourse" - A natural or artificial channel for the passage of water either continuously or intermittently.

(78) "Waters of the state" - All streams, lakes, ponds, marshes, water courses, water ways, wells, springs, reservoirs, aquifers, irrigation system, drainage system and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof. (Ord. #381, Aug. 1995)

18-203. Abbreviations. The following abbreviations shall have the designated meanings.

BOD	Biochemical Oxygen Demand.
CFR	Code of Federal Regulations.
CWA	Clean Water Act of 1979.

EPA	Environmental Protection Agency.
l	liter.
mg/l	milligram per liter (parts per million).
µg/l	micron per liter (parts per billion).
NPDES	National Pollutant Discharge Elimination System.
POTW	Publicly Owned Treatment Works.
SIC	Standard Industrial Classification.
SWDA	Solid Waste Disposal Act (42 USC 6901, <u>et seq.</u>).
TSS	Total Suspended Solids.
USC	United States Code.

(Ord. #381, Aug. 1995)

18-204. Use of public sewers. (1) Mandatory sewer connection.

(a) (i) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within thirty (30) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the buildings, or properties used for human occupancy, employment, recreation or other purposes, or is determined by the city to be technically feasible to make said connection.

(The provisions of this section (i) shall not apply to any areas annexed into the City of Fairview, Tennessee, without the owner's consent, which had an existing private sewer system in place and working prior to March 18, 2004, and said areas having been annexed into the City of Fairview prior to March 18, 2004.)

(ii) The provisions of this section (i) shall apply to commercial property not exempted by section (i) of this section.

(b) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater where public sanitary sewer service is available, as defined in § 18-204(1)(a), except as provided for in "Private Wastewater Disposal" (§ 18-205). The existence within the city, wherever the services of the city sanitary sewage collection, treatment and disposal facilities are available, or may hereafter be made available, of septic tanks, seepage laterals, privies, earth pits, cesspools, sanitary waste vaults, sewage drainage fields, private sewage disposal systems, or any

other such facilities or works for the disposition of sanitary sewage wastes other than the facilities of the city, is hereby declared to be a menace to the public health, safety and general welfare of the citizens and inhabitants of the city and is hereby determined and declared to constitute a public nuisance. The existence of such facilities as toilets, sinks, wash basins, showerbaths, bathtubs, any commercial or industrial machinery or device producing a liquid waste product, etc., in or upon any improved property or sewage collection, treatment and disposal system are available or may hereafter be made available is similarly declared to be a menace to the public health and general welfare for the city and its inhabitants, unless such facilities are connected to the city sewage collection, treatment and disposal system. The city manager may prescribe the type and manner of connection to said facilities, and may require that each connection be supervised and inspected by an authorized and qualified agent of the city sewer department.

(c) (i) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer system in compliance with this chapter, and any septic tank, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material or salvaged and removed. The first exception being the case in which the City of Fairview annexed property without the owners consent. As long as property owners have a preexisting, permitted, properly operating septic tank, cesspool, or private sewage disposal system, that has not failed and meets all requirement of the department of health, the City of Fairview will not require mandatory connection to the available public sewer system. When the property owner's system fails and the health department refuses to issue a permit for the existing system or a new system, the owners must connect to the public system within thirty (30) days. This section shall apply only to areas of the city annexed without the owner's consent who had an existing private sewer system in place and working prior to March 18, 2004, and said areas having been annexed into the City of Fairview prior to March 18, 2004.

Except for the exclusion provided in this section and after the date of the passage of this ordinance revision, when a public sanitary sewer of the city is located within five hundred (500) feet of the buildings, or properties used for human occupancy, employment, recreation or other purposes or it is determined to be technically feasible to make said connection. The owner is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper

public sewer in accordance with this chapter subject to the following conditions:

(A) If the public sewer line is a pressure line (a line that requires the installation of grinder pumps by the user) no requirement to connect will be required unless and until the owner's present sewer system fails and a permit cannot be obtained to operate the owner's system.

(B) If the public sewer line is of the gravity flow type (no grinder pumps required by the user) the owner shall connect to the public sewer line in accordance with this chapter but said owner shall have a total of three (3) years to make the connection from the date the public sewer line becomes available. A public sewer line shall be deemed available from the first date a customer is connected to the particular section of sewer line.

(ii) When a public sanitary sewer of the city is located within five hundred (500) feet of the buildings, or properties used for human occupancy, employment, recreation or other purposes or it is determined to be technically feasible to make said connection. The owner is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with this chapter subject to the following conditions:

(A) If the public sewer line is a pressure line (a line that requires the installation of grinder pumps by the user) no requirement to connect will be required unless and until the owner's present sewer system fails and a permit cannot be obtained to operate the owner's system.

(B) If the public sewer line is of the gravity flow type (no grinder pumps required by the user) the owner shall connect to the public sewer line in accordance with this chapter but said owner shall have a total of three (3) years to make the connection from the date the public sewer line becomes available. A public sewer line shall be deemed available from the first date a customer is connected to the particular section of sewer line.

(2) Unlawful discharge to storm sewers or natural outlets. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Fairview or in any area under the jurisdiction of said city or into any sewer which connects to the storm sewer system of the City of Fairview, any objectionable wastewater or industrial wastes.

(b) It shall be unlawful to discharge to any natural outlet within the City of Fairview or in any area under the jurisdiction of said city, any

wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions.

(3) Compliance. Compliance with local, state and federal laws. The discharge of any wastewater into the public sewer system by any person is unlawful except in compliance with the provisions of this chapter, and any more stringent state or federal standards promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977 and subsequent amendments.

(4) Discharge of unpolluted waters into sewer. (a) No person(s) shall discharge or cause to be discharged through any leak, defect or connection any unpolluted waters such as storm water, ground water, roof runoff, subsurface drainage or cooling water to any sanitary sewer, building sewer, building drain or building plumbing. The city manager or his representative shall have the right, at any time, to inspect the inside or outside of buildings or smoke test for connections, leaks, or defects to building sewers and require disconnection or repair of any pipes carrying such water to the building sewer. Such waters shall not be removed through the dual use of a sanitary drain sump or a sump pump to building sanitary sewer. Discharge of such waters by a manual switch-over from sanitary sewer to storm drainage will not be an acceptable method of separation. In case both storm and sanitary sewage is present, separate drainage or pumping system shall be included.

(b) Stormwater, groundwater and all other unpolluted drainage may be discharged to such sewers as are used as storm sewers approved by the city manager. Under no circumstances shall sanitary sewage be discharged to a storm sewer.

(c) The owner(s) of any building sewers having such connections, leaks, or defects shall bear all costs incidental to removal of such sources.

(5) Substances which interfere. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to federal categorical pretreatment standards or any other federal, state or local pretreatment standards or requirements. A user shall not contribute the following substances to any POTW:

(a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall a wastestream exhibit a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols,

ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and any other substances which have a closed cup flashpoint of 140 degrees Fahrenheit (60 Centigrade) or less, and any substance which the city, state or EPA has notified the user is a fire hazard or a hazard to the sanitary sewer system.

(b) Any waters or wastes having a pH lower than 6 or higher than 9 or having any other corrosive property(s) capable of causing damage or hazard to structures, equipment and personnel of the POTW.

(c) Any slug load or pollutants, including oxygen demanding pollutants, released at a flow or concentration that will cause interference with the POTW's operation.

(d) Solid or viscous substance in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities.

(e) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW that will result in a treatment plant influent temperature which exceeds 104 Degrees Fahrenheit (40 Centigrade).

(f) Any pollutant(s) which, either alone or by interaction with other substances, produce toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(g) Any substances which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal, developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(h) Any substance which causes the POTW to violate its NPDES permit, sludge disposal permit or the water quality standards of the receiving stream.

(i) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through at the POTW.

(j) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety.

(k) Any trucked or hauled pollutants, except at discharge points designated by the city manager.

(6) Grinder, septic tank use accessibility, pump ownership, electrical hookup are allowed to the City of Fairview sewer system. (Ord. #381, Aug. 1995, as amended by Ord. #549, July 2003; and Ord. #570, April 2004, and Ord. #650, Dec. 2006)

18-205. Private wastewater disposal. (1) Public sewer not available.

(a) Where a public sanitary sewer is not available under the provisions of § 18-204, the building sewer shall be connected, until the public sewer system is available, to a private wastewater disposal system complying with the provisions of applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary, the sludge may be disposed of only as approved by the city, by operators licensed by the city for such purposes.

(c) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by applicable local, state or federal regulations.

(d) Industries with current NPDES permits may discharge at permitted discharge points provided they are in compliance with the conditions of said permit.

(2) Requirements for installation. (a) The type, capacity, location and layout of a private sewage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the city manager after approval of the system by the local and state authorities if required. The application for such permit shall be made on a form furnished by the city manager which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the city manager.

(b) A permit for private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, if required. These authorities shall be allowed to inspect the work at any stage of construction, and in any event the applicant for the permit shall notify the city manager when the work is ready for final inspection and before any underground portions are covered.

(c) No certificate shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than seventy-five hundred (7,500) square feet.

(d) Any private sewage disposal system must be constructed in accordance with the requirements of the State of Tennessee, the Williamson Health Department and of the City of Fairview and must be

inspected and approved by the authorized representative of the Williamson County Health Department and by the city manager.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times.

(3) **Requirements for connections.** (a) Where the building drain of any residence, office, recreational facility or other establishment used for human occupancy is below the elevation to obtain a 1% grade in the building sewer but is otherwise accessible to a public sewer as provided in § 18-204(1)(a), the owner shall provide a private sewage pumping station as provided in § 18-206(3)(c) and (i), unless the property is located in an area where the city is providing pumping stations as a part of the system.

(b) When a public sewer becomes available, the building sewer shall be connected to such public sewer within ninety (90) days of date of notice to do so, and the private sewage disposal system shall be cleaned of sludge and filled with suitable material. (Ord. #381, Aug. 1995)

18-206. Building sewers and connections. Per Water Authority of Dickson County, Tennessee, standards. (Ord. #381, Aug. 1995, as replaced by Ord. #650, Dec. 2006)

18-207. Pollutant discharge limits. Per Water Authority of Dickson County, Tennessee, standards. (Ord. #381, Aug. 1995, as replaced by Ord. #650, Dec. 2006)

18-208. Pretreatment program administration. Per Water Authority of Dickson County, Tennessee, standards. (Ord. #381, Aug. 1995, as replaced by Ord. #650, Dec. 2006)

18-209. Fees. Per Water Authority of Dickson County, Tennessee, standards. (Ord. #381, Aug. 1995, as replaced by Ord. #650, Dec. 2006)

18-210. Powers and authority of inspections. (1) Right to enter premises. The city manager and other duly promulgated employees and representatives of the city and authorized representatives of applicable federal and state regulatory agencies bearing proper credentials and identification shall be permitted to enter all properties at any reasonable time for purposes of, but not limited to, inspection, observation, measurement, sampling and testing of discharges to the public sewer system and inspection and copying of all records in accordance with the provisions of this chapter.

(2) Right to obtain information regarding discharge. Duly authorized employees and representatives of the city are authorized to obtain information concerning character, strength and quantity of industrial wastes which have a

direct bearing on the kind and source of discharge to the wastewater collection system.

(3) Access to easements. Duly authorized employees and representatives of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement and sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(4) Safety. While performing the necessary work on private properties referred to in § 18-210(1), all duly authorized employees of the city shall observe all safety rules applicable to the premises established by the facility and the company shall be held blameless for any injury or death to the city employee. The city shall secure the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this chapter. (Ord. #381, Aug. 1995)

18-211. Enforcement. (1) General. The city through the city manager or his designee, to insure compliance with this chapter, may take the following enforcement steps against users in noncompliance with this chapter. The remedies available to the superintendent include injunctive relief, civil and criminal penalties, immediate discontinuance of discharges and/or water service and the publishing of the list of significant violators annually. The enforcement authority shall be vested in the city manager of the POTW or his/her designee.

All violations of requirements of this chapter must be reviewed and responded to by the city manager or his representative. In general, the city manager shall notify the industrial user when a violation occurs. For all violations, the city manager shall receive an explanation and, as appropriate, a plan from the industrial user to correct the violation within a specific time period. If the violation(s) persist or the explanation and/or plan are not adequate, the city manager's response shall be more formal and commitments or schedules, as appropriate, for compliance will be established in an enforceable document. The enforcement response selected will be related to the seriousness of the violation. Enforcement responses will be escalated if compliance is not achieved expeditiously after the initial action. A significant violation will require a formal enforcement action. The full scale of enforcement actions will be detailed in the city's pretreatment program Enforcement Response Plan.

(2) Enforcement actions. (a) Informal notice. These actions include statements made to the industrial user during sampling and/or inspection

visits, telephone calls to the appropriate company official, informal meetings, warning or reminder letters. These informal notices shall be used for minor violations.

(b) Formal notice. These actions include the following:

(i) Notice of violation. Any person found to be violating any provision of this chapter, wastewater discharge permit or any order issued hereunder shall be served by the POTW city manager with a written notice stating the nature of the violation. The offender must permanently cease all violations.

(ii) Administrative orders/fines. Any person who, after receiving a notice of violation, continues to discharge in violation of this chapter or other pretreatment standard or requirement or is determined to be a chronic or persistent violator, shall be ordered to appear before the city manager. At said appearance, a compliance schedule will be given to the violating user and an administrative fine assessed. The fine shall be determined on a case-by-case basis which shall consider the type, severity, duration and number of violations, severity of impact on the POTW, impact on human health, user's economic benefit from the violation, past history of the user, and good-faith efforts made by the user. The fine shall be a nonarbitrary but appropriate amount.

Users desiring to dispute such fines shall file with the city manager a request for the city to reconsider the fine within ten (10) days of being notified of the fine. The city shall convene a hearing on the matter within fifteen (15) days of receiving such a request from the user. The administrative order may take any of the following four forms:

(A) Consent order. The city manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified in the order. Consent orders shall have the same force and effect as all other administrative orders.

(B) Compliance order. When the city manager finds that an industrial user has violated or continues to violate this chapter or permit or order issued hereunder, he may issue an order to the industrial user responsible for the violation directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may

also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

(C) Cease and desist order. When the city manager finds that an industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the city manager may issue an order to cease and desist all such violations to the user and direct those persons in noncompliance to:

- (1) Comply forthwith;
- (2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(D) Show cause hearing order. The city manager may issue to any user who causes or contributes to violations of this chapter, discharge permit or order issued hereunder, an order to appear and show cause why more severe enforcement action should not be taken. A notice shall be served on the user specifying the time and place of the hearing to be held by the city manager regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the city manager why more severe enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of the facility. Whether or not a duly notified industrial user or its representative appears, immediate enforcement action may be pursued.

The city itself may conduct the hearing and take evidence or may designate a representative to:

- (1) Issue in the name of the city notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (2) Take the evidence;
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city for action

thereon. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically.

The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof. After the city has reviewed the evidence, it may issue an order to the user responsible for the violation directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Further orders and directives as are necessary and appropriate may be issued. (Ord. #381, Aug. 1995)

18-212. Penalties. (1) Written notice. Any user found to be violating any provision of this chapter or a discharge permit or order issued hereunder shall be served by the city manager or his representative with written notice stating the nature of the violation. The violator shall permanently cease all violations upon receipt of this notice. As contained in § 18-211, the notice may be of several forms. Also as contained in § 18-211, penalties of various forms may be levied against users for violations of this chapter. The penalties shall range from publication of violators to fines up to \$1,000 per day per violation.

(2) Continued violation. Any user who shall violate any provision of this chapter, a discharge permit or other order issued hereunder shall be guilty of a violation of this chapter and shall be liable to the city manager for a civil penalty of up to \$1,000 per violation for each day on which the violation occurs. Each day in which such violation occurs shall be deemed a separate offense.

(3) Revocation of permit. Any user violating any of the provisions of this chapter or discharge permit or other order issued hereunder shall be subject to termination of its authority to discharge sewage into the public sewer system. Such termination shall be immediate if necessary for the protection of the POTW. Said user may also have water service terminated. Any user who violates any condition(s) of this chapter, discharge permit, order or applicable state or federal regulations is subject to having its industrial user discharge permit revoked in accordance with the procedures of this chapter. Violations resulting in immediate permit revocation shall include, but not be limited to, the following:

- (a) Failure of a user to factually report the wastewater constituents and characteristics of its discharge;
- (b) Failure of the user to report significant changes in operation, processes, wastewater constituents and characteristics;
- (c) Refusal of reasonable access to the user's premises for the purpose of inspection and sampling; and

(d) Violation(s) of any condition of the industrial user discharge permit.

(4) Liability. Any user violating any of the provisions of this chapter, discharge permit or other order issued hereunder shall become liable to the City of Fairview for any expense, loss or damage occasioned by the city by reason of such violation. This civil liability is as provided by state and federal regulations.

(5) Misrepresentation and/or falsifying documents. Any user who knowingly and/or negligently makes any false statements, representations or certification of any application, record, reports, plan or other document filed or required pursuant to this chapter or industrial user discharge permit or who falsifies, tampers with or knowingly and/or negligently renders inaccurate any monitoring device or method required under this chapter, shall be punished by a fine of up to \$1,000 or by imprisonment for not more than twelve (12) months or by both.

(6) Destruction of POTW and legal action. No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the POTW. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct. It shall be noted that the Clean Water Act does not require proof of specific intent to obtain conviction.

(7) Judicial action. If any person(s) discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, discharge permit, any order of the city manager or the city, or federal or state pretreatment requirements, the city may commence an action for appropriate legal and/or equitable relief in the appropriate court of this jurisdiction. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person(s) found to have violated this chapter or the orders, regulations and permits issued hereunder.

(8) Termination of service. The city manager may suspend the wastewater treatment service and/or wastewater discharge permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare for the public, the POTW or the environment. Any user notified of a suspension of the wastewater treatment service and/or the discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city manager shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. Any industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing

the causes for the harmful contribution and the measures taken to prevent any future occurrence to the city manager.

(9) Criminal prosecution. Any industrial user who willfully or negligently violates any provisions of this chapter, any orders or permits issued hereunder, or any other pretreatment requirements shall, upon conviction, be guilty of a misdemeanor, punishable by a fine up to \$1,000 per violation per day or imprisonment for not more than one year or both. (Ord. #381, Aug. 1995)

18-213. New construction. (1) Plans and specifications. On all new additions to sewage system for single family dwellings containing a grinder pump or above one single family dwelling served by gravity sewer, there shall be two sets of plans and specifications submitted to public works for review by the city and the city engineers.

(2) City specifications. All new work shall be done in accordance with city specification. Any changes in specifications must be submitted in writing to city thirty (30) days in advance for approval by city and city engineers.

(3) Inspections. All new work shall be inspected by city appointed authority. All lines and appurtenances shall be inspected before covering or backfilling. City shall be given twenty-four (24) hour notice before inspection. The city shall have the option to make all taps to main line. However, the city may allow a tap to be made by an approved contractor.

(4) Inspector. The owner or developer shall bear all cost for inspection. Inspector rates shall be twenty dollars (\$20.00) per trip or per hour. (One hour, fifteen minutes will constitute forty dollars (\$40.00).) An increase of twenty percent (20%) per year for inspection fees shall take effect January 1st of each year beginning January 1, 1987.

(5) Contractors. All contractors must be approved by the City of Fairview.

(6) Grades for house sewers. Unless authorized all house sewers shall have a grade of not less than 1/8 inch per foot.

(7) Specific requirements. Rain water leaders, roof leaders, surface or building drains shall not be connected to sanitary sewer system.

(8) As built drawings. After construction of project, contractor will furnish to the City of Fairview two sets of as built drawings.

(9) Gravity sewers. House services on gravity line shall not be less than 4" in diameter and shall have a T or Y brought to grade every 80 feet.

(10) Guarantee and payment. A bond shall be put up on all new work that will be dedicated to the city; all new work done by outside contractors shall be guaranteed for a period of one (1) year after acceptance by the city. Upon acceptance of city manager, the bond will be returned.

(11) Plans approval and easements. All plans must bear the stamp of approval at the Tennessee Department of Environment and Conservation and city engineers prior to issuance of building permit. The contractor shall furnish all easements if any are required before construction.

(12) Survey report. All commercial and industrial users shall fill out and submit a survey report. Before acceptance, a study session of city engineers and city shall review application on amount of discharge and impact to existing system for pretreatment program and loading (hydraulic and organic) to this system.

(13) Expenses. All items listed in this section shall be at the expense of the owner or developer.

(14) Reconstruction. All remodeling or tearing down and building back shall constitute new construction.

(15) Review of plans. All users or expected users of sewer shall submit plans to the city and city engineers for sewer study. Developments of subdivisions, industrial and commercial shall be evaluated for total impact.

(16) Commercial construction. All commercial installation 8' deep or above shall be installed by contractors or developer under approval of city and in accordance with city specifications. (Ord. #381, Aug. 1995)

18-214. Sewage capacity charges. Per Water Authority of Dickson County, Tennessee, standards. (as added by Ord. #525, Aug. 2002, as replaced by Ord. #650, Dec. 2006)

18-215. Permits and tap fees. Per Water Authority of Dickson County, Tennessee, standards. (Ord. #381, Aug. 1995, as amended by Ord. #398, June 1996, and renumbered by Ord. #525, Aug. 2002, as replaced by Ord. #650, Dec. 2006)

18-216. Billing. Per Water Authority of Dickson County, Tennessee, standards. (Ord. #381, Aug. 1995 as amended by Ord. #447, Oct. 1998, and Ord. #469, Sept. 1999, and renumbered by Ord. #525, Aug. 2002, as replaced by Ord. #650, Dec. 2006)

CHAPTER 3

SEWAGE AND HUMAN EXCRETA DISPOSAL¹

SECTION

- 18-301. Definitions.
- 18-302. Places required to have sanitary disposal methods.
- 18-303. When a connection to the public sewer is required.
- 18-304. When a septic tank shall be used.
- 18-305. Registration and records of septic tank cleaners, etc.
- 18-306. Use of pit privy or other method of disposal.
- 18-307. Approval and permit required for septic tanks, privies, etc.
- 18-308. Owner to provide disposal facilities.
- 18-309. Occupant to maintain disposal facilities.
- 18-310. Only specified methods of disposal to be used.
- 18-311. "Frost-proof toilets."
- 18-312. Discharge into watercourses restricted.
- 18-313. Pollution of ground water prohibited.
- 18-314. Enforcement of chapter.
- 18-315. Carnivals, circuses, etc.
- 18-316. Violations.

18-301. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled

¹Municipal code reference
Plumbing code: title 12, chapter 2.

"Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1973 Code, § 8-201)

18-302. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1973 Code, § 8-202)

18-303. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1973 Code, § 8-203)

18-304. When a septic tank shall be used. Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved

by the health officer and the installation shall be under the general supervision of the department of health. (1973 Code, § 8-204)

18-305. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1973 Code, § 8-205)

18-306. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-302 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1973 Code, § 8-206)

18-307. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1973 Code, § 8-207)

18-308. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-302, or the agent of the owner to provide such facilities. (1973 Code, § 8-208)

18-309. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1973 Code, § 8-209)

18-310. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1973 Code, § 8-210)

18-311. "Frost-proof toilets." After the effective date of these regulations, the installation of a so-called "frost-proof toilet," or any similar device for sewage disposal having connection to a public water supply by means of an underground inlet valve or other type of connection which in case of

malfunction could allow said water supply to be contaminated with sewage, is hereby expressly prohibited.

Any "frost-proof toilet," or similar device for sewage disposal as described in the preceding paragraph, which is already installed when these regulations are adopted and which subsequent to the adoption of these regulations is found to be stopped-up or otherwise in need of repairs and in the opinion of the health officer is endangering a water supply, shall be removed by the owner upon due notification by the health officer, and shall not be replaced except by a flush closet of a type approved by the health officer. (1973 Code, § 8-211)

18-312. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1973 Code, § 8-212)

18-313. Pollution of ground water prohibited. No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1973 Code, § 8-213)

18-314. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within thirty (30) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1973 Code, § 8-214)

18-315. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of thirty (30) days provided for in the preceding section. (1973 Code, § 8-215)

18-316. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1973 Code, § 8-216)

CHAPTER 4

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-401. Definitions.
- 18-402. Compliance.
- 18-403. Regulated.
- 18-404. Statement required.
- 18-405. Duties of city manager.
- 18-406. Inspections.
- 18-407. Violations.
- 18-408. Protective devices.
- 18-409. Unsafe drinking water; notice thereof.
- 18-410. Premises affected.
- 18-411. Violations and penalties.

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the City of Fairview, Tennessee, for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross connection." Any physical connection whereby the public water supply is connected, with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

organized or existing under the laws of this or any other state or country. (1973 Code, § 8-301)

18-402. Compliance. The City of Fairview Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1973 Code, § 8-302)

18-403. Regulated. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Health and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the city manager of the City of Fairview. (1973 Code, § 8-303)

18-404. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the city manager a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1973 Code, § 8-304)

18-405. Duties of city manager. It shall be the duty of the city manager of the City of Fairview to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the city manager of the City of Fairview and as approved by the Tennessee Department of Health. (1973 Code, § 8-305)

18-406. Inspections. The city manager or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the City of Fairview public water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (1973 Code, § 8-306)

18-407. Violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the city manager of the City of Fairview.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the city manager shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1973 Code, § 8-307)

18-408. Protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation.

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water supply, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the city manager or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the city manager of the waterworks prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the City of Fairview public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the city manager or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the city manager shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water supply shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the city manager of the City of Fairview.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the city manager. (1973 Code, § 8-308)

18-409. Unsafe drinking water; notice thereof. The potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1973 Code, § 8-309)

18-410. Premises affected. The requirements contained herein shall apply to all premises served by the City of Fairview water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly

without regard to location of the premises, whether inside or outside of the City of Fairview corporate limits. (1973 Code, § 8-310)

18-411. Violations and penalties. The requirements contained herein shall apply to all premises served by the city water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be subject to a penalty of one hundred dollars (\$100) for each offense. Each day a violation is allowed to occur shall be a separate offense.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. GAS.

CHAPTER 1

GAS

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.¹

¹The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. [DELETED.]
2. TELEPHONE FRANCHISE.
3. MUNICIPAL TORT LIABILITY.
4. FEE FOR BIKE RACES IN PARK.
5. SECURITY ALARM SYSTEMS.
6. FEES FOR USE OF FACILITIES IN BOWIE PARK.
7. YARD SALES.

CHAPTER 1

[DELETED]

(This chapter was deleted by Ord. #401, § 1, July 1996.)

CHAPTER 2**TELEPHONE FRANCHISE****SECTION**

20-201. To be furnished under franchise.

20-201. To be furnished under franchise. Telephone service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.¹

¹The agreements are of record in the office of the city recorder.

CHAPTER 3

MUNICIPAL TORT LIABILITY

SECTION

20-301. City exempt from tort liability.

20-301. City exempt from tort liability. The City of Fairview exempts itself from tort liability to the extent allowed by law. (1973 Code, § 1-1001, modified)

CHAPTER 4

FEE FOR BIKE RACES IN PARK

SECTION

20-401. Participation fees for bike races in Bowie Nature Park.

20-402. Park use deposits and permits.

20-403. Procedure for obtaining permits.

20-404. Shelter fees.

20-405. Electricity outlet fees.

20-406. Unlawful to utilize park facilities without obtaining permits and paying required fees.

20-401. Participation fees for bike races in Bowie Nature Park.

(1) Any individual or group that uses the Bowie Nature Park for an organized bike race shall be assessed a fee for the use of the park.

(2) The fee to be charged for such use shall be two dollars (\$2.00) per participant. (as added by Ord. #407, § 1, Sept. 1996)

20-402. Park use deposits and permits. Any event open to the public and sponsored by a civic group, club, or organization shall be required to provide a park use deposit and obtain a park use permit.

(1) A park use deposit of five hundred dollars (\$500.00) is required for any event with an expected attendance of two hundred fifty (250) persons or less.

(2) A park use deposit of one thousand dollars (\$1,000.00) will be required for any event with an expected attendance of more than two hundred fifty persons.

(3) The park use deposit may be in the form of an irrevocable letter of credit from a bank. (as added by Ord. #423, § 1, Dec. 1997)

20-403. Procedure for obtaining permits. The procedure for obtaining permits will be as follows:

(1) For any event with an expected attendance of two hundred fifty persons or less:

(a) An application must be made at least six weeks prior to the event. The application may be obtained at the city hall.

(b) The application must be filed with the park director.

(c) The application must be accompanied by the park use deposit.

(d) Proof of insurance may be required if deemed necessary by the park director or the park superintendent.

(e) If the event is approved by the park director, a park use permit will be issued at city hall.

(f) The park use deposit will be retained until such time as the park director or the park superintendent assesses the condition of the park. If it is determined that there is any damage to the park as a result of the event, the park director or park superintendent shall retain such amount from the park use deposit as is necessary to repair such damage.

(g) Any amount of the park use deposit not retained will be refunded to the applicant.

(2) For any event with an expected attendance of more than two hundred fifty persons:

(a) An application must be made at least six weeks prior to the event. The application may be obtained at the city hall.

(b) The application must be filed with the park director.

(c) The application must be accompanied by the park use deposit.

(d) Proof of insurance may be required if deemed necessary by the park director or the park superintendent.

(e) If the event is approved by the administrative committee, the board of commissioners, and the Fairview Recreation Advisory Board, a park use permit will be issued at city hall.

(f) If a security plan is required by the administrative committee, the board of commissioners, and the Fairview Recreation Advisory Board, the applicant must submit a plan no later than two (2) weeks prior to such event. If the security is sought from the Fairview Police Department, the fee shall be \$25.00 per hour per security officer and \$15.00 per hour for use of city vehicle.

(g) The park use deposit will be retained until such time as the park director or the park superintendent assesses the condition of the park. If it is determined that there is any damage to the park as a result of the event, the park director or park superintendent shall retain such amount from the park use deposit as is necessary to repair such damage.

(h) Any amount of the park use deposit not retained will be refunded to the applicant. (as added by Ord. #423, § 1, Dec. 1997)

20-404. Shelter fees. A shelter fee shall also be required for use of any shelter in the park. The fee is as follows:

(1) Fairview residents shall pay \$10.00 for each one-half (½) day of use.

(2) Non-residents of Fairview shall pay \$20.00 for each one-half (½) day of use.

(3) These fees are non-refundable. (as added by Ord. #423, § 1, Dec. 1997)

20-405. Electricity outlet fees. An electricity outlet fee shall be required. The fee is as follows:

- (a) For the use of one electrical outlet, the fee shall be \$10.00.
- (b) For the use of each additional electrical outlet after the first one, the fee shall be \$5.00.
- (c) These fees are non-refundable. (as added by Ord. #423, § 1, Dec. 1997)

20-406. Unlawful to utilize park facilities without obtaining permits and paying required fees. It shall be unlawful for anyone to hold such event as described herein without following the prescribed procedures and without obtaining the proper approval along with posting of the proper deposit. Failure to follow the proper procedures is a municipal offense. (as added by Ord. #423, § 1, Dec. 1997)

CHAPTER 5

SECURITY ALARM SYSTEMS

SECTION

- 20-501. Definitions.
- 20-502. Automatic telephone dialing alarm systems.
- 20-503. Permit issuance.
- 20-504. Application requirements for an alarm permit.
- 20-505. Items required for an alarm system to qualify for an alarm permit.
- 20-506. False alarms.
- 20-507. Fee assessment.
- 20-508. Disconnection.
- 20-509. Penalty for offenses.

20-501. Definitions. Unless it is apparent from the context that another meaning is intended, the following words when used in this chapter shall have the following meanings:

(1) "Alarm system" means an assembly of equipment, mechanical or electrical, arranged to signal the police department and/or fire department that an emergency exists and the department is needed. "Alarm system" shall also mean any alarm device which automatically emits audible, visual or other response upon the occurrence of any hazard or emergency and is intended to alert persons outside the building to the existence of said hazard or emergency.

(2) "Alarm user" means the person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility or portion thereof wherein an alarm system is maintained.

(3) "Alarm business" means the business of any individual, partnership, corporation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or in causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed in or on any building, structure, or facility.

(4) "Automatic telephone dialing alarm system" means any alarm system which is a device which automatically or electronically transmits by telephone or telephone line connected to a dispatch facility a recorded message or code signal indicating a need for emergency response; or, a system which, upon activation, connects to an answering service for transmission to the police department of a need for emergency response.

(5) "False alarm" means an alarm signal eliciting a response by the police department when a situation requiring a response by the police department does not in fact exist; but this definition does not include an alarm signal caused by unusually violent conditions of nature nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user.

(6) "Dispatch facility" means a communications center designated to receive, route, and otherwise handle all incoming police emergency service communications traffic.

(7) "Answering service" refers to a telephone answering service providing among its services on a continuous basis emergency signals from alarm systems and thereafter relaying the message to a dispatch facility or notifying the police department. (as added by Ord. #413, June 1997)

20-502. Automatic telephone dialing alarm systems. (1) It shall be unlawful for any person, natural or corporate, without a permit, to sell, offer for sale, install, maintain, lease, operate, or assist in the operation of an automatic telephone dialing alarm system over any telephone lines exclusively used by the public to directly request emergency service from the police department.

(2) The police department, when it has knowledge of the unlawful maintenance of an automatic telephone dialing alarm system installed or operating in violation of this chapter shall, in writing, order the owner, operator, or lessee to disconnect and cease operation of the system within seventy-two (72) hours of receipt of the order. (as added by Ord. #413, June 1997)

20-503. Permit issuance. (1) The police department is hereby authorized to grant a revocable alarm users permit to any alarm user located in the city to operate, maintain, install, or modify a police or fire alarm device, and no such device shall be operated unless such a permit has first been issued.

(2) A permit issued pursuant to this chapter may be revoked at any time by the police department upon the giving of ten (10) days notice in writing by certified or registered mail to the permit holder, sent to the address shown on the permit. Violation of this chapter, following conviction thereof, shall constitute grounds for revocation of the permit. The failure of the police department to revoke the permit following the finding of the city court that there has been a violation of this chapter shall not be deemed a waiver of the right to revoke the permit.

(3) A fee of \$10.00 shall be charged for issuance of any such permit. Each permit will be renewed by December 31, with a \$5.00 renewal fee assessed annually. (as added by Ord. #413, June 1997)

20-504. Application requirements for an alarm permit. Application for an alarm permit shall be made on forms provided by the police department, and shall be accompanied by the fee as set forth in section 20-503(3). The application form shall request the following information:

(1) Make and type of alarm system.

(2) The name, address, and telephone number of the applicant's property to be served by the alarm, and the name, address, and telephone number of applicant's residence if different. If the applicant's alarm is serviced by an alarm company, then the applicant shall also include the name, address,

and telephone number of that company including the name, address, and telephone number of any alarm-monitoring service if different from the alarm company.

(3) An emergency telephone number of the user or his representative to permit prompt notification of alarm calls and to assist police personnel in the inspection of the property.

(4) It is the applicant's responsibility to immediately notify the police department in writing of any and all changes in the information on file with the city regarding such permit. Failure to do so shall constitute grounds for revocation of the permit.

(5) The approximate time required for applicant or designated responsible keyholder to respond to the scene of an alarm activation.

(6) The issuance and renewal fees set forth in section 20-503(3). (as added by Ord. #413, June 1997)

20-505. Items required for an alarm system to qualify for an alarm permit. (1) All alarm systems shall have a backup power supply that will become effective in the event of power failure or outage in the source of electricity.

(2) All alarm systems will have an automatic reset which silence the annunciator within thirty (30) minutes after activation and will be the responsibility of permittee to see that continued activation by the same event does not occur in an eight (8) hour time frame.

(3) Any system installed on or after the effective date of this chapter must comply with the requirements stipulated in this section. Pre-existing installations must comply with this section within six (6) months of the effective date of this chapter.¹

(4) Any alarm system user must respond or have a designated representative to respond to the scene of any alarm activation to assist police or fire personnel in inspection of the building, structure, or facility.

(5) After notification by the police department or fire department of an alarm activation, any alarm user who fails to respond or have a designated representative respond to the scene of such alarm activation will be subject to a fine of not less than \$25.00. Failure to respond to more than three (3) alarms in a permit year will be grounds for revocation of the alarm permit. (as added by Ord. #413, June 1997)

20-506. False alarms. (1) Whenever an alarm is activated in the city thereby requiring an emergency response to the location by police or fire personnel, an officer on the scene of the activated alarm shall determine

¹This chapter was taken from Ord. #413 which passed final reading June 19, 1997.

whether the emergency response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.

(2) If the officer at the scene of the activated alarm system determines the alarm to be a true false alarm and not an accidental or emergency alarm, then the officer on the scene will advise the alarm user or representative the system needs to be checked. More than one false alarm in a thirty (30) day period will result in a written notification to the permit holder. The permit holder upon receipt of the notification shall be entitled to a hearing before the city administrator or his designee. The permit holder desiring a hearing shall request said hearing within ten (10) days of date of notification.

(3) The police department shall have the right to inspect any alarm system on the premises to which response has been made and may cause an inspection of such system to be made at any reasonable time thereafter to determine whether it is being used in conformity with the terms of this chapter.

(4) It shall be a violation of this chapter to intentionally cause a false alarm, and any person who intentionally causes a false alarm shall be subjected to the penalty provisions hereof.

(5) There shall be provided to the alarm user a ten (10) day grace period during the initial installation of the alarm system. The ten (10) days shall commence to run upon the issuance of the alarm permit by the police department.

(6) Any alarm business testing or servicing any alarm system shall notify the police department and/or fire department and shall instruct said department of the location and time of said testing and servicing. This shall apply to any testing period after the initial installation period has ceased.

(7) If the police department denies the issuance or renewal of a permit, or revokes a permit, it shall send written notice of its action and a statement of the right to appeal to the city administrator or board of commissioners, by certified mail, return receipt requested, to both the applicant or permit holder and the applicable alarm-installing service company. (as added by Ord. #413, June 1997)

20-507. Fee assessment. (1) Within a permit year, a service charge shall be automatically levied against the alarm user of \$50.00 upon the occurrence of the fourth (4th) false alarm, an alike amount for the fifth (5th) false alarm, and additional false alarms. All service charges levied shall be paid to the town by the alarm user within thirty (30) days of the date of the written notice of said charges. Failure to make payment within thirty (30) days from date of notice shall result in the revocation of the alarm permit and the alarm owner shall be cited into Fairview City Court. Continued alarms from a revoked permit site may result in the ordered disconnection of the alarm system.

(2) The sixth (6th) false alarm, and any subsequent false alarms, within a permit year shall result in revocation of the alarm user's permit in the following manner:

(a) The alarm user shall be given ten (10) days advance written notification that the alarm user's permit will be revoked, which written notice shall set forth the reason for such revocation.

(b) Reinstatement of the permit and police department services may occur upon receipt of a letter from an alarm company that the alarm system is operating properly and upon inspection and approval by the police department, and receipt of a \$100.00 reinstatement fee. (as added by Ord. #413, June 1997)

20-508. Disconnection. In the event that an alarm system emitting an audible, visual, or other similar response shall fail to be deactivated within the time limitations specified in the previous section hereof, the city shall have the right to take such action as may be necessary in order to disconnect any such alarm. (as added by Ord. #413, June 1997)

20-509. Penalty for offenses. Any person who violates any provision of this chapter shall be guilty of a violation, and upon conviction in city court, shall be subject to a fine of \$50.00 plus any court costs. Each occurrence constitutes a separate offense. (as added by Ord. #413, June 1997)

CHAPTER 6

FEES FOR USE OF FACILITIES IN BOWIE PARK

SECTION

20-601. Fees for use of facilities in Bowie Park.

20-601. Fees for use of facilities in Bowie Park. The following fees shall be charged for the use of the following facilities in Bowie Park.

(1) Miscellaneous. (a) Fees.

(i) Trail use each bicycle and each horse:

Two (\$2.00) per day.

All Fairview, Tennessee residents and residents of postal zip code 37062 are exempt from this fee.

(ii) To reserve shelters:

Fairview, Tennessee residents

One half day twenty (\$20.00) dollars

All day forty (\$40.00) dollars

Non-residents of Fairview, Tennessee

One half day thirty (\$30.00) dollars

All day sixty (\$60.00) dollars.

(iii) To reserve Joann's Classroom:

All rentals, seventy-five (\$75.00) dollars per day.

(iv) Park events (fund raisers) excludes non-profits

Expected attendance of 1000+-----\$500

Expected attendance of 500 to 999----- 250

Expected attendance of less than 500----- 125

(v) Day Camps

\$55 per week or \$15 per day: ages 7-12

Mommy and Me Pre-school programs:

\$2.50 per day: ages 4,5,6

"Discovery" Day Camps (school holidays)

\$10.00 per day, per child

(b) It shall be a violation of this chapter for any person or persons required to pay a fee for trail usage in Bosie Park in Fairview, Tennessee as directed by this chapter to fail to pay the fee. Failure to pay the fee, and have proof of payment of the fee, in accordance with this chapter shall subject the violator to the following:

(i) First offense - warning.

(ii) Second offense - fifty (\$50.00) dollar fine

(iii) Third offense - fifty (\$50.00) dollar fine and suspension from all Bowie Park facilities for a six (6) month period.

(2) Nature center. (a) All users (excluding those persons or entities exempted by this chapter) of the nature center at Bowie Park shall at the time the nature center is reserved post a five hundred (\$500.00) dollar deposit to cover breakage, theft, damage. The deposit may be posted by either cash, certified or cashiers check. The deposit will be returned in its entirety after inspection of the Bowie Nature Center by the director of parks or his designee, a determination has been made that no breakage, theft or damage of any type or kind has resulted to the nature center at Bowie Park as a result of the use for which the deposit was posted and any and all payments required by (2)(b) of this chapter have been made. If any breakage, theft, damage of any type or kind has resulted to the nature center at Bowie Park as a result of the use for which the deposit was posted, or all payments required by (2)(b) of this chapter have not been made the City of Fairview, Tennessee shall correct the resulting damage or deduct the cost of correction of the damage and any payment not made as required by (2)(b) of this chapter from the bond and return the remainder to the provider of the bond within fourteen (14) days. If the damage or unmade payment is in excess of the posted bond, the City of Fairview, Tennessee shall keep the entire bond and the person or entity who posted the bond shall be liable for any excess cost to restore the nature center at Bowie Park to the condition it was in just prior to the damage resulting from the use of the nature center at Bowie Park for which the original bond was posted plus any payments required by (2)(b) of this chapter which have not been paid in their entirety.

(b) All users shall pay an hourly charge for use of the nature center at Bowie Park of fifty (\$50.00) dollars per hour. This charge is to be paid to the City of Fairview, Tennessee within two (2) days of the day the nature center at Bowie Park was utilized by the person, or entity. The payment shall be in either cash or by certified or cashiers check. The bond deposited in accordance with (2)(a) shall not be returned until payment is made for use of the facilities of the nature center at Bowie Park pursuant to this paragraph. If payment is not made as required by this paragraph within four (4) days of the day the nature center at Bowie Park was utilized by the person or entity, the City of Fairview, Tennessee will deduct the payment for the hourly charge from the bond posted in accordance with (2)(a) and return the remainder of the bond in accordance with (2)(a) of this chapter.

(c) All users shall pay an hourly charge for on site supervision at the nature center at Bowie Park of twenty five (\$25.00) dollars per hour in cash directly to the person designated in this paragraph on the day or night the service is rendered. This supervision shall be present and on the site during the set up and take down of the activity. The supervisors shall be either off duty park or police officers and shall be assigned by the Director of Parks for the City of Fairview, Tennessee. If

payment to the designated supervisor is not made as required by this paragraph the City of Fairview, Tennessee shall pay the designated supervisor and deduct the payment from the bond posted in accordance with (2)(a) of this chapter.

(d) All users shall at the direction of the supervisor provided in (2)(c) of this chapter install barricades as directed by the supervisor to keep all persons away from the displays in the nature center at Bowie Park.

(e) The Friends of Bowie Nature Park and the Fairview, Tennessee Chamber of Commerce shall be exempt from the provisions of this chapter as long as they maintain on file in the office of the parks director the name of the current president of the Friends of Bowie Nature Park and the Fairview, Tennessee Chamber of Commerce along with a statement signed by the said president of each entity that he or she shall be responsible for obtaining the key to the nature center at Bowie Nature Park, unlocking and locking the nature center at Bowie Nature Park before and after their activities, promptly returning the key to the nature center at Bowie Nature Park to the office of the director of parks at the conclusion of the activity. In addition, the statement must include an agreement that the current president of the Friends of Bowie Nature Park and the Fairview, Tennessee Chamber of Commerce will act as the responsible party to insure that the provisions of (2)(c) and (d) are executed at all events conducted by the Friends of Bowie Nature Park and the Fairview Tennessee Chamber of Commerce. (as added by Ord. #546, June 2003, and amended by Ord. #555, Oct. 2003)

CHAPTER 7

YARD SALES

SECTION

20-701. Residential properties.

20-702. Commercial properties.

20-703. Time limit for yard sales.

20-704. Items to be removed within twenty-four hours of sale.

20-705. Violations.

20-701. Residential properties. For residential properties, there shall be a limit of four (4) yard sales permitted per calendar year without a permit process. Residential yard sale signs located off-premises from the sale must be commercial grade signs and cannot be homemade. Only directional signs may be placed on highway 100 or highway 96, if the sale is located on one of these highways one sign may be placed in the yard made from whatever material chosen by the maker of the sign. Signs must be printed on an 18-inch X 24-inch Coroplast medium with directional arrow only (no addresses). Signs must be placed on a wire H stand. More than four (4) yard sales per year (calendar year) shall constitute a Home Based Business that shall be regulated by Article 3-105.1, Subparagraph 6, and Article 3 - 105.2 Subparagraph 6, entitled Minor and Major Home Occupations of the City of Fairview Zoning Ordinance. (as added by Ord. #689, Jan. 2008, amended by Ord. #711, June 2008, and replaced by Ord. #746, Feb. 2009)

20-702. Commercial properties. For commercial businesses there shall be a limit of three (3) yard sales permitted per year without a permit process. More than three (3) yard sales in a one (1) year period shall constitute a violation of this chapter and shall be subject to the violation provisions contained in this chapter. (as added by Ord. #689, Jan. 2008, and replaced by Ord. #746, Feb. 2009)

20-703. Time limit for yard sales. All yard sales are limited to three (3) consecutive days, sales running longer than three (3) consecutive days shall constitute a home based business that shall be regulated by, article 3-105.1, subparagraph 6, and article 3 - 105.2 subparagraph 6, entitled Minor and Major Home Occupations of the City of Fairview Zoning Ordinance. (as added by Ord. #689, Jan. 2008, and replaced by Ord. #746, Feb. 2009)

20-704. Items to be removed within twenty-four hours of sale. All items utilized in the yard sale shall be promptly removed from the sale site and from areas that are viewable by the public within twenty-four (24) hours of the termination of the sale. These items shall include but not be limited to any and all signs, tables, support structure utilized for the yard sale. (as added by Ord. #746, Feb. 2009)

20-705. Violations. Any person or entity who shall violate any of the provisions of this chapter, or who shall fail or refuses to obey any notice issued by the department of health, superintendent of the refuse collection department or the codes department with reference to the storage, accumulation, or disposal of refuse as described in § 17-101, shall be subject to a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate and distinct offense. (as added by Ord. #746, Feb. 2009)

ORDINANCE NO. 372

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF FAIRVIEW, TENNESSEE.

WHEREAS some of the ordinances of the City of Fairview are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the board of commissioners of the City of Fairview, 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 "Fairview Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF FAIRVIEW, AS FOLLOWS:¹

Section 1. Ordinances codified. The ordinances of the city 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 "Fairview 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 city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or

¹Charter reference
Tennessee Code Annotated, § 6-20-214.

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 city; 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 city.

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 five hundred dollars (\$500.00) 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."¹

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of commissioners, 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 city 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.

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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 February 1, 1996.

Passed 2nd reading April 4th, 1996.



Mayor



Recorder

P.H. Aid 4-4-96