

**THE  
OLIVER SPRINGS  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

February 2000

*Change 3*  
*February 7, 2019*

**TOWN OF OLIVER SPRINGS, TENNESSEE**

**MAYOR**

Omer Cox

**ALDERMEN**

Jeff Bass  
Kenneth Brown  
Terry Holland  
Robert Miller  
Don Shillings

**RECORDER**

Joseph Van Hook

## PREFACE

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

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

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

(2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the town agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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

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

The able assistance of Bobbie J. Sams, the MTAS Word Processing Specialist, and Sandy Selvage, 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  
TOWN CHARTER<sup>1</sup>**

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<sup>1</sup>The Oliver Springs town charter contains no provisions on ordinance adoption procedures. See charter, § 19(28) and § 1-104 on passage of ordinances.

## TITLE 1

### GENERAL ADMINISTRATION<sup>1</sup>

#### CHAPTER

1. TOWN COUNCIL.
2. MAYOR.
3. RECORDER.
4. TOWN ADMINISTRATOR.
5. TREASURER.
6. BOOKKEEPER/ASSISTANT TO THE FINANCE OFFICER.
7. CODE OF ETHICS.

#### CHAPTER 1

### TOWN COUNCIL<sup>2</sup>

#### SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Passage of ordinances.
- 1-105. Smoking during meetings prohibited.

**1-101. Time and place of regular meetings.** The town council shall hold regular monthly meetings at 7:30 P.M. on the First and Third Thursday of each month at the town hall. (1989 Code, § 1-101)

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#### <sup>1</sup>Charter references

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

#### Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

#### <sup>2</sup>Charter references

Oath: § 7.

Qualifications: § 3.

Term of office: § 4.

Vacancy in office: § 7.

**1-102. Order of business.** At each meeting of the town council,<sup>1</sup> the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder, and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the town council, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1989 Code, § 1-102)

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the town council 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. (1989 Code, § 1-103, modified)

**1-104. Passage of ordinances.**<sup>2</sup> All ordinances are to be passed on one reading, including all town budgets. (Ord. #99-19-08A, Aug. 1999)

**1-105. Smoking during meetings prohibited.** Smoking in the town hall is prohibited during and while all town council and water board meetings are in session. However, smoking is permissible outside the building during these meetings. Any person violating this section will be excused from the meetings by the presiding officer. (1989 Code, § 1-105)

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<sup>1</sup>Section 3 of the charter says that the mayor and board of aldermen shall constitute the town council. All references to the board of mayor and aldermen throughout this code have been changed to town council.

<sup>2</sup>Charter reference: § 19(28).

**CHAPTER 2****MAYOR<sup>1</sup>****SECTION**

- 1-201. Generally supervises town's affairs.  
1-202. Executes town's contracts.  
1-203. Mayor to countersign checks.

**1-201. Generally supervises town's affairs.** The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1989 Code, § 1-201)

**1-202. Executes town's contracts.** The mayor shall execute all contracts as authorized by the town council. (1989 Code, § 1-202)

**1-203. Mayor to countersign checks.** The mayor shall countersign all checks or warrants drawn against the town by the treasurer. (1989 Code, § 1-203)

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<sup>1</sup>Charter references

Duties: § 20.

Oath: § 7.

Qualifications: § 20.

Term of office: §§ 4 and 20.

Vacancy in office: §§ 7 and 20.



## CHAPTER 3

### RECORDER<sup>1</sup>

#### SECTION

- 1-301. To be bonded.
- 1-302. To perform general administrative duties, etc.
- 1-303. To preserve ordinances.
- 1-304. To keep records of privilege licenses.
- 1-305. Compensation.

**1-301. To be bonded.** The recorder shall be bonded in such sum as may be fixed by and with such surety as may be acceptable to the town council before assuming the duties of office. (1989 Code, § 1-401)

**1-302. To perform general administrative duties, etc.** The recorder shall perform all administrative duties for the town council and for the town which are not expressly assigned by the charter or this code to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the town shall provide. (1989 Code, § 1-404)

**1-303. To preserve ordinances.** The recorder shall preserve the original copy of all ordinances in a separate ordinance book. (1989 Code, § 1-402)

**1-304. To keep records of privilege licenses.** The recorder shall keep accurate records of all privilege licenses issued and of all fees received therefrom. Such records shall be maintained in accordance with generally accepted municipal accounting procedures and shall be made available to the treasurer. (1989 Code, § 1-403)

**1-305. Compensation.** The recorder shall receive such monthly salary as shall be provided by ordinance for the satisfactory performance of his duties. (1989 Code, § 1-405)

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<sup>1</sup>Charter references

Bond: § 10a.

Compensation: § 10a.

Duties: § 10a.

## CHAPTER 4

### TOWN ADMINISTRATOR<sup>1</sup>

#### SECTION

1-401. Created; appointment.

1-402. Duties.

**1-401. Created; appointment.** The position of town administrator is hereby created, and Kenneth R. Veach is hereby promoted to this position with the same salary that he is presently earning which includes the position of building inspector. (Ord. #93-16-12G, \_\_)

**1-402. Duties.** The town administrator shall be responsible for carrying out the policies adopted by the town council. He shall assist the mayor in administering the town business under the city charter and ordinances passed by the town council as further described.

The town administrator shall supervise the administrative affairs of the town. he shall be in charge of health and safety of persons and property, and the enforcement of the laws, ordinances and franchises, and the development and utilization of the city's resources. He shall make such reports and recommendations as he may deem desirable and perform other duties he may be called upon by the mayor and council not inconsistent with the charter.

The town administrator shall issue and prepare administrative regulations governing the operations with relationships of the water and street departments.

The town administrator shall advise the mayor and town council of any problems in the town with his recommendation and shall also advise the mayor regarding any matters that the mayor has jurisdiction over by the city charter.

The town administrator shall have charge of the general administration of the financial affairs of the town. He shall prepare a town budget as required by law to be submitted to the town council the first regular meeting in March each year for approval.

The town administrator shall be responsible for the town purchasing and shall be in charge of the management of town property and equipment. Formal sealed bids shall be obtained in all transactions involving the expenditure of \$2,000.00 or more, and the transaction shall be submitted to and approved by the town council, unless the town council states in the minutes that there is

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<sup>1</sup>Charter references

Appointment: § 25.

Duties: § 25.

clearly no advantage of the town to contract with competitive bidding. This also applies to professional services.

The town administrator shall be responsible for development and revise as necessary a comprehensive pay plan and personnel rules setting out employment conditions, for submission and approval by the town council. He shall investigate complaints made to him in writing. He shall maintain a central personnel file on all town employees.

The town administrator shall serve at the pleasure of the town council. The mayor shall have general supervision of the town administrator. Disciplinary action may be taken by the mayor against the administrator under the same rules governing all town employees, up to and including thirty (30) days suspension. Any suspension of the town administrator may be appealed to the town council, within ten (10) days. (Ord. #93-16-12G, \_\_)

**CHAPTER 5****TREASURER****SECTION**

1-501. To make a finance report.

**1-501. To make a finance report.** The treasurer shall deliver monthly to the town administrator, a finance report showing in as much detail as is possible, the receipts and disbursements of all money (consisting of revenues, expenditures, and encumbrances) that has come into his hands for the past month.

This report shall be made available in the mayor/town administrator's office for inspection by the members of town council, or any other interested parties. (Ord. #91-09-19A, Sept. 1991)

**CHAPTER 6****BOOKKEEPER/ASSISTANT TO THE FINANCE OFFICER****SECTION**

1-601. Position created.

1-602. City administrator to supervise.

**1-601. Position created.** The position for bookkeeper/assistant to the finance officer is hereby created as a permanent part-time position. (Ord. #98-10-08, Aug. 1998)

**1-602. City administrator to supervise.** The newly created bookkeeper/assistant to the finance officer will serve at the will of the town council with the city administrator as being the immediate supervisor and will work under the direction of the finance officer. (Ord. #98-10-08, Aug. 1998)

## CHAPTER 7

### CODE OF ETHICS<sup>1</sup>

#### SECTION

- 1-701. Applicability.
- 1-702. Definition of "personal interest."
- 1-703. Disclosure of personal interest by official with vote.
- 1-704. Disclosure of personal interest in non-voting matters.
- 1-705. Acceptance of gratuities, etc.
- 1-706. Use of information.
- 1-707. Use of municipal time, facilities, etc.
- 1-708. Use of position or authority.
- 1-709. Outside employment.
- 1-710. Ethics complaints.
- 1-711. Violations.

**1-701. Applicability.** This chapter is the code of ethics for personnel of the Town of Oliver Springs. 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 town. (as added by Ord. #07-05-03, May 2007)

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

Campaign finance: T.C.A. title 2, chapter 10.

Conflict of interests: T.C.A. §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements: T.C.A. § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: T.C.A. §§ 2-10-122, 124.

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

Crimes of official misconduct, official oppression, misuse of official information: T.C.A. § 39-16-401 and the following sections.

Ouster law: T.C.A. § 8-47-101 and the following sections.

A brief synopsis of each of these laws appears in the appendix of the municipal code.

**1-702. Definition of "personal interest."** (1) For purposes of §§ 1-703 and 1-704, "personal interest" means:

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

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

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), 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. 07-05-03, May 2007)

**1-703. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself<sup>1</sup> from voting on the measure. (as added by Ord. 07-05-03, May 2007)

**1-704. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the manner. (as added by Ord. 07-05-03, May 2007)

**1-705. Acceptance of gratuities, etc.** An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. 07-05-03, May 2007)

**1-706. Use of information.** (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. 07-05-03, May 2007)

**1-707. Use of municipal time, facilities, etc.** (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. 07-05-03, May 2007)

**1-708. Use of position or authority.** (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. 07-05-03, May 2007)

**1-709. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. 07-05-03, May 2007)

**1-710. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city 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 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 attorney may request the governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. 07-05-03, May 2007)

**1-711. 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 town's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. 07-05-03, May 2007)

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

1. RECREATION ADVISORY COMMISSION.
2. INSURANCE COMMITTEE.

**CHAPTER 1****RECREATION ADVISORY COMMISSION****SECTION**

- 2-101. Created.
- 2-102. Purpose and duties.
- 2-103. Memberships and organization.
- 2-104. [Deleted.]
- 2-105. [Deleted.]

**2-101. Created.** There is hereby created a recreation advisory commission in and for the Town of Oliver Springs. (Ord. #93-02-04A, April 1992, as replaced by Ord. #07-19-07B, July 2007)

**2-102. Purpose and duties.** The recreation advisory commission shall have the following purposes and duties:

(1) To advise the town council, city manager, and park director on kinds of recreation programs and facilities desired by the citizens of Oliver Springs.

(2) To formulate and submit recommendations to the town council, city manager, and park director regarding administration and expansion of the town's recreation program.

(3) To serve as liaison for new programs between volunteer recreation workers and organizations, the park director, and the city manager. (Ord. #93-02-04A, April 1992, as replaced by Ord. #07-19-07B, July 2007)

**2-103. Membership and organization.** The recreations advisory commission will be comprised of five (5) members, all appointed by town council. They shall be residents of Oliver Springs, or have an active role in recreational activities within the town. One (1) shall be a member of council, and he or she shall be appointed to a one (1) year term. The remaining four (4) shall be appointed to two (2) year terms, and all terms will run from July 1 to June 30. Members shall serve without compensation. The commission shall have one (1) regularly scheduled meeting per quarter, and special called meetings as

necessary, which shall be held at such time and place as the commission shall prescribe. The membership shall, from among its members, elect a chairman and secretary for one (1) year terms. The mayor, city manager, and park director shall be ex-officio members of the commission and shall meet with the commission at their meetings. (Ord. #93-02-04A, April 1992, as replaced by Ord. #07-19-07B, July 2007)

**2-104. [Deleted.]** (Ord. #93-02-04A, April 1992, as deleted by Ord. #07-19-07B, July 2007)

**2-105. [Deleted.]** (Ord. #93-02-04A, April 1992, as deleted by Ord. #07-19-07B, July 2007)

## CHAPTER 2

### INSURANCE COMMITTEE

#### SECTION

2-201. Creation.

2-202. Composition.

2-203. Purpose and duties.

2-204. Meetings.

**2-201. Creation.** There is hereby created an insurance committee in and for the Town of Oliver Springs. (as added by Ord. #11-03-03B, March 2011)

**2-202. Composition.** The insurance committee shall be comprised of the following:

- (1) Mayor;
- (2) Council representative one (1);
- (3) City manager;
- (4) Police chief;
- (5) Insurance administrator (appointed by mayor);
- (6) Employee representative from police, street, and water departments. (One (1) each). (as added by Ord. #11-03-03B, March 2011)

**2-203. Purpose and duties.** The insurance committee shall have the following purposes and duties:

- (1) To review and provide advisory oversight of all city insurance policies.
- (2) To solicit bids for city insurance.
- (3) To make recommendations to council regarding all insurance matters. (as added by Ord. #11-03-03B, March 2011)

**2-204. Meetings.** The initial meeting of the insurance committee shall be set by the mayor, who will serve as acting chairman. At the first meeting, the committee as a whole will select a permanent chairman, who will serve a two (2) year term. Subsequent meetings can be set by the committee, or called by the chairman as necessary. (as added by Ord. #11-03-03B, March 2011)

**TITLE 3****MUNICIPAL COURT****CHAPTER**

1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. WARRANTS, SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.

**CHAPTER 1****CITY JUDGE<sup>1</sup>****SECTION**

3-101. City judge.

**3-101. City judge.** The officer designated by the charter to handle judicial matters within the town shall preside over the city court and shall be known as the city judge. The city judge shall receive such monthly salary as shall be provided by ordinance of the town council, in lieu of court costs, for the satisfactory performance of his duties. (1989 Code, § 1-701)

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<sup>1</sup>Charter references

Compensation: § 8a.

Powers and duties: § 8a.

Qualifications: § 8a.

Term of office: § 8a.

Vacancy in office: § 8a.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines and costs.
- 3-203. Disposition and report of fines and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.
- 3-206. Drug fund.

**3-201. Maintenance of docket.** The court clerk<sup>1</sup> shall keep a complete docket of all matters coming before the city judge sitting in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1989 Code, § 1-702)

**3-202. Imposition of fines and costs.** All fines and costs shall be imposed and recorded by the court clerk on the city court docket in open court.

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions<sup>2</sup> for similar work in state cases and shall cause the court clerk to remit said costs to the town council. (1989 Code, § 1-708)

**3-203. Disposition and report of fines and costs.** All funds coming into the hands of the city court clerk in the form of fines costs, and forfeitures shall be recorded by him and paid over daily to the town. At the end of each month he shall submit to the town council a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1989 Code, § 1-711)

**3-204. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1989 Code, § 1-712)

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<sup>1</sup>Charter reference: § 14a.

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 8-21-401.

**3-205. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1989 Code, § 1-706)

**3-206. Drug fund.** (1) Credits and deposits. All money received from the sale of automobiles, cash, and other personal property seized and forfeited due to criminal activity be deposited into the Town of Oliver Springs Drug Fund.

(2) Debits and withdrawals. All expenses arising out of the seizure, storage, preservation, maintenance, and sale of automobiles, money, and other personal property seized and forfeited due to criminal activity, including but not limited to the towing fees on seized vehicles, shall be collected and paid from the Town of Oliver Springs Drug Fund.

(3) Acceptable accounting practices to be followed. All such deposits and payments and debits and credits, shall be transacted with all appropriate and reasonable documentation necessary, reasonable, proper, and required by reasonably accepted and published accounting practices as these relate to municipal corporation and governmental entity accounting. (as added by Ord. #10-05-20, May 2010)

## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

**3-301. Issuance of arrest warrants.**<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1989 Code, § 1-703)

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1989 Code, § 1-704)

**3-303. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1989 Code, § 1-705)

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<sup>1</sup>State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.



## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

**3-401. Appearance bonds authorized.** When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1989 Code, § 1-707)

**3-402. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the Roane County circuit court upon posting a proper appeal bond.<sup>1</sup> (1989 Code, § 1-709)

**3-403. Bond amounts, conditions, and forms.** An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1989 Code, § 1-710)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

**TITLE 4****MUNICIPAL PERSONNEL****CHAPTER**

1. SOCIAL SECURITY.
2. PERSONNEL RULES AND REGULATIONS.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. TRAVEL REIMBURSEMENT REGULATIONS.
5. TITLE VI COMPLIANCE POLICY.

**CHAPTER 1****SOCIAL SECURITY****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.
- 4-106. Exemptions from coverage.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of this town to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (1989 Code, § 1-1101)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1989 Code, § 1-1102)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter 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. (1989 Code, § 1-1103)

**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. (1989 Code, § 1-1104)

**4-105. Records and reports.** The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1989 Code, § 1-1105)

**4-106. Exemptions from coverage.** There is hereby exempted from this chapter any authority to make any agreement with respect to any position, any employee or official not authorized to be covered by applicable state and federal laws or regulations. (1989 Code, § 1-1106)

## CHAPTER 2

### PERSONNEL RULES AND REGULATIONS

#### SECTION

- 4-201. Personnel rules and regulations.
- 4-202. Classes of employees.
- 4-203. Hiring procedures.
- 4-204. Compensation.
- 4-205. Benefits.
- 4-206. Separations and disciplinary actions.
- 4-207. Miscellaneous personnel policies.
- 4-208. Education provision; contract required.

**4-201. Personnel rules and regulations.** (1) Purpose. The purpose of this chapter is to establish a system of personnel administration in the city/town of Oliver Springs, Tennessee that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability.

(2) Coverage. All offices and positions of the municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the city/town's service unless specifically placed in the exempt service. All offices and positions of the municipal government placed in the exempt service are as follows:

- (a) Consultants, advisors, and legal counsel rendering temporary professional services;
- (b) City/town attorney;
- (c) Independent contractors;
- (d) People employed by the municipality for not more than three (3) months during a fiscal year;
- (e) Part time employees paid by the hour of the day are not considered regular;
- (f) Volunteer personnel appointed without compensation;

All employment positions of the municipal government not expressly exempt from coverage by the section shall be subject to the provisions of the city/town charter. (1989 Code, § 1-1201, as replaced by Ord. #02-08-06, Aug. 2002)

**4-202. Classes of employees.** (1) Regular full time. Regular full-time employees are individuals employed by the municipal government who work more than thirty-seven and one-half (37.5) hours per week and have completed a three (3) month probationary period. Regular full-time employees receive full

benefits unless specifically excluded by the city/town charter, code, or ordinances.

(2) Regular part time. Regular part-time employees are individuals who do not work on a daily basis and whose hours cannot exceed twenty-four (24) hours per week unless approved by department head. Regular part-time employees are excluded from all benefits afforded full-time employees.

(3) Temporary employee. A temporary employee is an individual who works for the city/town for no more than eighty-nine (89) days during one (1) calendar year. Temporary employees receive no benefits. (The city/town may wish to offer full time employment or continue temporary employment for another eighty-nine (89) days after review of town/city council.)

(4) Volunteer firefighters. Volunteer firefighters are appointed by the fire chief when necessary, after approval of town council. Volunteer firefighters are compensated per fire-call with no other benefits except coverage under the Volunteer Firefighters Insurance Coverage Policy.

(5) Police reserve. Reserve officers are appointed by the police chief with the approval of the town council. Reserve officers receive no compensation and no other benefits except coverage under the Special Reserve Police Insurance Coverage Policy. (1989 Code, § 1-1202, as replaced by Ord. #02-08-06, Aug. 2002)

**4-203. Hiring procedures.** (1) Policy statement. Pursuant to the charter of the city/town of Oliver Springs, Tennessee, the primary objective of this hiring policy is to ensure compliance with the law and to obtain qualified personnel to serve the citizens of the city/town. Appointments to positions are based on merit, technical knowledge, and work experience. No person shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of race, gender, age, color, religion, creed, ancestry, disability, or national origin. Nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their jobs than may already be given by the city/town charter. The city/town reserves the right to alter or change any or all of these rules without prior notice to employees.

(2) Recruitment. The city/town will employ only capable and responsible personnel who are of good character and reputation. When a vacancy occurs, the city administrator will prepare and post the appropriate position description at various locations in the city/town. The city administrator will also provide notice of vacancies in alternate media including taped messages, radio announcements, or other methods to ensure effective communication to people with disabilities.

(3) Application process. All people seeking appointment or employment with the city/town shall complete a standard application form as provided by the municipal government. Employment applications shall be accepted in the city administrator's or police chief's office, depending upon the

vacancy, during regular office hours only. The city administrator or police chief will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

(4) Interviews. All appointments are subject to an interview with the town council and appropriate department head. The town council will make reasonable accommodations in the interview process to applicants with disabilities making a request for such accommodations.

(5) Appointments. All appointments to positions in the city/town of Oliver Springs, Tennessee shall be made by the town council. Following a conditional offer of employment, every prospective employee, when required, may be given a medical examination and a general physical exam by a licensed physician designated by the municipal government to ensure they can perform the essential functions of the position they have been offered. The cost of this medical exam shall be borne by the city/town. Any prospective employee who is unable to successfully perform the essential functions tested for in the medical examination shall have the offer of employment by the city/town withdrawn only if they:

- (a) Cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
- (b) Pose a direct threat to themselves and/or others;
- (c) Are unable to perform the essential functions due to a temporary condition or disability not protected by ADA.

(6) Citizenship and alien status verification. The city/town will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the city/town will not knowingly employ any person who is or becomes an unauthorized alien. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three (3) days of employment or the individual will not be hired.

(7) Nepotism. No family member (spouse, parents, children, siblings, parents' in-law, brothers/sisters-in-law, grandparents, and guardians) of an existing employee or an elected official may ever work within the same town department. Further it shall take a unanimous vote by council to hire any of the above. Employees hired prior to January 1st 2002 are exempt.

(8) Probation. Applicants appointed to positions with the city/town of Oliver Springs, Tennessee are required to serve a six (6) month probationary period. Full time employee benefits will begin after ninety (90) days. An evaluation will be done at ninety (90) days and then at the end of one hundred eighty (180) days. During this period, the employee's work performance will be subject to review regarding the competence of the employee to fill the position. An employee may be terminated during this period for any reason without respect or reference to the procedures set forth in this document, the charter, or

other ordinances. If the probationary period is satisfactory, the employee is recommended for a full-time appointment. The probationary period may be extended by the town council and mayor dependent upon recommendation of department head, when written notification is given to the probationary employee with reasons for the extension.

(9) Employee responsibility. (a) Before coming off probationary period all employees should have the knowledge and skills to move on to another job or assignment should the primary job be aborted for some reason. It is the duty of every employee to use their skills and abilities to preform a full days work for a full days pay.

(b) Every employee should know that the safety, health and well being of the residents of Oliver Springs depends on their timely and efficient completion of their job assignment. Any employee deliberately causing a work stoppage or slow down or causing others to do the same will be subject to disciplinary action up to and including dismissal.

(10) Transfers. The town council and mayor may make transfers of employees or delegate this authority if deemed advisable. A transfer may also be implemented as a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

(11) Promotions/demotions. The town council and mayor may make promotions/demotions of employees or delegate this authority if deemed advisable. A demotion may also be implemented as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job. (1989 Code, § 1-1203, as amended by Ord. #89-15-06D, \_\_\_\_\_, and Ord. #99-04-11, Nov. 1999, replaced by Ord. #02-08-06, Aug. 2002, and amended by Ord. #2018-06-21, June 2018 *Ch3\_2-7-19*)

**4-204. Compensation.** (1) Salaries. Pursuant to the city/town charter, the town council and mayor shall set all salaries paid by the city/town. Due consideration shall be given to duties performed, responsibilities, technical knowledge and skills required to perform the work satisfactorily, the labor market, and availability of people having the desired qualifications.

(2) Hours of work. The town council and mayor shall establish the hours of work per week for each position in the service of the city/town. Employees unavoidably late or absent from work due to illness or other cause must notify their supervisor within the time frame established by each department (unless unusual circumstances prevent the employee from making proper notification). Such employees must explain the reason for the absence and, if possible, an anticipated time and date of return to work. Failure to notify one's supervisor of absences may result in disciplinary action. Employees found falsifying time sheets will be subject to immediate dismissal. Excessive tardiness is regarded as sufficient reason for termination. Any employee found clocking another employee's time card, will be subject to immediate dismissal.

(3) FLSA requires that the employer pay for breaks of twenty (20) minutes or less, and for all breaks and lunch periods during which the employee must remain at the work station and/or perform some duties. Lunch breaks, however, when no services are required of the employee, can be unpaid. Your supervisor will choose the proper time and place for rest breaks. The Town of Oliver Springs chooses to use fifteen (15) minute breaks.

(4) Payday. All employees of the city/town of Oliver Springs, Tennessee shall be paid on a weekly basis. Police department employee's are paid bi-weekly. If you have questions about your work time, salary, or paycheck, call them to the attention of the department head or city finance officer within the pay period in question or immediately thereafter.

If you are absent on payday and wish to have someone else obtain your check for you, you may send your identification and a signed note authorizing the town to give your check to the bearer.

If you lose your check, notify your city finance officer immediately. You will be required to sign an affidavit that your check has been lost, and a new one will be issued. If you resign, your last check will be issued on the next regular payday. You should give written notice of where the check should be sent if you are not available to pick it up.

(5) Payroll deductions. (a) Federal income tax. Federal taxes are withheld from employees' paychecks based on the number of dependents claimed by the individual. Employees are required to keep on file with the municipal government a copy of the W-4 form. In the event of changes in the employee exemption status, a revised W-4 must be filed before payroll deduction adjustments will be made.

(b) Social security. Social security payments and deductions will be made in accordance with the Social Security Act. The treasurer shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

(c) Others. Other deductions (hospitalization, life insurance, deferred compensation payments, garnishments, credit union payments, etc.) may be made from an employee's pay only with a signed consent from the employee.

(6) Overtime. Employees required to work overtime shall be compensated in accordance with the FLSA at a rate of one one-half (1 1/2) the employee's regular pay rate. Department heads are not excluded from the overtime provisions of the city/town. Compensatory time off may be granted in lieu of overtime pay. Administration of the policy and accumulation of time shall also be in accordance with the FLSA.

(7) Call out time/flex time. Flex time can be taken off before end of pay period at the discretion of the department head. Emergency call outs are to be paid as two (2) hours auto pay. Required to clock in and out. If call out work is more than two (2) hours and forty (40) hours has been exceeded then conversion of overtime will apply. If call out last less than one (1) hour, and second call out



is required on same call, a second two (2) hours for call out does not apply. (1989 Code, § 1-1204, as amended by Ord. #95-01-06, June 1995, and replaced by Ord. #02-08-06, Aug. 2002)

**4-205. Benefits.** (1) Eligibility. All full-time employees are eligible for all benefits provided by the city/town.

(2) Sick leave. Hourly and salary employees

Hours Accrued Monthly	8.00
Hours Accrued Annually	96.00
Number of Days Accrued Annually	12

Sick leave shall be earned and credited to an employee at the rate of \_\_\_\_\_. Personal leave shall be earned by sworn police personnel at a rate of eight (8) hours per month. However, an employee is not eligible to earn sick leave credits until completion of three (3) months employment or completion of probationary period. Use of that sick leave earned can start after four (4) months. There is no limit to amount of sick leave that may be accumulated. Each employee shall submit a request for sick leave to his/her supervisor in advance for approval or immediately upon return to work after unexpected illness. Sick leave is taken in four (4) hour increments only. When sick leave credits are inadequate to cover absences due to illness, time off should be charged to leave without pay unless he/she uses vacation credits.

(3) Prior salaried personnel have a total of eighteen (18) months sick leave that can be taken in case of dire illness. This will be retained by prior salaried personnel. The new passage allows accrued leave to be cashed in at resignation or retirement if leave requirements are met, but not to exceed a maximum of two thousand (2,000) hours for salaried personnel. Prior salaried personnel may cash in their sick leave time according to the new passage with an allowance of thirty-six (36) days per year of service, not eighteen (18) months.

Sick leave incentive: the City/Town of Oliver Springs has a policy where as an employee retiring or presenting resignation with a minimum of two (2) years continuous service, and a minimum of one hundred (100) hours accrued sick leave, shall be paid for upon resignation at the following rates, provided the above two (2) stipulations have been met:

- 2 to 4 years completed service ..... 25% of accrued time.
- 5 to 10 year completed service ... 30% of accrued time
- 11 to 15 yrs completed service .. 35% of accrued time
- 16 to 20 yrs completed service ... 50% of accrued time
- 21 yrs or more completed ser ..... 75% of accrued time

FOR A MAXIMUM 1,000 HOURS

The percentage is based on continuous service, and needs to be included when possible in planning out the budget.

A doctor's statement clearing the employee to return to work shall be required for all major illnesses, injuries, surgery, or prolonged absences starting the second working day. Failure to furnish a doctor statement to justify the employee's use of sick leave when requested, or failure to provide a doctor's statement clearing an employee to return to work, shall be cause of disciplinary action up to and including dismissal.

Sick leave may be granted for:

- (a) Personal illness or physical incapacity resulting from causes beyond employee's control.
- (b) Exposure to contagious disease so that the employee's presence at work might jeopardize the health of others;
- (c) Medical, dental, optical, or other professional treatments or examinations and;
- (d) Acute illness of member of employee's immediate family.(i.e, spouse, parents, sibling, children, in-laws, grandparents.
- (e) Employee can not at any time borrow against any future sick time not yet earned.
- (f) Must give at least one (1) hour notice to supervisor prior to shift start time.

Compensatory leave shall be granted at the request of the employee within a reasonable time of the request unless the operations of the department would be unduly disrupted by the employee's absence. Compensatory leave shall be used before personal leave.

(4) Holidays. Full-time employees are allowed a day off with pay on the following eleven (11) holidays:

- |                            |                                  |
|----------------------------|----------------------------------|
| (a) New Year's Day         | January 1                        |
| (b) Martin Luther King Day | Third Monday in January          |
| (c) Good Friday            | Friday before Easter Sunday      |
| (d) Memorial Day           | Last Monday in May               |
| (e) Independence Day       | July 4th                         |
| (f) Labor Day              | First Monday in September        |
| (g) Veterans Day           | November 11th observed on Monday |
| (h) Thanksgiving           | 4th Thursday in November         |
| (i) Day after Thanksgiving | 4th Friday in November           |
| (j) Christmas Eve          | 24th of December                 |
| (k) Christmas Day          | 25th of December                 |

If a holiday falls on Sunday, it will be observed on the following Monday. If the holiday falls on Saturday, it will be observed on the preceding Friday. To receive compensation for the holiday, employees must be in a pay status on the workday before and on the workday after the holiday unless otherwise excused by the supervisor. If called out time and a half will not start until physical forty (40)

hours has been exceeded. This applies to Monday through Friday scheduled workers.

(5) Holiday pay. For workers that are not just Monday through Friday (shift worker that cover weekends) police department personnel shall receive holiday pay in the form of an additional twelve (12) hours pay for each of the above holidays whether on duty or not. Employees eligible for holiday pay must be in a pay status their last regular shift before a holiday and their first regularly scheduled shift after a holiday in order to receive compensation for the holiday. This will be received in the form of a once a year payment. If after proper notice is given and a person resigns, the already worked holidays will be allocated on final paycheck. Waste water and water treatment personnel will receive an additional eight (8) hours pay for the holidays following the same guidelines as stated above, unless for some reason they shut down and buy water from ACUB, then the payroll clerk is to be notified and a list given to the clerk as to who is to receive holiday on regular payday.

(6) Vacation leave--annual leave. All full-time employees who have worked for the municipal government for at least one (1) year (twelve (12) months) shall be given five (5) days of vacation leave with pay credited on their anniversary date of hire. Such vacation leave shall be taken at a time approved by the department head or such other officer as designated. Upon separation, employees are entitled to be reimbursed for any unused vacation; after proper notice of resignation.

On increasing of annual leave days will be in accordance with the number of years worked as follows:

Regular Full-time Employees (40 Hours)

Years of Service	Days Earned per year	Hours Earned per year
1 completed	5 days	40 hours
2-4 completed	10 days	80 hours
5-10 completed	15 days	120 hours
over 10	20 days	180 hours

Annual leave, so far as practical, will be granted at the time desired by employees, but annual leave in each department must be scheduled to assure orderly operation and adequate, continuous service to the public. Department heads must plan with employees in their department an orderly annual leave schedule. Holidays, as defined above, shall not be counted as annual leave days.

(7) Shared vacation leave (totally voluntary). The purpose of shared vacation leave is to permit city/town employees, at no additional cost to the city/town other than the administrative costs of administering the program, to come to the aid of a fellow city/town employee who:

(a) Has been called to active duty (not including regular summer duty) to serve in the armed forces; or

(b) Is suffering from or has an immediate family member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the employee to take leave without pay or to terminate his or her employment.

A department head may permit an employee to receive shared vacation leave under this policy in cases of employee illness when the employee has depleted or will shortly deplete his/her total of accrued vacation, sick leave, compensatory time, holiday time, and/or other paid leave.

Prior to the use of shared vacation leave, the employee must have abided by the city/town's sick leave policy. The use of shared vacation leave will not significantly increase the city/town's costs, except for those costs that would otherwise be incurred in the administration of this program or that would otherwise be incurred by the employee's department.

The department head shall determine the amount of shared vacation leave, if any, an employee may receive under this policy. The employee shall be required to provide appropriate military orders of activation or medical justification and documentation, both of the necessity for the leave and the time that the employee can reasonably be expected to be absent due to the condition.

An employee shall not receive more than a total of one thousand forty (1,040) hours of shared vacation leave throughout the employee's employment. To the extent possible, shared vacation leave should be used on a consecutive basis. Employees may request their department head to approve the transfer of a specified amount of accrued vacation leave to an employee who is authorized to receive shared vacation leave as provided herein.

In order to be eligible to donate vacation leave, an employee must have a total of more than eighty (80) hours of accrued vacation leave, have taken at least eighty (80) hours of vacation leave within the calendar year, or have a total of accrued and used vacation leave of greater than eighty (80) hours for the calendar year. In no event shall a transfer of leave be approved that would result in an employee reducing his or her total vacation leave in a calendar year to less than eighty (80) hours. The department head shall not transfer vacation leave in excess of the amount specified in the request. All donations of leave shall be voluntary. The department head shall determine that no significant increase in city/town costs will occur as a result of a donation of leave.

Leave may be transferred from employee(s) from one department to an employee of the same department, or with the concurrence of both department heads, to an employee of another department.

While an employee is on shared vacation leave, he/she will continue to be classified as a city/town employee and shall receive the same treatment, in respect to salary and benefits, as the employee would otherwise receive if using vacation leave.

(c) All salary benefit payments made to the employee on a shared vacation leave shall be made by the department employing the person using the shared vacation leave.

(d) The employee's salary rate shall not change as a result of being on shared vacation leave, nor under any circumstances shall the total of the employee's salary and other benefits or any other benefit received as a result of payments by the city to an insurer, health care provider, or pension system exceed the total of salary and benefits that the employee would have received had he/she been in a regular pay status.

Vacation leave shall be transferred on an hour-for-hour basis. The minimum allowable transfer of vacation leave shall be in four (4) hour increments.

The personnel office shall be responsible for monitoring the donated leave and shared vacation leave and shall also be responsible for adjusting the accrued leave balances to show the transferred leave for both the donor and recipient. The finance office shall determine the appropriate fund transfers and budget amendments as needed for board of aldermen action. Records of all leave time transferred shall be maintained.

Once vacation leave is transferred to an employee, that vacation shall henceforth remain in the employee's accrual until exhausted and shall not revert back to the original donor employee.

The personnel office shall monitor the use of shared vacation leave to insure equivalent treatment for all employees of the city/town. Inappropriate use or treatment of the shared vacation leave provision may result in the cancellation of the donated leave or use of shared vacation leave.

The city/town in its sole discretion may cancel this program at any time, with or without notice.

(8) Family and medical leave policy. (a) Purpose: To provide a family and medical leave policy in compliance with Public Law 103-3, titled Family and Medical Leave Act (FMLA) of 1993.

(b) Guidelines: An eligible employee may take up to twelve (12) weeks of unpaid leave (paid leave) in a twelve (12) month period for the birth and care of a child or the placement and care of a child for adoption or foster care. (Note - Under the Tennessee Maternity Leave Act (TMLA), a female employee may take an additional four (4) weeks of unpaid leave if the three (3) month advance notice has been complied with.) Leave may also be taken to care for the employee, a child, spouse, or a parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible.

Unpaid leave to care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first twelve (12) months following the date of birth or placement.

An expectant mother may take unpaid medical leave upon the birth of the child, or prior to the birth of the child, for necessary medical care and if her condition renders her unable to work. Similarly, for adoption or foster care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence from work is required for the placement to proceed.

An employee may take unpaid leave to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his/her own basic hygiene, nutritional needs, or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, recovering from major surgery, or the final stages of terminal illness.

Eligible employees who are unable to perform the functions of their position because of a serious health condition may request up to twelve (12) weeks unpaid leave (paid leave). The term "serious health condition" covers conditions or illnesses that affect an employee's health to the extent that he/she must be absent from work on a recurring basis or for more than a few days for treatment or recovery.

Employees requesting medical leave due to their own illness or injury may use any balance of sick leave, annual leave, or floating holidays prior to the beginning of unpaid leave. (The employer can require the use of available paid leave.) The combination of sick leave, annual leave, floating holidays, and unpaid leave may not exceed twelve (12) weeks. Employees requesting family leave may use unpaid leave. (Employer could require other paid leave to be taken first.) The combination of annual leave, floating holidays, and unpaid leave may not exceed twelve (12) weeks.

During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits during the leave period.

If spouses are employed by the same employer and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to twelve (12) weeks. For example, if the father takes eight (8) weeks of leave to care for a child, the mother would be entitled to four (4) weeks leave, for a total of twelve (12) weeks.

(c) Right to return to work: On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commence, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employer's obligations may be governed by the American with Disabilities Act.

(d) Notification and scheduling: An eligible employee must provide the employer at least thirty (30) days of advance notice of the need for leave for birth, adoption, or planned medical treatment, when the need for leave is foreseeable. This thirty (30) day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth or sudden changes in a patient's condition that require a change in scheduled medical treatment.

People who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this thirty (30) day notice. It is the city/town's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that (paid/unpaid) leave was for FMLA.

The employer will provide the FMLA leave notice in alternate formats.

(e) Certification: The employer reserves the right to verify an employee's request for family/medical leave. If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee or the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or parent and must include an estimate of the amount of time that the employee is needed to care for the family member.

Medical certifications given will be treated as confidential and privileged information. An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.

Employees who have taken unpaid leave under this policy must furnish the employer with a medical certification from the employee's

health care provider at the employees expense, stating that the employee is able to resume work before return is granted.

(f) Maintenance of health and COBRA benefits during unpaid leave: The employer will maintain health insurance benefits, paid by the employer for the employee, during periods of unpaid leave without interruption. Any payment for family coverage/ premiums or other payroll deductible insurance policies must be paid by the employee or the benefits may not be continued.

The employer has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from the recapture provision.

Leave taken under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction Act (COBRA) insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not return to work, and therefore ceases to be entitled to leave under this policy.

(g) Reduced and intermittent leave: Leave under this policy can be taken intermittently or on a reduced leave schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with approval of the (mayor/department head/governing body). The schedule must be mutually agreed upon by the employee and the employer.

Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

Intermittent or reduced leave may be spread over a period of time longer than twelve (12) weeks, but will not exceed the equivalent of twelve (12) workweeks in a twelve (12) month period.

(h) Restoration: Employees who are granted leave under this policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave. Certain highly compensated key employees, who are salaried and among the 10 percent (10%) highest-paid employees, may be denied restoration. (Note - Restoration may be denied if

(i) The employer shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations,



(ii) The employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur, and

(iii) In any case in which the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.)

Employees voluntarily accepting a light duty assignment in lieu of continuing FMLA leave maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FMLA leave has passed.

(i) The twelve (12) month FMLA period: The twelve (12) month period during which an employee is entitled to twelve (12) workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to twelve (12) weeks of leave during the twelve (12) month period after the leave begins. The next twelve (12) month period will begin the first time the employee requests FMLA leave after the completion of the previous twelve (12) month period. (The employer may choose as the twelve (12) month period either the calendar year, a fixed twelve (12) month period, or the twelve (12) month period counted backward from the date of leave.)

(k) Denial of FMLA leave: If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employer may delay the taking of FMLA leave until thirty (30) days after the date the employee provides notice to the employer of the need for FMLA leave.

If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employer may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave is not FMLA leave.

If an employee fails to provide a requested fitness-for-duty certification to return to work, an employer may delay restoration until the employee submits the certificates.

(9) Funeral/bereavement leave. Full-time employees shall be allowed three (3) days of leave with pay for the death in an employee's immediate family. Immediate family shall include spouse, parents, children, siblings, in-laws, grandparents, and guardians. Employees wishing to attend services of non-relatives must use annual leave for this purpose.

(10) Civil leave. Civil leave with pay may be granted to employees to:

- (a) Serve on jury duty,
- (b) Answer a subpoena to testify for the city/town, and/or
- (c) Perform emergency duty for national defense.

Employees selected for civil service shall be excused for the actual durations of the civil service. Upon release from civil duty during the employee's normal

working hours, he/she is expected to return to duty. Employees will receive full pay during such service. These benefits apply to full time employees.

(11) Voting. When elections are held in the state, leave for the purpose of voting shall be in accordance with Tennessee Code Annotated, § 2-1-106, herein reprinted:

"EMPLOYERS MAY DESIGNATE PERIODS OF PERMISSIBLE ABSENTEEISM - Any person entitled to vote in an election held in this state may be absent from any service or employment on the day of the election for a reasonable period of time, not to exceed three hours, necessary to vote during the time the polls are open in the county where he/she is a resident. A voter who is absent from work to vote in compliance with this section may not be subjected to any penalty or reduction in pay for his absence. If the tour of duty of an employee begins three or more hours after the opening of the polls or ends three or more hours before the closing of the polls of the county where he/she is a resident, he/she may not take time off under this section. The employer may specify the hours during which the employee may be absent. Request for such an absence shall be made to the employer before twelve noon of the day before the election."

(12) Military leave. Any regular employee who has completed six (6) months of satisfactory employment and who enters the U.S. armed forces will be placed on military leave. The department head shall approve military leave without pay when the employee presents his/her official orders.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former position. His/her salary will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or re-employment for the position to which he/she is assigned. If no position is available at the time of the employee's return, the employee will be reinstated into the first available position. No current full-time employee will be terminated or laid off to allow for the reinstatement.

Any regular full-time employee who is a member of the U.S. Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, or any of the armed forces will be granted military leave for any field training or active duty required (excluding extended active duty). Such leave will be granted upon presentation of the employee's official order to his/her jurisdictional official. Compensation for such leave will be paid pursuant to Tennessee Code Annotated, § 8-33-109.

It will be the employee's responsibility to arrange with the department supervisor to attend monthly meetings on regular off-time, with pay being applicable to the annual two (2) week training period. Employees entering an extended active duty will be given fifteen (15) days pay when placed on military leave.

(13) Death of an employee. Upon the death of a full-time regular employee, his/her beneficiary will receive his/her next due payroll check, pay for accrued vacation time, (plus an additional two weeks full pay). Further, his/her beneficiary shall be given complete assistance by the finance officer in settling pension, life, and hospital insurance benefits.

(14) Retirement system. Employees of the city/town of Oliver Springs will be eligible for retirement benefits under the Tennessee Consolidated Retirement System (Mandatory enrollment for full-time employees)

(15) Insurance coverage. The city/town of Oliver Springs provides basic health and life insurance coverage through various carriers. Should circumstances dictate terminating benefits, the city/town will offer employees and their dependents the opportunity to extend their health insurance coverage under COBRA.

(16) Workers' compensation. All injuries arising out of and in the course of one's employment shall be governed by the Tennessee workers' compensation law. Employees on occupational disability leave shall receive only those benefits due under workers' compensation.

In all cases of occupational disability, the responsibility of determining the character, degree, and potential duration of an injury shall rest with the licensed, practicing medical doctor(s) designated by the TML workers' compensation policy. The medical doctor(s) may make periodic examinations, progress reports, and recommendations as deemed necessary by the governing body.

When an employee is injured on the job, the supervisor or department head shall immediately notify the city administrator who shall submit an accident report to the TML insurance office and governing body plus retain a copy in the safety file. Where an accident causes serious bodily injury or death to an employee, the supervisor shall immediately notify the city administrator who shall notify the family and the governing body.

All injuries arising out of and in the course of one's employment shall be governed by the Tennessee Workers' Compensation Law.

Employees on occupational disability leave due to an on-the-job injury will not be charged sick leave during the period of convalescence. They will not be charged vacation leave either unless they have chosen to supplement the workers' compensation benefits with vacation leave. Employees shall continue to accrue sick leave and vacation leave at their regular rate while on occupational disability or injury leave. Up to the one hundred sixty-five (165) days covered by ADA.

In all cases of occupational disability, the responsibility of determining the character, degree and potential duration of an injury shall rest with one of the panel of three (3) licensed, practicing medical doctors designated by the TML workers compensation policy. The medical doctor(s) may make periodic examinations, progress reports and recommendations as deemed necessary by the governing body.

Before an employee is returned to full duty, the employee must be certified by the attending physician as capable of performing the essential functions of the job. The physician will be furnished a copy of the job description, a list of the essential job functions as determined by the department head, and a form listing the required capabilities. The attending physician must complete the form provided by the city administrator documenting the employee's ability to perform the essential job functions. The city/town reserves the right to obtain a second medical opinion from the physician of its choosing before a final decision is made on a return to light or full duty.

If an employee is unable to return to the position held at the time of the injury, the governing body shall take reasonable steps to place the individual in a comparable position, if one is available, for which he/she is qualified and able to perform the essential functions, with or without a reasonable accommodations.

Should an employee be unable to return to full duty within one hundred sixty five days (165) after the date of injury, and no comparable position for which the employee is qualified is available, the employee may be subject to separation only if:

(a) He/she cannot perform the essential functions of the job due to a disability that cannot be reasonably accommodated; or

(b) The employee poses a direct threat to himself/herself or others.

(17) Other benefits. The city/town of Oliver Springs provides uniforms for police, fire, public works, and utility department employees. (1989 Code, § 1-1205, as replaced by Ord. #02-08-06, Aug. 2002)

**4-206. Separations and disciplinary actions.** (1) Types of separations. All separations of employees from city/town positions shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, layoff, death, retirement, dismissal, and the inability to perform the essential job functions with or without a reasonable accommodation due to a disability. At the time of separation and prior to final payment, all records, assets, and other items of city/town property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

(a) Resignation - In the event an employee decides to leave the municipal government's employ, a two (2) week notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case, employees will be expected to return any or all municipal government equipment assigned. An unauthorized absence from work for a period of two (2) consecutive working days may be considered by the department head as a resignation. If a former employee returns to municipal government employment, his/her status of seniority, pay,

leave, etc. will be the same as any new employee beginning work for the first time.

(b) Layoff - The city administrator upon approval from the town council and mayor, may lay off an employee in the municipal government service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the employee's service. Temporary employees shall be laid off before probationary or regular employees, and based on performance reviews thereafter. The city administrator will review the employees work performance and past work record before making final decision as to which employee will be laid off. The decision must always be in the best interest of the city.

(c) Disability - An employee may be separated for disability when he/she cannot perform the essential functions of the job because of physical or mental impairment that cannot be accommodated without undue hardship or because the disability poses a direct threat to the health and safety of others. A reasonable accommodation may include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the governing body, and the disability must prevent the employee from performing the essential functions of the job. The municipal government may require an examination at its expense to be performed by a licensed physician of its choice.

(d) Retirement - Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

(e) Death - Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these rules shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.

(f) Dismissal - just cause dismissals. The town council and mayor may dismiss an employee for just cause that is for the good of the city/town service. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, sexual harassment, violation of any of the provisions of the charter, ordinances, or these rules. Certain offenses shall not require oral or written reprimand prior to dismissal.

When the decision to dismiss an employee has been reached, the employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefore, and the right to

appeal the charges orally or in writing before the town council and mayor. The notice shall be furnished at least twenty-four (24) hours notice to the proposed effective date of the action, when possible. During this period, the employee may be retained on duty status, placed on leave, or suspended with or without pay at the discretion of the city administrator or police chief whichever applies to the position in question. If the employee fails to respond to the advance notice, the proposed action shall be effective on the date specified with no need for further action.

If the employee requests a hearing on the proposed action, the city administrator or police chief shall promptly set a date and time for the hearing before council. The town council shall consider all evidence presented before making a decision. The decision of the town council shall be final.

(2) Disciplinary action. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, supervisors shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; up to and including immediate dismissal; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

(a) Oral reprimand - Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary actions. The supervisor will place a memo in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response.

(b) Written reprimand - In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee, and a copy shall be placed in the employee's personnel folder. The supervisor administering the reprimand shall advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail corrective actions and identify dates by which the corrective actions shall be taken.

At the conclusion of a conference with the employee, a copy of the written reprimand shall be placed in the employee's personnel folder. It

is recommended that the affected employee sign the written reprimand to indicate that he/she has seen the document and to acknowledge receipt of the employee's copy. Should the employee refuse to sign the written reprimand, the supervisor will obtain a witness to sign and date the form and so indicate the employee's refusal to sign.

(c) Suspension - An employee may be suspended with or without pay by his/her department head for a period up to thirty (30) days pending action of the mayor and town council, in any twelve (12) month period. Pursuant to the appeals procedures, a written statement of the reason for suspension shall be submitted to the employee affected prior to the effective date of suspension. This is providing that, during the advance notice period, the employee may be retained in active duty status, placed on leave, or suspended with or without pay at the discretion of the city administrator or police chief per position affected. The employee will be granted a hearing before the mayor and town council upon request. An employee determined to be innocent of the charges shall be returned to duty with full pay for the period of suspension. All records associated with a suspension shall become a permanent part of the employee's personnel file. Under certain circumstances an employee may be suspended without notice, if in the best interest of the city/town.

(3) Grievance policy. The purpose of this policy is to set forth the principles of the city/town of Oliver Springs and to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or administrative orders involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall, and any other related items.

Employees must remember that there is no grievance until the department head or other appropriate person has been made aware of the dissatisfaction. Once this is done, the following steps are to be taken:

Step 1. The employee shall within five (5) working days from the date of occurrence of alleged grievance, submit in writing to his/her department head, a complete statement of what he/she feels the grievance to be and the relief requested.

Step 2. The department head shall then make a decision in writing within five (5) working days after receipt of written alleged grievance. Copies of alleged grievance and answer shall be provided to the mayor and town council by the city administrator. The alleged grievance may be resolved at any step by mutual concurrence of both parties. Notations of

action taken to mayor and council and put in permanent file. If the answer does not resolve the problem next step is taken.

Step 3. The alleged grievance is presented to town council and mayor for a hearing. City administrator, police chief or anyone else involved may be requested to attend. Request coming from council or grieving party. The hearing must be held within ten (10) days of date requested in writing by the employee. This will be a hearing not a trial, and the findings and decision of the council will be final.

(4) Appeals procedures. An appeal is an action by an employee to respond to and express dissatisfaction with a specific action taken by the town council or it's department heads.

Action subject to appeal procedures include:

- (a) Demotion
- (b) Suspension
- (c) Termination

(1989 Code, § 1-1206, as replaced by Ord. #02-08-06, Aug. 2002)

**4-207. Miscellaneous personnel policies.** (1) Outside employment. No full-time employee of the city/town shall accept any outside employment without written authorization from the city administrator, or police chief (depending on department). The city administrator, or police chief (depending on the department) shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the employee's duties, or is incompatible with the employee's municipal employment, or is likely to discredit or embarrass the municipal government. Approval to work a second job may be withdrawn for any of the reasons above.

(2) Use of municipal time, facilities, etc. No employee of the city/town of Oliver Springs shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other private person or group. This includes taking a city vehicle outside city limits for personal reasons without authorization.

(3) Political activity - **\*\*NOTE\*\*** Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in all elections.

(a) In elections for municipal offices - No municipal government employee, whether on or off duty, whether in or out of uniform, and whether on or off city /town property, shall at any time or any place:

- (i) Become a candidate for or campaign for an elective municipal government office;



(ii) Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions, or other funds for a candidate for municipal government;

(iii) Organize, sell tickets to, promote, or actively participate in a fund-raising activity of a candidate for municipal government office;

(iv) Take an active part in managing the political campaign for a candidate for municipal government office;

(v) Solicit votes in support of or in opposition to a candidate for municipal government office;

(vi) Act as a clerk, watcher, challenger, or similar officer at the polls on behalf of a candidate for municipal government office;

(vii) Drive voters to the polls on behalf of a candidate for municipal government office;

(viii) Endorse or oppose a candidate for municipal government office in a political advertisement, broadcast, campaign literature, or similar material;

(ix) Address a rally or similar gathering of the supporters of opponents of a candidate for municipal government office;

(x) Initiate or circulate a nominating petition for a candidate for municipal government office;

(xi) Wear campaign buttons, pins, hats, or other similar attachment, or distribute campaign literature in supporting or opposing a candidate for city/town office.

(b) In all other elections for public office - Municipal government employee shall enjoy the same rights of other citizens of Tennessee to be a candidate for any county, state, or federal political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. The city/town of Oliver Springs is not required to pay the employee's salary for work not performed for the municipality.

(Note - Tennessee Code Annotated, § 38-8-350 prohibits law enforcement officers from engaging in political activities, supporting or opposing any candidate, party, or measure in any election when on duty or acting in such officer's official capacity.)

(4) Solicitation. The city/town believes that its employees should not be exposed to frequent solicitations for charitable purposes. Therefore, solicitation shall be limited to as few visits as necessary during the course of the year. Any solicitation of employees must be approved by the mayor and/or city administrator.

(5) Personal telephone calls. Using the office telephone during regular work hours for local and/or long-distance personal calls, except in emergency cases, is discouraged.

(6) Fighting, horseplay, damaging municipal government property. Fighting, horseplay, and intentionally defacing or damaging city/town property is not permitted. Employees engaging in these activities will be subject to disciplinary action that could include discharge.

(7) Parking. Parking is generally provided for municipal government employees. Employees working in congested areas where parking is scarce should try to pool their transportation. The municipality does not assume responsibility for loss or damage any time to employee vehicles or their contents.

(8) Lockers. Lockers are the property of the municipality and may be inspected at any time without notice as there may be no expectation of privacy in such property. Employee-assigned lockers (that are locked by the employee) are also subject to inspection after reasonable advance notice, unless such notice is waived by the governing body.

(9) Bulletin boards. At numerous locations, the city/town maintains bulletin boards on which important information connected with an employee's work is posted from time to time. Cooperation is needed in protecting the posted material. All material to be placed on the bulletin boards must be approved by the appropriate supervisor before it is posted.

(10) Lost and found articles. The city secretary shall act as a clearinghouse for lost and found personal property. Lost articles should be turned in and/or reported as soon as possible.

(11) Trip reimbursement. All trips that involve reimbursement and/or municipal government expense shall not be undertaken without prior approval of the mayor and town council. Mileage shall be reimbursed at a rate of the current federal rate per mile. (Supplied through MTAS.) Food reimbursement shall be at a rate of (variable rate supplied through MTAS) per day. For details regarding travel, obtain a copy of the municipal government's travel policy from the city administrator or finance officer.

(12) Use of city/town vehicles and equipment. All city/town vehicles and equipment are for official use only. No person other than a city/town employee may operate a city/town vehicle or piece of machinery. Drivers and/or operators must have a valid Tennessee driver's license and be approved by the department head. A copy of driver's license is to be in his/her personnel file.

(13) Repeal of ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(14) Severability. Each section, subsection, paragraph, sentence, and clause of this chapter is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause shall not affect the validity of any other portion of this chapter, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted herein.

(15) Performance reviews. All employees will be reviewed on the progress of their work. Reviews are conducted at the end of the first ninety (90) days of employment, and annually thereafter.

(16) W-4 forms. All new employees must complete a W-4 form indicating how many exemptions they wish to declare for income tax purposes. A new W-4 form will need to be filled out every January 1st to coincide with that year. Any changes in status during the year will need additional form signed by employee to authorize changes. Form should be submitted to finance office.

An I-9 form will be submitted and signed at hiring, along with copy of driver's license and social security card, to prove you are legal to work in the United States.

(17) Code of conduct. All employees are expected to understand that they are public service employees, and to conduct themselves in accordance with the following requirements:

(a) Employee shall in no way act in any manner which may discredit the city/town of Oliver Springs, public officials, fellow employees, or themselves.

(b) Employees shall avoid conduct and speech that is subversive to good order and discipline. They shall treat each other with the upmost courtesy, respect, and at all times refrain from making derogatory or demeaning remarks directed to another employee.

(c) Employees shall direct and coordinate their efforts to maintain highest level of efficiency, morale, and achievement.

(d) Employees shall conduct themselves in a manner to promote harmony among the various units of the town.

(e) Each employee is responsible for knowing the town's policies and for abiding by them at all times that they are in uniform and /or on duty.

(18) Sexual harassment. Sexual harassment is a violation of Title VII of the Civil Right's Act of 1964, and is expressly prohibited by the town. Employees have the right to circumvent chain of command in selecting the person to whom to make a complaint of sexual harassment. Complaints may be made orally or in writing to employees immediate supervisor, department head, city administrator or the mayor.

\*\*\*\*NOTE\*\*\*\*

The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of Oliver Springs, including but not limited to full and part-time employees, elected officials, permanent and temporary employees, employees covered by exempt from the personnel rules or regulation of the city, and employees working under contract for the city.

(a) Definition. Sexual harassment or unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises

in return for submission to sexual favors; making inappropriate sex-oriented comments on appearance; telling embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the city.

(b) Making sexual harassment complaints. The municipality may be held liable for the actions of all employees with regard to sexual harassment and therefore, will not tolerate the sexual harassment of its employees. The city will take immediate, positive steps to stop it when it occurs.

By law, the city is responsible for acts of sexual harassment in the work-place where the city (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the city took immediate and appropriate corrective action. The municipality may also be responsible for the acts of non-employees, with respect to the sexual harassment to employees in the work-place, where the municipal government (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

(i) Prevention is the best tool for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced. An employee who feels he/she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (A) The employee's immediate supervisor,
- (B) The employee's department head,
- (C) The city manager,
- (D) The mayor.

(ii) Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment, the employee should be prepared to provide the following information:

- (A) Official's or employee's name, department, and position title;
- (B) The name of the person or persons committing the sexual harassment, including their title(s), if known;
- (C) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire,

transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;

(D) Witnesses to the harassment;

(E) Whether the employee has previously reported the harassment and, if so, when and to whom.

(c) Reporting and investigation of sexual harassment complaints. Upon notification of a complaint, the city manager shall designate an individual to be the investigator of the complaint of sexual harassment against an employee. In the event the sexual harassment complaint is against the city manager, the investigator shall be appointed by the mayor.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the city manager. In the event the complaint is against the city manager, the complaint shall be submitted to the mayor.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Upon conclusion of the investigation, the investigator shall prepare a report of the findings and present them to the city manager or the mayor if the complaint is against the city manager, whichever is appropriate according to the preceding paragraph. The report shall include the written statement for the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation.

(d) Action on complaint of sexual harassment. Upon receipt of a report of the investigation of a complaint of sexual harassment, the city manager, or the mayor if the complaint is against the city manager, shall immediately review the report. If the city manager, or mayor, if the complaint is against the city manager, determines that the report is not complete in some respect, he/she may question the person complaining of sexual harassment, the person against whom the complaint has been made, witnesses to the conduct in question or any other person who may have knowledge about the harassment.

Based upon the report and his/her own investigation, where one is made, the city manager, or the mayor if the complaint is against the city manager, shall within a reasonable time, determine whether the conduct

of the person against whom a complaint of harassment has been made constitutes sexual harassment. In making that determination, he/she shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether sexual harassment occurred will be made on a case-by-case basis.

If the city manager, or the mayor if the complaint is against the city manager, determines that the complaint of harassment is founded, he/she shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his authority under the municipal charter, ordinances or rules governing his authority to discipline employees.

The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors the city manager, or the mayor if the complaint is against the city manager, believes relate to fair and efficient administration of the city, including, but not limited to the effect of the offense on employee morale and public perception of the offense, and the light in which it casts the city. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any person collected with the investigation of the complaint of sexual harassment.

In cases where the sexual harassment is committed by a non-employee against a municipal government employee in the work place, the city manager shall take whatever lawful action against the non-employee is necessary to bring the sexual harassment to an immediate end.

(d) **Obligation of the employee.** Employees are not only encouraged to report instances of sexual harassment, they are obligated to report them. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to

cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

Complaint is to be investigated by city administrator or mayor may designate another investigator. The procedure then falls in line with grievance procedure hearing. (1989 Code, § 1-1207, as replaced by Ord. #02-08-06, Aug. 2002)

**4-208. Education provision; contract required.** In the event the town council decides to pay for additional formal education and training for an employee to receive a license or a diploma that is to be used by the employee during his employment with the town, with said license or diploma allowing the employee to become an operator or supervisor, or otherwise enhancing the employment of the employee with the town, the town council may require the employee to sign a written employment contract that the employee will remain employed with the town for a period of time of two (2) years from the date that the employee receives the license, diploma, or other certification; and that if the employee leaves the employment of the town within this two (2) year time period, the employee shall reimburse the town on a prorated monthly basis, for the cost and expense of the town for this additional education, training, or certification. (as added by Ord. #2015-7-5B, May 2015)

## 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.

**4-301. Title.** This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the Town of Oliver Springs. (1989 Code, § 1-1301, as replaced by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-302. Purpose.** The Town of Oliver Springs in electing to update the established Program Plan will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees and shall:

(1) Provide a safe and healthful place and condition of employment that includes:

- (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 the 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) Record, keep, preserve, and make available to the commissioner of Labor and Workforce Development, or persons within the 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 commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the 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 plan, 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 plan. (1989 Code, § 1-1302, as replaced by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-303. Coverage.** The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Oliver Springs shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1989 Code, § 1-1303, as replaced by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-304. Standards authorized.** The occupational safety and health standards adopted by the Town of Oliver Springs 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 (Tennessee Code Annotated, title 50, chapter 3). (1989 Code, § 1-1304, as replaced by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-305. Variances from standards authorized.** Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may 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 and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-306. Administration.** For the purposes of this chapter, the fire chief and police chief are designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and

Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR,  
CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50.  
(as added by Ord. #2017-06-01, June 2017 **Ch3\_2-7-19**)

**4-307. Funding the program plan.** Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the Town of Oliver Springs. (as added by Ord. #2017-06-01, June 2017 **Ch3\_2-7-19**)

## CHAPTER 4

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-401. Travel authorization and procedures.
- 4-402. Mode of transportation.
- 4-403. Expense reimbursement.
- 4-404. Per diem rates for meals.
- 4-405. Expense reporting.
- 4-406. Modifications.

**4-401. Travel authorization and procedures.** Travel in excess of thirty (30) miles one (1) way may not be undertaken unless it is done in accordance with the following approval procedures:

(1) Department heads shall notify the town manager, police chief or mayor in advance when traveling out of town on official town business and provide the purpose and location of travel and period of time expected to be away from the town.

(2) Attendance at conferences, conventions and meetings shall be limited to the number of persons necessary to cover the meetings adequately. When traveling, town employees are expected to be conservative as good practices and circumstances permit. Approval to attend conferences, conventions, and meetings shall be made at least one (1) week prior to such meeting by the town manager, police chief or mayor.

(3) The administrative assistant shall make all travel reservations.

(4) Employees are expected to commence the return trip to the Town as soon as possible after conclusion of the business, provided that no employee will be required to travel between the hours of 10:00 P.M. and 7:00 A.M. (Ord. #93-05-08, Aug. 1993, as replaced by Ord. #05-02-17A, Feb. 2005, and Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-402. Mode of transportation.** (1) Any travel by public conveyance must be approved in advance by the town manager, police chief or mayor and reimbursement shall be for the actual cost of fare.

(2) Town owned vehicles should be used on all trips subject to their availability and mechanical suitability for the distance involved. The town will pay the total cost of its vehicle operations and maintenance when used for approved travel.

(3) In cases where an employee chooses to utilize a mode of transportation for which the cost of travel is greater than another customary mode, the town shall reimburse the employee only the amount equal to the cost of the lesser expensive mode of transportation. Travel time, convenience to the

town and other unusual circumstances and conditions shall be considered in such instances.

(4) In traveling to and from airports and between hotels and meeting or conference sites, reasonable taxi fares will be allowed.

(5) All airline reservations shall be made through the town manager, police chief or mayor's office. Airfare will be limited to standard coach fare.

(6) Charges for automobile rental shall not be allowed unless specific authorization has been received in advance from the town manager, police chief or mayor. A rental will be approved only if no other mode of transportation is available to the employee, or if the rental cost is less than other modes of transportation cost.

(7) Employees driving personal vehicles on town business are expected to drive vehicles registered in their name. (Ord. #93-05-08, Aug. 1993, as replaced by Ord. #05-02-17A, Feb. 2005, and Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-403. Expense reimbursement.** (1) Reimbursement for travel by personal vehicles will be paid only for the shortest usually traveled route related to official business activity.

(2) The mileage reimbursement for use of personally owned cars shall be at the currently approved IRS rate. Only mileage on official town business may be claimed for reimbursement and it will be calculated on the lesser of the distance to their destination from their official work station or their residence.

(3) Reimbursement shall not be made to employees driving personally owned vehicles to their place of employment. However, reimbursement will be paid if a town vehicle is unavailable and employee must use his/her personal vehicle while conducting town-related business.

(4) Charges for routine parking while on travel status will be reimbursed if receipts are provided.

(5) If travel is by air the employee will be reimbursed for the lesser of:

(a) The allowable mileage reimbursement for one (1) round trip and long-term airport parking, or

(b) The appropriate mileage reimbursement for two (2) round trips from home when driven by a friend, or relative, at the employee's option.

(6) The employee will be reimbursed for actual lodging if receipts with itemized room charges and taxes by date are provided.

(7) Tips are considered a reimbursable expense and should be based upon the level of service, but should not exceed twenty percent (20%).

(8) Meals for guests during which town business is transacted are allowable expenses, provided they are approved in advance.

(9) Town employees (or other representatives or guests of the town) attending business meetings or official functions beneficial to the town's interest, and approved in advance by the town manager, police chief or mayor's

office, shall be reimbursed for expenses related to the event. All expenses must be detailed and properly documented.

(10) Expenditures for personal purchases such as entertainment, cover charges, alcoholic beverages, admission fees, valet services and laundry are not reimbursable. (Ord. #93-05-08, Aug. 1993, as replaced by Ord. #05-02-17A, Feb. 2005, and Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-404. Per-diem rate for meals.** (1) The per diem rates for meals are on the travel expense report.

(2) While on travel status if a meal is provided as part of conference, the employee should deduct the cost of those meals from the per diem for that day.

(3) Meal allowance for one (1) day trips. A meal allowance is available for one (1) day travel when the duration of the trip is greater than eight (8) hours. No reimbursement is applicable when the duration of a one (1) day trip is less than eight (8) hours. (Ord. #93-05-08, Aug. 1993, as replaced by Ord. #05-02-17A, Feb. 2005, and Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-405. Expense reporting.** (1) Claims for travel expenses shall be filed on the standard "travel expense report."<sup>1</sup> This form must show details of expenses. Receipts must accompany this form and a separate claim for expenses for each claimant is required.

(2) Claims for reimbursement of expenses shall be submitted to the town treasurer no later than the fifth day of the following month. Expense checks will be issued no later than the fifteenth day of that month.

(3) All reimbursable expenses for a trip must be submitted at the same time and only one request for reimbursement per trip will be accepted.

(4) Personal expenses will not be reimbursed. These include, but are not limited to, laundry, hotel valet service, and other types of personal expenses.

(5) All expense reports will be approved in the following manner:

(a) The town manager, police chief or mayor will approve all expense reports; and

(b) The town treasurer will approve the expense reports of the town manager, police chief, mayor and council members. (as added by Ord. #05-02-17A, Feb. 2005, and replaced by Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-406. Modifications.** The town manager or mayor shall have the power to revoke, modify or make exceptions to any of these rules if deemed necessary in the interest of the town. The mayor shall have the power to modify the travel

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<sup>1</sup>The "travel expense report form," and any amendments thereto, may be found in the recorder's office.

expense report including per diem reimbursement rates. (as added by Ord. #2017-03-02C, March 2017 **Ch3\_2-7-19**)

**CHAPTER 5****TITLE VI COMPLIANCE POLICY****SECTION**

4-501. Policy adopted by reference.

**4-501. Policy adopted by reference.** The Title VI Compliance Manual for the Town of Oliver Springs is hereby adopted in its entirety by reference.<sup>1</sup> It is the policy of the Town of Oliver Springs to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (as added by Ord. #2016-10-6A, Oct. 2016)

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<sup>1</sup>The Title VI Compliance Manual is on file in the office of the recorder.

## TITLE 5

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

#### CHAPTER

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. LOCAL SALES TAX.
6. FINANCE OFFICER.
7. HOTEL/MOTEL TAX.
8. DEBT POLICY.
9. PURCHASING POLICY.
10. SURPLUS PROPERTY POLICY.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 5-101. Official depository for town funds.
- 5-102. Execution of checks.
- 5-103. Litigation tax levied.

**5-101. Official depository for town funds.** The First American Bank of Oliver Springs, Tennessee, is hereby designated as the official depository for all town funds. (1989 Code, § 6-101)

**5-102. Execution of checks.** The mayor, town administrator, city treasurer, or water department clerk are authorized to sign all checks or warrants drawn against the town by the city treasurer; provided however, all checks and warrants so drawn against the town shall be signed by any two of the aforementioned officials. (Ord. #91-18-07B, \_\_\_\_\_)

**5-103. Litigation tax levied.** There is hereby levied a city litigation tax to match the state litigation tax of thirteen dollars and seventy-five cents (\$13.75). The privilege taxes levied pursuant to this section shall be paid to the city recorder monthly to be used for any municipal purposes. In that Oliver Springs City Court has concurrent sessions court jurisdiction, an additional two

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<sup>1</sup>Charter references: § 11.



dollars and twenty-five cents (\$2.25) shall be added to the litigation tax for a total of sixteen dollars (\$16.00).<sup>1</sup> (as added by Ord. #02-03-21, March 2002)

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<sup>1</sup>State law reference:

Tennessee Code Annotated, § 67-4-602 et seq.

## CHAPTER 2

### REAL AND PERSONAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-203. Discounts.

**5-201. When due and payable.**<sup>1</sup> Taxes levied by the town against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1989 Code, § 6-301)

**5-202. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.<sup>3</sup> (1989 Code, § 6-302)

<sup>1</sup>State 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.

<sup>2</sup>Charter and state law reference

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 of each succeeding month.

<sup>3</sup>Charter and state law references

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

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, §§ 6-55-201--  
(continued...)

**5-203. Discounts.** In order to encourage prompt payment of taxes during the month of October, a 2% discount is allowed for the payment of taxes during the month of October, and no discount is allowed for the months of November, December, January, and February. (Ord. #92-09-17A, Sept. 1992)

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(...continued)

- (3) 6-55-206.  
By the county trustee under Tennessee Code Annotated, § 67-5-2005.

## CHAPTER 3

### PRIVILEGE TAXES

#### SECTION

5-301. Tax levied.

5-302. License required.

5-303. Display.

5-304. Violation and penalty.

**5-301. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the act. (1989 Code, § 6-401)

**5-302. License required.** No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. It shall be unlawful for any vocation, occupation, and business to fail to obtain a current privilege license. (1989 Code, § 6-402, as amended by Ord. #08-11-06, Nov. 2008)

**5-303. Display.** Any vocation, occupation or business that is issued a privilege license is required to publicly display the current license and it is a violation to fail to do so. (as added by Ord. #08-11-06, Nov. 2001)

**5-304. Violation and penalty.** The failure of a vocation, occupation or business to comply with the requirements of this chapter is punishable by a penalty that does not exceed state authorized maximums for each offense. Each day a violation occurs shall constitute a separate offense. (as added by Ord. #08-11-06, Nov. 2008)

## CHAPTER 4

**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

**5-401. To be collected.** The city recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1989 Code, § 6-501)

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<sup>1</sup>State law reference

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

## CHAPTER 5

### LOCAL SALES TAX<sup>1</sup>

#### SECTION

5-501. Tax levied.

5-502. Effect of approval.

5-503. Department of revenue to collect.

5-504. Suits for illegally assessed or collected taxes.

5-505. Copies and publication.

**5-501. Tax levied.** As authorized by Tennessee Code Annotated, title 67, ch. 6, part 7, 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, ch. 6, parts 1--6, which are exercised in Oliver Springs. The tax is levied on all such privileges at a rate of two-ninths of the rates levied in the Retailers' Sales Tax Act, Tennessee Code Annotated, title 67, ch. 6, parts 1--6, so long as the general state rate continues at 4.5 percent, and at one-third of the state rates if and when the general state rate is reduced to 3 percent. Provided that with respect to industrial and farm machinery as defined in Tennessee Code Annotated, § 67-6-102 and with respect to water sold to or used by manufacturers, the tax thereon is imposed at the rate of 1/3 of 1%. Provided further the tax shall not exceed \$5.00 on the sale or use of any single article of personal property, and there is excepted from the tax levied by the provisions of this chapter the sale, purchase, use, consumption, or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil, so long as such exception is required by state law. Penalties and interest for delinquencies shall be the same as provided in Tennessee Code Annotated, title 67, ch. 6, part 5. (1989 Code, § 6-201)

**5-502. Effect of approval.**<sup>2</sup> If a majority of those voting in the election required by Tennessee Code Annotated, §§ 67-6-701--67-6-712, vote for the provisions of this chapter, collection of the tax levied by this chapter 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. (1989 Code, § 6-202)

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<sup>1</sup>Portions of the tax levied by this chapter have been superseded by county sales taxes levied by the counties in which Oliver Springs is situated.

<sup>2</sup>At the referendum held May 3, 1979, on the sales tax levied by the provisions of this chapter, 385 votes were cast for the tax and 253 against it.

**5-503. Department of revenue to collect.** 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 the tax by the department, and to provide in said contract that the department may deduct from the tax collected a reasonable amount of percentage to cover the expense of the administration and collection of said tax. (1989 Code, § 6-203)

**5-504. Suits for illegally assessed or collected taxes.** 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. (1989 Code, § 6-204)

**5-505. Copies and publication.** A certified copy of the provisions of this chapter shall be transmitted to the Department of Revenue by the city recorder forthwith and shall be published one time in a newspaper of general circulation in Oliver Springs prior to the election called for in § 5-502 hereof. (1989 Code, § 6-205)

**CHAPTER 6****FINANCE OFFICER****SECTION**

5-601. Duties and responsibilities.

**5-601. Duties and responsibilities.** The duties of the finance officer as recorded in the town charter are as follows: The finance officer shall take care of and keep account of all funds of whatever nature, and shall keep such books as the town council may direct and shall do and perform all the duties that the town council shall by ordinance direct.

The finance officer will also be responsible for the opening and closing of accounts with financial institutions doing business with the Town of Oliver Springs.

A written report will be rendered to the town council after each transaction. (Ord. #96-07-03, March 1996)



## CHAPTER 7

### HOTEL/MOTEL TAX

#### SECTION

- 5-701. Definitions.
- 5-702. Permit required.
- 5-703. Not transferable.
- 5-704. Duration.
- 5-705. Register required; availability for inspection.
- 5-706. Rooms to be numbered.
- 5-707. Privilege tax levied; use.
- 5-708. Payment of the tax.
- 5-709. Compensation to the hotel.
- 5-710. Interest and penalty for late payment.
- 5-711. Records requirement.

**5-701. 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. #08-04-17, April 2008)

**5-702. Permit required.** No person will conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, agent or attorney, any hotel in the city without having obtained a permit from

the city administrator or his designee to do so. (as added by Ord. #08-04-17, April 2008)

**5-703. Not transferable.** No permit issued under this chapter shall be transferred or assigned. (as added by Ord. #08-04-17, April 2008)

**5-704. Duration.** Hotel permits shall be issued annually and shall expire on the last day of December of each year. (as added by Ord. #08-04-17, April 2008)

**5-705. Register required; availability for inspection.** Every person to whom a permit is issued under this chapter shall at all times keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms in his hotel. Such register shall be signed in every case by the persons renting a room or by someone under his direction, and after registration is made and the name of the guest is inscribed as herein provided, the manager shall write the number of the room which guest is to occupy, together with the time such room is rented, before such person is permitted to occupy such room. The register shall be open to inspection at all times to the city administrator or his designee. (as added by Ord. #08-04-17, April 2008)

**5-706. Rooms to be numbered.** Each sleeping room and apartment in every hotel in the city shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number. (as added by Ord. #08-04-17, April 2008)

**5-707. Privilege tax levied; use.** (1) Pursuant to the provisions of Tennessee Code Annotated, §§ 67-4-1401 through 67-4-1325, there is hereby levied a privilege of occupancy in any hotel of each transient. From and after the operative date of this chapter the rate of the levy shall be five percent (5%) 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 administrator 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. #08-04-17, April 2008)

**5-708. Payment of the tax.** Payment of the tax by the motel to the city shall be no later than the twentieth (20th) day of each month for the preceding month. (as added by Ord. #08-04-17, April 2008)

**5-709. Compensation to the hotel.** The hotel may deduct two percent (2%) from the amount paid to the city. (as added by Ord. #08-04-17, April 2008)

**5-710. Interest and penalty for late payment.** The hotel operator is responsible for paying interest on delinquent taxes, twelve percent (12%) per annum, plus a penalty of one percent (1%) per month. (as added by Ord. #08-04-17, April 2008)

**5-711. Records requirement.** The hotel operator must keep records for three (3) years, with the right of inspection by the city. (as added by Ord. #08-04-17, April 2008)

## CHAPTER 8

### DEBT POLICY

#### SECTION

- 5-801. Purpose.
- 5-802. Definition of debt.
- 5-803. Approval of debt.
- 5-804. Transparency.
- 5-805. Role of debt.
- 5-806. Types and limits of debt.
- 5-807. Use of variable rate debt.
- 5-808. Use of derivatives.
- 5-809. Costs of debt.
- 5-810. Refinancing outstanding debt.
- 5-811. Professional services.
- 5-812. Conflicts.
- 5-813. Review of policy.
- 5-814. Compliance.

**5-801. Purpose.** The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the Town of Oliver Springs, Tennessee. This policy reinforces the commitment of the town and its officials to manage the financial affairs of the town so as to minimize risk, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the town. A debt management policy signals to the public and the rating agencies that the town is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing and managing debt obligations by providing clear direction as to the steps, substance and outcomes desired. In addition, greater stability over the long-term will be generated by the use of consistent guidelines in issuing debt. (as added by Ord. #2012-03-05, March 2012)

**5-802. Definition of debt.** All obligations of the town to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of town resources. This includes but is not limited to notes, bond issues, capital leases, and loans of any type whether from an outside source such as a bank or other lending institution or from another internal fund. (as added by Ord. #2012-03-05, March 2012)

**5-803. Approval of debt.** Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be

submitted to the State of Tennessee Comptroller's Office and the town council prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the town council; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (as added by Ord. #2012-03-05, March 2012)

**5-804. Transparency.** (1) The town shall comply with legal requirements for notice and for public meetings related to debt issuance.

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

(3) All costs (including principal, interest, issuance, continuing, and one (1) time) shall be clearly presented and disclosed to the citizens, town council, and other stakeholders in a timely manner.

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

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, town council, and other stakeholders in a timely manner. (as added by Ord. #2012-03-05, March 2012)

**5-805. Role of debt.** (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the town will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.

(2) In accordance with generally accepted accounting principles and state law,

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

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #2012-03-05, March 2012)

**5-806. Types and limits of debt.** (1) The town will seek to limit total outstanding debt obligations in an amount not to exceed seventy-five percent (75%) of the total gross revenues from all sources received by the town in a given fiscal year.

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

(3) The town's total outstanding debt obligation will be monitored and reported to the town council by the town finance officer. The town finance officer shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The town finance officer shall also report to the town council any matter that adversely affects the credit or financial integrity of the town.

(4) The town has issued in the past various types of instruments evidencing indebtedness and is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes and other debt allowed by law.

(5) The town will seek to structure debt with level or declining debt service payments as determined at that time to be the best type of structure for indebtedness over the life of each instrument of indebtedness and/or project, property, or improvement arising out of said indebtedness.

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

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

(8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The town may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the town. The town council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the town's general fund. (as added by Ord. #2012-03-05, March 2012)

**5-807. Use of variable rate debt.** (1) The town recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

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

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

(b) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the town

council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the insurance fail.

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

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

(e) The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation. (as added by Ord. #2012-03-05, March 2012)

**5-808. Use of derivatives.** (1) The town chooses not to use derivative or other exotic financial structures in the management of the town's debt portfolio.

(2) Prior to any reversal of this provision:

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

(b) The town council must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (as added by Ord. #2012-03-05, March 2012)

**5-809. Costs of debt.** (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the town council in accordance with the notice requirements stated above.

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

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e. general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes). (as added by Ord. #2012-03-05, March 2012)

**5-810. Refinancing outstanding debt.** (1) The town will refund debt when it is in the best financial interest of the town to do so, and the chief financial officer shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly

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

(2) The chief financial officer will consider the following issues when analyzing possible refunding opportunities:

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

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

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

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

(e) Arbitrage - The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (as added by Ord. #2012-03-05, March 2012)

**5-811. Professional services.** The town shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the town and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

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



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

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

(3) **Underwriter:** If there is an underwriter, the town shall require the underwriter to clearly identify itself in writing as an underwriter and not as a financial advisor from the earliest stages of its relationship with the town with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the entity. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the town council in advance of the pricing of the debt. (as added by Ord. #2012-03-05, March 2012)

**5-812. Conflicts.** (1) Professionals involved in a debt transaction hired or compensated by the town shall be required to disclose to the town existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the town to appreciate the significance of the relationships.

(2) Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (as added by Ord. #2012-03-05, March 2012)

**5-813. Review of policy.** This policy shall be reviewed at least annually by the town council with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input. (as added by Ord. #2012-03-05, March 2012)

**5-814. Compliance.** The town finance officer in cooperation with the town's auditors is responsible for ensuring compliance with this policy. (as added by Ord. #2012-03-05, March 2012)

## CHAPTER 9

### PURCHASING POLICY

#### SECTION

- 5-901. Purchasing process.
- 5-902. Purchase orders.
- 5-903. Invoice processing.
- 5-904. Check signing.
- 5-905. Payment audits.

**5-901. Purchasing process.** The request for a purchase will be sent directly to the department supervisor for review and approval. The department supervisor will review the request and determine if the purchase required. If the purchase cost is one hundred dollars (\$100.00) or less the department supervisor can approve the request and purchase the item requested. If the cost of the item is over one hundred dollars (\$100.00) the department supervisor or town manager will complete a purchase order with the following requirements and obtain the required approvals. The following table describes the purchase order requirements and approvals:

	Requirements	Approval
<b>Purchase levels</b>		
Less than \$100.00	P.O.	Department head
Between \$101.00 and \$500.00	P.O.	Town manager or police chief
Between \$501.00 and \$2,500.00	P.O. and 3 quotes*	Town manager or police chief
Between \$2,501.00 and \$5,000.00	P.O. and 3 quotes*	Town mayor
Between \$5,001.00 and \$10,000.00	P.O. and 3 quotes*	Town council
Over \$10,000	Advertised sealed bids	Town council
Contracts	Contract and 3 quotes*	Town council
Leases	Contract and 3 quotes	Town council

\*Quotes may be waived for sole sourced items or services and in the case of an emergency. All emergency cases will be ratified by town council.  
(as added by Ord. #2015-02-05, Feb. 2015, and replaced by Ord. #2017-03-02B, March 2017 *Ch3\_2-7-19*)

**5-902. Purchase orders.** The department supervisors will assist the administrative assistant with the initiation of purchase orders including compliance with requirements and approvals. When complete the administrative assistant will approve the purchase order and retain one (1) copy and give one (1) copy to the department supervisor and one (1) copy to either the general fund or water department. (as added by Ord. #2015-02-05, Feb. 2015, and replaced by Ord. #2017-03-02B, March 2017 *Ch3\_2-7-19*)

**5-903. Invoice processing.** The finance personnel are responsible for matching the purchase order to the invoice and insuring the costs balance. They are also responsible for printing the checks and forwarding them to the appropriate personnel for signatures. (as added by Ord. #2015-02-05, Feb. 2015, and replaced by Ord. #2017-03-02B, March 2017 *Ch3\_2-7-19*)

**5-904. Check signers.** Authorization for signing checks will be determined by town council. (as added by Ord. #2015-02-05, Feb. 2015, and replaced by Ord. #2017-03-02B, March 2017 *Ch3\_2-7-19*)

**5-905. Payment audits.** All pre-check registers will be audited and approved by the town manager, police chief or mayor. All payroll registers will be approved by the mayor or the town manager in the mayor's absence. (as added by Ord. #2017-03-02B, March 2017 *Ch3\_2-7-19*)

## CHAPTER 10

### SURPLUS PROPERTY POLICY

#### SECTION

5-1001. Policy.

5-1002. Authority to declare property as surplus to the town's needs.

5-1003. Unauthorized sales.

5-1004. Surplus property criteria.

5-1005. Sales procedures.

5-1006. Prohibited sales.

5-1007. Distribution.

**5-1001. Title.** This chapter shall be known as the "Oliver Springs Surplus Property Policy" and shall be the official guideline for the sale of the town's surplus properties. (as added by Ord. #2016-12-15B, Dec. 2016 *Ch3\_2-7-19*)

**5-1002. Authority to declare property as surplus to the town's needs.** Any member of the board of mayor and aldermen, the town manager or police chief may nominate any town-owned property for disposal or sale as surplus property. All such nominations shall be made at an open council meeting. It shall be the official policy of the Town of Oliver Springs that no town-owned property shall be sold, or offered for sale, as surplus property without prior authorization by the board of mayor and aldermen. The board's authorization to sell surplus property shall be in the form of an ordinance. (as added by Ord. #2016-12-15B, Dec. 2016 *Ch3\_2-7-19*)

**5-1003. Unauthorized sales.** Any employee of the Town of Oliver Springs found to have sold, or offered for sale, any town-owned property in violation of the Oliver Springs Surplus Property Policy shall be subject to disciplinary action and, if applicable, criminal prosecution. (as added by Ord. #2016-12-15B, Dec. 2016 *Ch3\_2-7-19*)

**5-1004. Surplus property criteria.** All requests for property to be surplus shall be promptly forwarded to the town manager or police chief. Before classifying any property as being surplus, the town manager and/or police chief shall consider the following:

- (1) The age and condition of the property;
- (2) The cost of replacing and repairing the property, if any;
- (3) The anticipated remaining life of the property;
- (4) The estimated value of the property. (as added by Ord. #2016-12-15B, Dec. 2016 *Ch3\_2-7-19*)

**5-1005. Sales procedures.** Unless otherwise directed by the board of mayor and aldermen, all surplus property approved for sale shall be sold according to the following procedure:

(1) The town manager and/or police chief shall be wholly and solely responsible for advertising and conducting all surplus property sales.

(2) The preferred method of sale shall be a public auction, on a cash/cashier check/money order basis. When a public auction is not practical or efficient, the board may direct the sale to take place by means of sealed bids. The opening of all sealed bids shall take place in a meeting open to all bidders and the general public.

(3) It shall be the town's policy that sales of surplus property shall be awarded to the highest bidder.

(4) Prior to the sale, best effort will be made to remove all town logos or other symbols are to be removed or destroyed from the items to be sold. (as added by Ord. #2016-12-15B, Dec. 2016 ***Ch3\_2-7-19***)

**5-1006. Prohibited sales.** No member of the Oliver Springs Board of Mayor and Aldermen shall purchase, attempt to purchase, or otherwise take possession of any item of surplus property offered for sale by the Town of Oliver Springs. Any employee of the Town of Oliver Springs who purchases, attempts to purchase, or otherwise takes possession of any item offered surplus property offered for sale by the Town of Oliver Springs shall be subject to disciplinary action up to and including termination of employment. (as added by Ord. #2016-12-15B, Dec. 2016 ***Ch3\_2-7-19***)

**5-1007. Distribution.** The town manager is hereby directed to distribute a copy of this ordinance to every employee of the Town of Oliver Springs and in each copy of the town's employee handbook issued after the effective date of this chapter. (as added by Ord. #2016-12-15B, Dec. 2016 ***Ch3\_2-7-19***)

## TITLE 6

### LAW ENFORCEMENT

#### CHAPTER

1. POLICE AND ARREST.
2. POLICY AND PROCEDURES FOR POLICE COMMISSIONERS.
3. POLICY AND PROCEDURES FOR EVIDENCE AND PROPERTY HANDLING.

#### CHAPTER 1

### POLICE AND ARREST<sup>1</sup>

#### SECTION

- 6-101. Policemen subject to chief's orders.
- 6-102. Rules and procedures.
- 6-103. Policemen to preserve law and order, etc.
- 6-104. When policemen to make arrests.
- 6-105. Citations in lieu of arrest in non-traffic cases.
- 6-106. Summonses in lieu of arrest.
- 6-107. Disposition of persons arrested.
- 6-108. Police department records.

**6-101. Policemen subject to chief's orders.** All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1989 Code, § 1-501)

**6-102. Rules and procedures.** (1) The rules and procedures for the government, discipline, and administration of the Oliver Springs Police Department, entitled Rules and Procedures Manuals, are hereby adopted, with the chief of police having the right to alter, amend or revoke any of said rules, and operating procedure, which through federal or state appellate or supreme court, has held to be unconstitutional. The chief of police shall have same prerogative, as above, upon the written advice of MTAS or TML. In the event of such changes, the chief of police shall notify the town council of such changes, in writing, before the next regularly scheduled council meeting.

(2) Any violation of the rules and procedures may be made the subject of disciplinary charges against employees responsible for such violation. No arbitrary rules can be established which embrace all situations in the discharge

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<sup>1</sup>Charter reference

Appointment and duties of chief: §§ 15-18.

of police duties. Some things must be left to the discretion of the individual employee. However, if any employee deviates from the provisions of this manual, the member must be able to demonstrate that this action was necessary.

Whenever there is a doubt, as to the meaning or intent of a rule, or procedure, the employee shall seek interpretation or explanation through the chief of police or the town council. (Ord. #921119, Nov. 1992)

**6-103. Policemen to preserve law and order, etc.** Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1989 Code, § 1-502)

**6-104. When policemen to make arrests.**<sup>1</sup> Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1989 Code, § 1-503)

**6-105. Citations in lieu of arrest in non-traffic cases.**<sup>1</sup> Pursuant to Tennessee Code Annotated, § 7-63-101 et seq., the town council appoints the fire chief in the fire department and the town administrator in the building department special police officers having the authority to issue citations in lieu of arrest. The fire chief in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The town administrator in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

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

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<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 8.

the offender and dispose of him in accordance with Tennessee Code Annotated, § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (1989 Code, § 1-505)

**6-106. Summons in lieu of arrest.** Pursuant to Tennessee Code Annotated, § 7-63-201 et seq., which authorizes the town council to designate certain town enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the council designates the health officer and the town administrator to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person being summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him. The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:

- (1) Have a summons issued by the clerk of the town court, or
- (2) May seek the assistance of a police officer to witness the violation.

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-107 below.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (1989 Code, § 1-506)

**6-107. Disposition of persons arrested.** (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinances shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond with the town court clerk, or, if the town court clerk is not available, with the ranking police officer on duty. If the arrested person fails or refuses to post bond, he shall be confined pending his release by the city judge. In addition, if the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.



(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (1989 Code, § 1-504)

**6-108. Police department records.** The police department shall keep a comprehensive and detailed daily record in permanent form, showing at a minimum:

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1989 Code, § 1-507)

## CHAPTER 2

### POLICY AND PROCEDURES FOR POLICE COMMISSIONERS

#### SECTION

6-201. Policy.

6-202. Purpose.

6-203. Definitions.

6-204. Procedures.

**6-201. Policy.** It is the policy of the Town of Oliver Springs Board of Mayor and Aldermen to appoint two (2) members of the town council to the position of police commissioner. This policy shall replace all other policies, procedures, ordinances, or rulings by previous board of mayor and aldermen referring to police commissioner, fire commissioner or public safety commissioner for the Town of Oliver Springs Tennessee. (as added by Ord. #06-20-01, Jan. 2006)

**6-202. Purpose.** The purpose of this is in order to establish a liaison between the city council, the public, the Oliver Springs Police Department, and the Oliver Springs Fire Department.

The methods and procedures set forth herein are presented for three (3) main reasons:

(1) To ensure that the board of mayor and aldermen are well advised as to the activities, and needs of the police and fire departments of the town, and;

(2) To ensure that policies and procedures set by the board of mayor and aldermen, chief's and other administrators of the town are being followed, and;

(3) To create a good operational environment between the public safety employees and the board of mayor and aldermen. (as added by Ord. #06-20-01, Jan. 2006)

**6-203. Definitions.** For the purpose of these policies and procedures the following definitions apply:

(1) Police commissioner. Also referred to as public safety commissioner and/or fire commissioner is a member of the city council who has been appointed to act as a liaison between the city council, the public, the Oliver Springs Police Department and the Oliver Springs Fire Department. A police commissioner also acts as an advisor to the police and fire departments and city council as a whole, and may set on a hiring, disciplinary or other boards as directed by city council. A police commissioner has no direct supervision authority over the police or fire departments except when in a session of city council acting by legislative authority as a council member.

(2) Member of the Oliver Springs Police Department. Anyone employed by the Oliver Springs Police Department, full time or part time police officers, dispatchers, animal control officers, and reserve and/or auxiliary police officers.

(3) Member of the Oliver Springs Fire Department. Anyone employed by the Oliver Springs Fire Department, full time, part time or volunteer fire fighters, first responders and/or explorers.

(4) Ride-a-long. The process of a police commissioner riding in a police or fire vehicle as an observer. (No police commissioner while not in a legislative session of town council shall act as a supervising authority over any public safety employee while riding along and/or observing department activities as a commissioner.) (as added by Ord. #06-20-01, Jan. 2006)

**6-204. Procedures.** A police commissioner shall act as a liaison between the city council, the public, the Oliver Springs Police Department and the Oliver Springs Fire Department. A police commissioner also acts as an advisor to the police and fire departments and city council as a whole, and may set on a hiring, disciplinary or other boards as directed by city council. A police commissioner has no direct supervision authority over the police or fire departments except when in a session of city council acting by legislative authority as a council member.

(1) Appointment. A police commissioner is appointed by a majority vote by the board of mayor and aldermen however it is not recommended that a council member vote for themselves for the position of police commissioner but "pass" or abstain from voting. A police commissioner is appointed for the remainder of the council members term, if the council member seeks re-election and is elected for an additional term they must be reappointed by a majority vote by the board of mayor and aldermen. A police commissioner can be removed from the commissioner position at anytime with a majority vote by the board of mayor and aldermen.

(2) Observation. A police commissioner may act as an observer to the police and fire departments under the following regulations:

(a) Ride-a-long and/or accompany the police and/or fire members in city owned police and/or fire vehicles during emergency and non emergency traffic, (however the police commissioner must follow the directions and guidance of the public safety member especially in reference to safety issues),

(b) May enter into the police and/or fire stations, or other place pertaining to the activities of said departments to observe the actions and activities of the departments at any time except when:

(i) A police supervisor and/or police officer of the police department deems the situation to be confidential matters relating to juveniles, or other confidential cases.

(ii) While the N.C.I.C. computer screen is turned on inside the dispatch office, (a dispatcher has the authority and the obligation by law not to allow uncertified personnel inside the dispatch office while the N.C.I.C. computer screen is visible.)

(iii) A fire supervisor or fire fighter deems the situation to be temporarily unsafe.

(3) A police commissioner has no direct supervision authority over the police or fire departments except when in a session of city council acting by legislative authority as a council member except:

(a) When authorized by the board of mayor and aldermen by a majority vote,

(b) While setting on a hiring, disciplinary or other boards as directed by town council,

(c) While inventorying the police property and evidence during the bi-annual inspection,

(d) To fulfill any other policies, procedures, ordinances, or rulings set forth by town council. (as added by Ord. #06-20-01, Jan. 2006)

## CHAPTER 3

### POLICY AND PROCEDURES FOR EVIDENCE AND PROPERTY HANDLING

#### SECTION

- 6-301. Policy.
- 6-302. Purpose.
- 6-303. Definitions.
- 6-304. Procedures.

**6-301. Policy.** It is the policy of the Oliver Springs Police Department to maintain an organized management system utilizing a database inventory system for property taken into custody by members of the Oliver Springs Police Department.

All evidence and property under the control of the property custodian shall be audited, inventoried and listed in the database inventory system by the property custodian and/or chief of police before February 1, 2006.

The department will comply with all applicable state and federal requirements for seized and forfeited property.

This policy shall replace all other policies and procedures referring to preservation of evidence and/or property and evidence handling within the Oliver Springs Police Department. (as added by Ord. #06-20-01A, Jan. 2006)

**6-302. Purpose.** The purpose of this order is to establish and explain procedures pertaining to the proper methods of collection, preservation and storage of evidence and property.

The methods and procedures set forth herein are presented for two (2) main reasons:

- To ensure that evidence is properly handled, documented and preserved to prevent contamination and/or inadmissibility in court, and;
- To ensure that property is returned to its rightful owner, or is disposed of in an appropriate and timely manner, once it is no longer of use to the court system and law enforcement.

(1) Any employee of this department should not take the impounding of property lightly. The process of impounding, recording, controlling, storing and disposing of property is multifaceted, with a direct and profound impact on many operations within this department, as well as the criminal justice system as a whole.

(2) Officers are urged to use prudent judgment, as well as common sense, when impounding property. Valuable time is wasted processing worthless property or correcting mistakes in packaging and documentation if careful attention is not paid to the rules of evidence.

(3) It is imperative that all employees involved in the handling of property have thorough knowledge of the appropriate laws and procedures. (as added by Ord. #06-20-01A, Jan. 2006)

**6-303. Definitions.** For the purpose of these policies and procedures the following definitions apply:

(1) Chain of evidence. The continuity of the custody of physical evidence, from the time of original collection to final disposition that may be introduced in a judicial proceeding.

(2) Database inventory system. A database and/or computer program chosen by the chief of police to inventory all property and evidence under the control of the property custodian.

(3) Evidence. Any property, regardless of its nature, that is taken by the department as part of an investigation and which may be used for the purposes of the investigation or in legal proceedings.

(4) Forfeitable property. Any of the following:

(a) Property that is illegally possessed.

(b) Property that has been used or is intended to facilitate the commission of a criminal offense or to avoid detection or apprehension of a person committing a criminal offense.

(c) Narcotics and drug related property as defined by (Tennessee Code Annotated, § 53-11-201 et seq., § 40-33-201 et seq.)

(d) Property that is acquired as or from the proceeds of a criminal activity.

(e) Property offered or given to another as an inducement for the commission of a criminal offense.

(f) Vehicle or vehicles used in a DUI-second or subsequent violation as defined by (Tennessee Code Annotated, §§ 55-10-401, 55-10-403 and 40-33-201 et seq.) or in a driving on revoked license due to DUI as defined by (Tennessee Code Annotated, §§ 55-50-504, 40-33-201 et seq.)

(g) Vehicle or vehicles with alterations of vehicle identification numbers (Tennessee Code Annotated, § 55-5-108)

(5) Found property. Any property, regardless of its nature, that has been found by any person and is being held for safekeeping until the owner can be identified.

(6) Recovered property. Any property that has been identified as having been stolen (may also be classified as evidence).

(7) Seizable property. Any of the following:

(a) Property that is relevant in a criminal prosecution or investigation

(b) Property defined by law to be forfeitable.

(8) Seized property. Property taken or held by any law enforcement agency without the consent of the person, if any, who had possession or a right

to possession of the property at the time it was taken into custody. Seized property does not include property taken into custody solely for safekeeping purposes or property taken into custody with the consent of the owner or the person who had possession at the time of the taking. If consent to the taking of property was given by the person in possession of the property and later withdrawn or found to be insufficient, the property shall then be returned or the property shall be deemed seized as of the time of the demand and refusal.

Notice of seizure and law enforcement instructions. The officer taking possession of seized property shall fill out a "property and evidence invoice" form and give the pink copy to the property holder, and when required by law a State of Tennessee "Notice of property seizure and forfeiture of conveyances" form shall be filled out, and the law enforcement instructions on the back of the form shall be followed.

(9) Two-person rule. All of the following:

(a) A witnessing officer shall be present at all times while property and/or evidence is being submitted by the impounding officer to the temporary storage lockers, property custodian or by any other means.

(b) Witnessing officer shall be present at all times while the property custodian is transporting property and/or evidence to the property room.

(c) No one including the property custodian, chief of police or any member of this department shall be in the property room without a witnessing officer at all times.

(10) Member of the Oliver Springs Police Department. Anyone employed by the Oliver Springs Police Department, full or part time police officers, dispatchers, animal control officers, and reserve and/or auxiliary police officers.

(11) Impounding officer. The member of this department who initially receives the property and initiates the chain of custody. The impounding officer may also serve as the witnessing officer when presenting property to the property custodian, but must accompany the property custodian at all times while the property is being entered into the property room.

(12) Property custodian. The chief of police and/or department member designated by the chief of police who is accountable for controlling and maintaining all property and evidence accepted by and/or stored in the temporary storage lockers, property room or in any other location. (No member and/or property custodian of this department will at anytime receive any property from the impounding officer, storage locker or by any other means, or enter into the property room without being accompanied by a witnessing officer at all times.)

(13) Property holder. The person in possession of the property and/or evidence to be surrendered seized and/or forfeited to the impounding officer. (A witnessing officer is not necessary while the impounding officer receives property and/or evidence from the property holder.)

(14) Police commissioner. A member of the city council who has been appointed to act as a liaison between the city council, the public and the Oliver Springs Police Department. A police commissioner also acts as an advisor to the police department and city council as a whole, and may set on a hiring, disciplinary or other boards as directed by city council. A police commissioner has no direct supervision authority over the police department except when in a session of city council acting by legislative authority as a council member.

(15) Witnessing officer. Any member of the Oliver Springs Police Department who shall accompany the property custodian at all times while handling evidence during the process of collecting it from the impounding officer, temporary storage lockers, dispatch office, or by any other means, and while transporting the property into the property room and entering it into the inventory system, the impounding officer may serve as the witnessing officer. A witnessing officer shall accompany the property custodian at all times including while in the property room.

(16) Physical evidence. Any substance or material found or recovered in connection with a criminal investigation.

(17) Vehicle impound lot. Facilities used by this department to store and secure seized, forfeited, and impounded vehicles.

(18) Property room. Facilities used by this department to store and secure evidence or property. (No member and/or property custodian of this department will at anytime enter into the property room without being accompanied by a witnessing officer at all times.)

(19) Temporary storage lockers. Also referred to as temporary evidence lockers are lockers used by this department to temporarily store and secure evidence and/or property. (No member and/or property custodian of this department will at anytime add or remove anything from the temporary storage lockers without being accompanied by a witnessing officer at all times.)

(20) Temporary storage locker. (Also referred to as "temporary drop box") a locker used by this department to hold three (3) locks that are to be used on lockers 1, 2, and 3 in addition to the locks that are permanently attached to the lockers by a chain when evidence is logged in by officers, this locker also contains a set of digital scales, security tape, evidence bags and forms. (No member and/or property custodian of this department will at anytime add or remove anything from the temporary storage locker without being accompanied by a witnessing officer at all times.) (as added by Ord. #06-20-01A, Jan. 2006)

**6-304. Procedures.** Property and evidence held by the Oliver Springs Police Department will be regulated and controlled by an organized management system that utilizes a database inventory system. The department's property control function is under the direction of the chief of police. A property custodian manages the daily operations of the system. The Oliver Springs Police Department follows the two-person rule. At no time for any reason whatsoever shall anyone including the chief of police, property



custodian, or any member of this department add, remove, receive, store, handle or be in the presents of any property and/or evidence in the temporary storage lockers, temporary drop box, or property room without a witnessing officer present at all times.

All property under the control of the Oliver Springs Police Department will be handled in a manner consistent with the policies and procedures for evidence and property handling.

(1) Intake of recovered and seized property. (a) Utilizing proper evidence gathering, packaging and labeling techniques, all items submitted as recovered or seized property will be documented on the "property and evidence invoice" form. This documentation will be completed prior to the end of the submitting officer's shift.

(b) The submission and documentation of seized or recovered property will be referred to in the offense/arrest report.

(c) The submitted items will be accompanied by the original white and yellow papers of the "property and evidence invoice" form and secured in one of the following ways:

(i) Turned directly over to the property custodian while the property custodian is being accompanied by the impounding officer and/or witnessing officer for immediate submission into the property room,

(ii) Placed in the temporary evidence lockers secured.

(d) The two-person rule shall always be followed by using a witnessing officer.

(e) At no time will property be left unsecured or stored in personal areas, nor will it be converted for personal use.

(f) If the evidence is to be sent to the Tennessee Bureau of Investigation Lab (for any reason), it will be the officer's responsibility to fill out the lab request sheet and submit a copy of the sheet it to the property custodian and to ensure the evidence is handled in accordance with the T.B.I. Evidence Guide Book. The impounding officer will be responsible for delivery of evidence to the crime lab.

(g) The officer shall issue a receipt to the property owner when property is confiscated during a search and/or arrest or taken for safekeeping. This is most efficiently handled with the "property and evidence invoice" form by providing the property holder with the pink paper.

(h) No hazardous substance shall be brought into the police department without approval from the chief of police or captain.

(i) Officers shall turn all confiscated drugs or narcotics over to the property custodian regardless of whether the subject from whom they were seized is charged or not. Drugs and/or narcotics shall not be disposed of in any manner other than that prescribed by the Oliver Springs Police Department.

(j) All narcotics, jewelry, and other valuables shall be deposited into the temporary evidence lockers.

(k) All narcotics must be weighed on a designated scale and/or counted prior to securing them in the temporary evidence lockers.

(l) All money shall be counted by the impounding officer and a witnessing officer, and then the money shall be given to the dispatcher who will enter the transaction into the court computer and be placed with other money to be deposited. The dispatcher will give the impounding officer a receipt printed and numbered by the court computer. The impounding officer will place the receipt and any other evidence into the proper locker, collectible monies, or marked monies will be an exception to this rule and shall be treated like other evidence.

(m) Weapons shall be secured to the extent possible prior to their submission to the property custodian.

(n) If a vehicle is impounded because it is evidentiary in nature, a "property and evidence invoice" form shall be filled out in addition to the vehicle impound report.

(o) If an item demands freezing or refrigeration, the item may be packaged and turned directly over to the property custodian. If it is not possible to directly turn the item over to the property custodian, it may be sealed (in such a manner so as to detect tampering) and placed into the police department refrigerator. The on-duty supervisor shall be notified and notification passed on to watch until the property custodian takes possession.

(2) Intake of found property. (a) All items (value over five dollars (\$5.00)) found by or turned into department personnel will be recorded on a "property and evidence invoice" form. An exception to this is if the identified owner is located and the property returned during the same shift, a "call for service" entry may be made in the dispatch computer documenting the information. The receiving person shall complete a "property and evidence invoice" form for unclaimed property prior to the end of their shift. There may be times that an offense/arrest report is required to document circumstances involving found property.

(b) An attempt to contact the identifiable owner will be made and documented on the front of the "property and evidence invoice" form or in the report. Property illegal to possess is excluded from this notification.

(c) If no owner is identified, or the owner does not immediately respond, the item will be submitted to the property custodian under the following procedure:

- (i) Attach the "property and evidence invoice" form.
- (ii) Place in temporary storage locker.

(iii) If the property custodian is not available, larger items that will not fit in a storage locker may be placed in the dispatch office by a supervisor.

(d) Items valued under five dollars (\$5.00), such as keys, hats, gloves, coffee cups, and obvious junk will be placed in a filing cabinet or other storage area located in the dispatch office, these will be documented by entering them as a "call for service" in the dispatch computer with a brief description. If an owner claims them, a subsequent "call for service" will be used to document the retrieval.

(e) In the event the citizen who turns property over to the police department expresses an interest in claiming the property should no owner be found, the request will be noted and they will be referred to the chief of police. The pink copy of the property evidence invoice form should be given to them as their record.

(3) Hazardous substances. (a) Biological hazards. When collecting evidence that is biological in nature, officers should remain mindful of the potential hazards that may be present. When dealing with this type of evidence officers shall follow the applicable precautions and/or procedures pertaining to blood borne pathogens. When submitting items, which may be contaminated with a biohazard, officers shall observe the following procedures. Property which poses a potential biohazard but is not evidentiary shall be disposed of in an approved manner, with documentation of the property and the manner in which it was disposed of. A property sheet shall be submitted to the property custodian along with a copy of the complaint or offense/arrest report regarding the circumstances under which the property was obtained and the manner in which the property was disposed of.

(i) Materials that have been contaminated should not be submitted or stored in plastic containers but packaged so as not to degrade or contaminate other items.

(ii) All items that may be contaminated shall clearly indicate such on their package. It should also be noted on the complaint or offense/arrest report

(iii) When placed in temporary storage, the compartment containing the object should be clearly marked as containing a potential hazard.

(iv) Officers shall follow decontamination procedures upon exposure to biohazards.

(v) The property custodian will secure the contaminated object in such a manner as to maintain the evidentiary value of the item.

(vi) Officers unsure as to the procedure for handling the contaminated item shall contact a supervisor.

(vii) Perishable food items should be photographed and documented and returned to the owner or properly disposed of.

(b) Hazardous materials. (i) Upon the collection of items that are hazardous in nature such as chemicals, flammable liquids or explosives, the items should be photographed and stored in designated areas or arrangements made for immediate transport to a designated lab. These items shall have a photocopy of the property sheet attached to them, with the originals being submitted to the property custodian along with a copy of the offense/arrest report indicating the type and amount (estimated if necessary) of the hazardous material along with its location. At no time shall these items be taken to the police department without approval from the chief of police or captain. Officers should limit the collection of these types of items to evidence or contraband. Before taking control of these types of items for other reasons, the shift supervisor should be contacted for guidance.

(ii) In the event the collection of hazardous materials involves a Methamphetamine lab the South/East Tennessee Methamphetamine Task Force shall be contacted for assistance.

(4) Property management. (a) Quarterly report. The property custodian while accompanied by a witnessing officer will have primary responsibilities for the day-to-day operations of the property areas. On a quarterly basis the property custodian will submit to the chief of police and the city administrator (or the mayor in his absence) a report listing all of the property under the control of the Oliver Springs Police Department. It will identify those items that have come under control within the last three (3) months and will also contain a list of all items that have been released from the property control area and why the items were released, and all items that had been disposed of along with the method of their disposal.

(b) Bi-annual inspections. (i) Each year there will be bi-annual inspections conducted; in the first week of March and in the first week of September by at least one (1) police commissioner and one (1) patrol sergeant to confirm adherence to procedures used for property control. This inspection will, further ensure that the property areas are being maintained in a clean and orderly fashion, that property is being protected from damage or deterioration, and that proper accountability procedures are being maintained. The property custodian shall be present during the inspections but will not take part in the actual inspection.

(ii) This inspection shall also consist of verifying the property and accompanying documentation of at least ten (10) separate incidents, four (4) of which shall be narcotic related cases, and two (2) shall involve sums of money. This inventory shall

include a list of all property that is under the control of the Oliver Springs Police Department within the past six (6) months. In the event that a piece of property cannot be accounted for, the inspectors shall notify the chief of police and the property custodian to clarify the status of the property. If the status cannot be resolved within five (5) days, the chief of police and police commissioner(s) shall notify the Tennessee Bureau of Investigation. Upon completion of the T.B.I. investigation, the status of the property shall be entered in the case file.

(c) Newly appointed property custodian. In the event the chief of police appoints a new property custodian, an inventory of the property in control of the Oliver Springs Police Department shall be conducted to ensure the integrity of the property and that records are complete. The outgoing property custodian, the newly appointed property custodian and the chief of police or a supervisor designated by the chief of police, shall conduct the inventory. The inventory does not require a complete inspection of each item, but shall be sufficient to ensure the integrity of the system. Any discrepancies should be recorded prior to the newly appointed property custodian assuming responsibility. Discrepancies shall be handled in the manner mentioned above. A written report documenting the change of custodian inventory shall include a listing of all property in control of the Oliver Springs Police Department upon the departure of the outgoing property custodian. All property control inspection reports shall be submitted to the chief of police with copies going to the police commissioner(s), city administrator and the mayor.

(5) Transfer of evidence. (a) Submission of evidence to labs or other agencies. When possible, evidence should be submitted to the appropriate laboratory or agency within three (3) working days of collection. If the evidence is to be sent to the Tennessee Bureau of Investigation Lab, it will be the officer's responsibility to fill out the lab request sheet and submit a copy of the sheet it to the property custodian and to ensure the evidence is handled in accordance with the T.B.I. Evidence Guide Book. The impounding officer will be responsible for delivery of evidence to the crime lab. Officers who have evidence needing to be sent to an outside agency shall complete the "property and evidence invoice" form making sure the chain of custody section has been filled out.

(b) Transfer of evidence procedures. Whenever evidence is transferred from the property room; the following procedures shall be adhered to:

- (i) The two-person rule shall always be followed.
- (ii) In instances where the evidence needs to be removed from the property room, the property custodian shall document the change of custody on the chain of custody section of the property form. The receiving person shall sign upon receipt of the evidence

and note the date and time of the change of custody along with the reason for the transfer of the property.

(iii) The member receiving the evidence assumes control and responsibility for ensuring its security, storage and maintenance.

(iv) Upon return of the evidence, the returning party shall fill out the chain of custody section and the property custodian will sign upon receiving and confirming the evidence being returned. The date and time will be included on the change of custody section.

(v) When property is needed for legal proceedings, the person receiving the notice of the request should notify the property custodian of the date on which the property will be needed. In any event, the property custodian should be notified no less than two (2) days prior to the date on which the property will be needed.

(vi) When evidence is removed from the property room for processing by the Oliver Springs Police Department, the aforementioned procedures shall be adhered to.

(vii) When evidence is transported or shipped to an outside agency for testing, the property custodian will document the change of custody, including the destination, date of shipment, manner of shipment, return of service for the shipment and return of the evidence being processed.

(6) Disposition of property. Evidence shall be disposed of upon receiving a court order or notification from the clerk of court that the case has been resolved, and the appeal process has expired or been exhausted, all of the items that had been released or disposed of by the Oliver Springs Police Department shall be documented in the database inventory system along with the method of their disposal.

(a) Recovered and/or found property. The Oliver Springs Police Department will attempt to return property to its rightful owner. In the case of found or recovered property, the property custodian will take the appropriate steps to contact rightful owners. When an item is claimed, the receiving party shall sign a receipt acknowledging the receipt of the property. When unable to contact the person(s) who may legally claim the property, the property custodian shall take appropriate steps to locate and notify a legal claimant. In instances where the rightful owner does not respond within the prescribed time, the property will be disposed of by the chief of police as allowed by law.

(b) Narcotics and/or contraband. In instances where narcotics or other contraband shall be destroyed, it shall be done during a bi-annual inspection by the property custodian with a police commissioner and a sergeant serving as witnesses, and shall be destroyed

in a fashion prescribed by the chief of police in accordance with state and federal laws. In the event that narcotics and/or contraband need to be destroyed before a bi-annual inspection the chief of police shall set the date and time of destruction then notify the property custodian, police commissioners and a sergeant to destroy the evidence. Under no circumstances will narcotics or contraband be destroyed without a valid court order.

(c) Firearms. (i) If ordered by the courts or if the firearm was held for evidence only the firearm should be returned to the rightful owner within one hundred eighty (180) days. If the rightful owner is unknown, or fails to recover the firearm within ninety (90) days after notice, the property custodian shall dispose of the property consistent with departmental guidelines. Under no circumstances will firearms be destroyed or disposed of without a valid court order.

(ii) No employee or city official of the Town of Oliver Springs shall convert firearms to their own use.

(d) Other evidence. Other evidence that shall be disposed of that is not narcotics or other contraband can be disposed of by the property custodian and a witnessing officer at anytime as prescribed by the chief of police in accordance with state and federal laws. If ordered by the courts or if the property was held for evidence only the property should be returned to the rightful owner within one hundred eighty (180) days. If the rightful owner is unknown, or fails to recover the property within ninety (90) days after notice, the property custodian shall dispose of the property consistent with departmental guidelines.

(7) Storage facilities. (a) Temporary storage lockers. The chief of police will designate a secure location where the temporary storage lockers will be located. Each locker will be equipped with its own pad lock that shall be welded to a secure chain that is connected to the door of the locker so that the lock cannot be removed or tampered with; and the lockers shall remain locked at all times. The keys to the lockers will remain with dispatch. And a second lock will remain in locker 0 that will be used in addition to the chain lock. No evidence should remain in the temporary evidence lockers for more than seven (7) days. When an impounding officer wishes to enter property into the temporary storage lockers he/she shall fill out the "temporary property locker access log" located in the dispatch office, the dispatcher shall note on the log what key if any was received from dispatch. A witnessing officer shall accompany the impounding officer while the property is being entered. No member and/or property custodian of this department will at anytime add or remove anything from the temporary storage lockers without being accompanied by a witnessing officer at all times.

(b) Temporary storage locker 0. (Also referred to as "temporary drop box") The chief of police will designate a secure location where the temporary storage locker 0 will be located. A locker used by this department to hold three (3) locks that are to be used on lockers 1, 2, and 3 in addition to the locks that are permanently attached to the lockers by a chain when evidence is logged in by officers, this locker also contains a set of digital scales, security tape, evidence bags and forms. A witnessing officer shall accompany the impounding officer while the property is being entered. No member and/or property custodian of this department will at anytime add or remove anything from the temporary storage lockers without being accompanied by a witnessing officer at all times.

(c) Property room. The chief of police will designate a secure location where the property room will be located. The property room will be equipped with two (2) separate locks that are keyed differently from one another, one (1) lock that only the chief of police and property custodian will have a key to open. And the key to the other lock shall remain in the dispatch office for a witnessing officer to check out when needed. The purpose of this is to ensure the door to the evidence cannot be opened without first unlocking both locks. The locks on the door shall be dead bolt type locks. There shall be a video surveillance camera that automatically records when it detects motion in the property room, the recording equipment shall be located in the "computer server room" located in the city offices, the city administrator (or mayor in his absence) or his designee shall be responsible for maintaining the recordings and shall keep all recording for seven (7) months before recordings can be purged. No evidence should remain in the temporary drop box or temporary storage lockers for more than seven (7) days; it shall be the responsibility of the property custodian while accompanied by a witnessing officer to remove property and/or evidence from the temporary drop box and temporary storage lockers every six (6) to seven (7) days, or as needed. When the property custodian enters the property room a witnessing officer must accompany him, and the "property room access log" must be filled out and signed by the property custodian and the witnessing officer. All property in the property room shall be entered into the database inventory system. No member and/or property custodian of this department will at anytime enter into the property room without being accompanied by a witnessing officer at all times.

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of this directive will only form the basis for departmental administrative sanctions. (as added by Ord. #06-20-01A, Jan. 2006)



**TITLE 7**

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

**CHAPTER**

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

**CHAPTER 1**

**FIRE DISTRICT**

**SECTION**

7-101. Fire district described.

**7-101. Fire district described.** The corporate fire district shall extend fifty (50) feet upon the adjacent property on either side of the right-of-way along State Highway No. 62 from Poplar Creek Bridge to Kelly Town Baptist Church. (1989 Code, § 7-101)

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<sup>1</sup>Municipal code reference  
Building, utility and housing codes: title 12.

**CHAPTER 2****FIRE CODE**<sup>1</sup>**SECTION**

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Fire lanes.
- 7-208. Automatic sprinkler system required.
- 7-209. Modifications.
- 7-210. 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 prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Standard Fire Prevention Code,<sup>2</sup> 1994 edition, as recommended by the Southern Standard Building Code Congress International, Inc. is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the city recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1989 Code, § 7-201, as amended by Ord. #91-06-05, May 1991, modified)

**7-202. Enforcement.** The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1989 Code, § 7-202)

**7-203. Definition of "municipality."** Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Oliver Springs, Tennessee. (1989 Code, § 7-203)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>2</sup>Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

**7-204. Storage of explosives, flammable liquids, etc.** (1) The district referred to in § 1901.4.2 of the fire prevention code, in which storage of explosive materials is prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

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

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

(4) The district referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire district as set out in § 7-101 of this code. (1989 Code, § 7-204)

**7-205. 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. (1989 Code, § 7-205)

**7-206. Variances.** The chief of the fire department may recommend to the town council 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 town council. (1989 Code, § 7-206)

**7-207. Fire lanes.** All commercial, retail, and wholesale business establishments or shopping centers consisting of one or more shops, in single units or attached together in a contiguous system, shall maintain an access road not less than 25 ft. in width, which would be clearly marked by signs or paint on the pavement (or both) "FIRE LANE." This fire lane shall be used and maintained in order to provide a clear and open route in which firefighting vehicles, police vehicles, ambulances, or other emergency vehicles may pass unobstructed in order to deal with any emergency or hazard that may arise.

These fire lanes shall provide access for the aforesaid vehicles to all businesses and business areas located in the commercial, wholesale, and retail business establishments and shopping centers.

The Town of Oliver Springs shall be charged with the responsibility of keeping these fire lanes free and clear of obstructions, such as parked or disabled vehicles. The Town of Oliver Springs shall have the authority to write traffic violations, search with valid search warrants, vehicles and other objects

within the fire lane, and to tow away or otherwise remove the obstructions, such as parked or disabled vehicles, that may block the fire lane or in some manner violate this section.

This section shall not be interpreted as to require the Town of Oliver Springs to repair, maintain, replace, grade, or pave the fire lanes established by the business districts pursuant to this section. The owner, tenant, designee, or agent of the property owner shall maintain, repair, replace, grade, or pave, or perform any other tasks of like or similar manner, upon the fire lane which has been established. The Town of Oliver Springs shall only enforce traffic violations, other obstructions, and any other matter which may violate federal, state, local, or town laws, rules, regulations, and ordinances. (1989 Code, § 7-207)

**7-208. Automatic sprinkler systems required.** All buildings constructed after July 1, 1985, having in excess of 10,000 square feet of floor area and intended for commercial and industrial use occupancies shall have automatic sprinkler systems installed to meet National Fire Prevention Association (NFPA) standards and requirements. (1989 Code, § 7-208)

**7-209. Modifications.** When reference is made to the duties of certain officials named therein, the designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #91-06-05, May 1991)

**7-210. Violations and penalties.** It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard Fire Prevention Code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the town council or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1989 Code, § 7-209)

## CHAPTER 3

### FIRE DEPARTMENT<sup>1</sup>

#### SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Qualifications and tenure of chief.

7-304. Assistant chief and officers.

7-305. Qualifications and training of members.

7-306. Equipment and compensation of members.

7-307. Police powers and limits on use of equipment.

7-308. Rules and regulations.

7-309. Fire hydrant standards.

7-310. Color coding of fire hydrants.

**7-301. Establishment, equipment, and membership.** In order to protect life, avoid injury, and preserve property within the town limits from fire, the town council hereby organizes a fire department, which shall consist of such apparatus as the town now has and such as hereafter may be provided, and personnel to be composed of a chief and such number of subordinate officers as the town council shall provide. The members of the fire department shall be subject to such rules and regulations as may be adopted and approved by the town council. (1989 Code, § 7-301)

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To 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. (1989 Code, § 7-302)

**7-303. Qualifications and tenure of chief.** The chief of the fire department shall be a person especially qualified for the duties incumbent upon him/her and shall hold office for an indefinite term and only be removed for cause after public trial before the town council. (1989 Code, § 7-303)

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<sup>1</sup>Municipal code reference

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

**7-304. Assistant chief and officers.** There shall be an assistant chief for the department and two officers for each fire company, whose promotion shall be based on an efficient record as fire fighters and properly certified by the chief to the town council for confirmation. (1989 Code, § 7-304)

**7-305. Qualifications and training of members.** The name of all applicants for membership shall be certified to the town council by the chief for final confirmation. Applicants must be mentally and physically sound and of satisfactory age, weight, and height. Special training shall be required for such engineers and drivers as may be needed. (1989 Code, § 7-305)

**7-306. Equipment and compensation of members.** The town shall furnish to the members of the fire department rubber coats or other suitable clothing, fire helmets, and rubber boots to be worn at fires, drills, and on duty only. Said clothing shall be and remain the property of the town and shall be ordered subject to the approval of the mayor and the town council. Every member of the fire department who attends and assists at a fire, or who answers a false alarm, except full time members, shall receive for said service a sum to be fixed by the town council. In consideration of special duties to be rendered by the officers of the department, they shall receive per annum such compensation as may be agreed upon by the town council.

All full time firemen shall receive such compensation as may be agreed upon by the town council. (1989 Code, § 7-306)

**7-307. Police powers and limits on use of equipment.** The chief shall be authorized to exercise police powers at times of fire and summons to his assistance such additional help as he may deem necessary to control the fire. Further, the chief shall and is hereby authorized, to enforce all fire prevention ordinances contained in the municipal code. Fire trucks will not leave the Town of Oliver Springs without the express consent of the safety director, fire chief or other officers in charge.<sup>1</sup> (1989 Code, § 7-307)

**7-308. Rules and regulations.** The following rules and regulations shall govern the fire department.

(1) Preamble. Members of the fire department should understand that these rules and regulations are not intended to cover every case which may arise in the discharge of their duties. Something must necessarily be left to the intelligence and discretion of the individual officers and members, and to the degree they show they are possessed of these qualities, and on their zeal, activity, and judgment on all occasions, their claims to further promotion and reward will hinge.

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<sup>1</sup>Municipal reference

Fire service outside town limits: this title, chapter 4.

(2) Chief. (a) The chief shall be at the head of the department, subject to the rules and regulations herein adopted. He shall be held responsible for the good order and efficiency of the department.

(b) It shall be his duty to examine the condition of the fire station, apparatus, hose, and all other property of the department once a week and whenever directed by the mayor.

(c) He shall drill the department at least monthly in the use of apparatus and equipment, and also hold one or more meetings a month in discussing equipment, proper fire fighting methods, fire hazards, and other business in line of duty, such as hydrants, mains, and water supply. A member missing three successive regular meetings without permission shall be dropped from the roll.

(d) He shall keep a complete record of all operations of the department and submit a monthly and annual report to the town council.

(e) He shall attend all fires, when not providentially hindered or excused by the mayor, and direct the officers in matters pertaining to their duties. He may in his judgment suspend members from duty and make report of such action to the town council as soon as practicable thereafter.

(f) He shall, with other members of the department, make inspections of all mercantiles, schools, churches, and factories at least twice a year.

(g) The chief shall on absenting himself from the town first notify the assistant chief to take charge of the department.

(3) Assistant chief. The assistant chief shall take charge of the department in the absence of the chief and assume the same powers as devolve upon the chief. At all other times he shall perform such duties as the chief may direct.

(4) Captains. (a) The first captain to arrive at a fire shall exercise command until arrival of a superior officer. Captains shall preserve the discipline of their respective companies and make monthly report of condition of apparatus, hose, and all other equipment in their control to the chief of the department, direct their companies at fires, and perform such other duties as the chief may direct.

(b) Captains must instruct each member of their respective companies concerning their duties at fires and see that each member knows location, name, and use of each piece of equipment.

(c) Captains must inspect fire trucks and all other equipment once a week with the engineer or driver and see that all equipment is on apparatus.

(5) Lieutenants. A lieutenant shall, in the absence of his captain, exercise the same duties and have the same powers as devolve upon the captain. At all other times he shall perform such duties as the captain may direct.

(6) Engineers or drivers. (a) Engineers and drivers must examine fire trucks daily and after each run, and also check the oil, gas, water, tires, and keep a record of time pumped and pressure on hydrants, and make a report to the captain.

(b) Engineers and drivers must examine all fire hydrants in their district and report all defects to the captain.

(7) Members. (a) All members must obey the orders of their superior officers when on duty.

(b) They shall assist in returning all equipment to their respective fire station after fire or drills, unless excused by the officer in charge.

(c) They shall respond promptly on receipt of fire alarms and report to their officer in charge.

(d) Every member should know the location, name, and use of all equipment.

(e) All members shall notify the chief when they are sick or when they want to be excused from duty.

(f) No member shall be permitted to leave a fire for any reason unless excused by the officer in command.

(g) It shall be the duty of the chief to acquaint each person, on becoming a member of the department, with the rules and regulations governing the same.

(h) Any member of the department may be dropped from the roll for any of the following offenses:

(i) Intoxication.

(ii) Any act of insubordination.

(iii) Any act of oppression or tyranny.

(iv) Neglect of duty.

(v) Neglect or disobedience of orders.

(vi) Absence from fires or drills without permission.

(vii) Immoral conduct.

(viii) Conduct unbecoming a fire fighter.

(ix) Any violation of the rules and regulations governing the department. (1989 Code, § 7-308)

**7-309. Fire hydrant standards.** Water mains and fire hydrants shall be installed in such a manner to provide adequate fire flows. All water mains shall be at least six inches in diameter. However, larger mains shall be installed when necessary to insure that a minimum of 500 gpm at 20 psi residual pressure is available at all fire hydrants. Based on the color coding system adopted in § 7-310, all "red" fire hydrants shall not be used for connecting a fire department pumper except in those instances where, in the judgement of the senior fire officer on the scene, there is an imminent threat to life. (Ord. #93-04-11, Nov. 1993)



**7-310. Color coding of fire hydrants.** NFPA 291, Fire Flow Testing and Marking of Hydrants, is hereby adopted by reference and incorporated into this code as if it were set out at length herein and shall be controlling within the corporate limits. (Ord. #93-04-11, Nov. 1993)

## CHAPTER 4

### FIRE SERVICE OUTSIDE TOWN LIMITS<sup>1</sup>

#### SECTION

7-401. Restrictions on fire service outside town limits.

**7-401. Restrictions on fire service outside town limits.** No personnel or equipment of the fire department shall be used for fighting any fire outside the town limits unless the fire is on town property or, in the opinion of the fire chief, is in such hazardous proximity to property owned or located within the town as to endanger the town property, or unless the town council has developed policies for providing emergency services outside of the town limits or entered into a contract or mutual aid agreement pursuant to the authority of:

(1) The Local Government Emergency Assistance Act of 1987, as amended, codified in Tennessee Code Annotated, § 58-2-601, et seq.<sup>2</sup>

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<sup>1</sup>Municipal code reference

Fire trucks not to leave town without consent of certain officers:  
§ 7-307.

<sup>2</sup>State law references

Tennessee Code Annotated, § 58-2-601, et seq., as amended by Public Acts 1988, Ch. 499, authorizes any municipality or other local governmental entity to go outside of its boundaries in response to a request for emergency assistance by another local government. It does not create a duty to respond to or to stay at the scene of an emergency outside its jurisdiction.

This statute, as amended, does not require written agreements between the local governments, but authorizes them to develop policies and procedures for requesting and responding to requests for emergency assistance, including provisions for compensation for service rendered.

The statute specifies which municipal officers may request and respond to requests for emergency assistance and provides for the appointment by municipal governing bodies of additional municipal officers with the same authority.

The statute provides that the senior officer of the requesting party will  
(continued...)

- (2) Tennessee Code Annotated, § 12-9-101, et seq.<sup>1</sup>  
 (3) Tennessee Code Annotated, § 6-54-601.<sup>2</sup> (1989 Code, § 7-401)

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<sup>2</sup>(...continued)

be in command at the scene of the emergency.

The statute outlines the liabilities of the requesting and responding governments as follows: (1) Neither the responding party nor its employees shall be liable for any property damage or bodily injury at the actual scene of any emergency due to actions performed in responding to a request for emergency assistance; (2) The requesting party is not liable for damages to the equipment and personnel of the responding party in response to the request for emergency assistance; and (3) Neither the requesting party nor its employees is liable for damages caused by the negligence of the personnel of the responding party while enroute to or from the scene of the emergency.

<sup>1</sup>State law reference

Tennessee Code Annotated, § 12-9-101, et seq., is the Interlocal Cooperation Act which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

<sup>2</sup>Tennessee Code Annotated, § 6-54-601 authorizes municipalities:

(1) To enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance. (2) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance. (3) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

## CHAPTER 5

### FIREWORKS

#### SECTION

7-501. Sale of within corporate limits prohibited.

7-502. Definitions.

**7-501. Sale of within corporate limits prohibited.** The detonation of fireworks and the sale thereof is hereby declared to be unlawful within the corporate limits of the Town of Oliver Springs. (Ord. #95-07-09A, Sept. 1995)

**7-502. Definitions.** (1) "Fireworks" shall mean and include any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible and/or audible effect by combustion or explosion.

(2) "Deflagration" or "detonation" and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel the same, firecrackers, torpedoes, sky rockets, roman candles, daygo bombs, sparklers, or other fireworks of like construction and any fireworks containing an explosive or flammable compound or any tablets or other device containing any explosive substance except that the term "FIREWORKS" shall not include model rockets and model rocket engines designed and sold and used for the purpose of propelling recoverable aerial models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap manufactured in accordance with the United States Department of Transportation regulation for packing and shipping of toy, paper or plastic caps are used and toy, paper and/or plastic caps manufactures as provided therein, the sale and use of which shall be permitted at all times.

Each package containing toy, paper and/or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap. Any violation hereof shall be punishable as are any other misdemeanors described in this code. (Ord. #95-07-09A, Sept. 1995)

## TITLE 8

### ALCOHOLIC BEVERAGES<sup>1</sup>

#### CHAPTER

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

#### CHAPTER 1

### INTOXICATING LIQUORS

#### SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the city recorder.
- 8-105. Concurrent sales of liquor by the drink and beer.
- 8-106. Advertisement of alcoholic beverages.
- 8-107. Violations and penalty.

**8-101. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city/town except as provided by Tennessee Code Annotated, title 57. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, Ord. #2016-12-15A, \_\_\_\_\_ **Ch3\_2-7-19**, and Ord. #2019-01-17, Jan. 2019 **Ch3\_2-7-19**)

**8-102. 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 code when such sales are conducted within the corporate limits of Oliver Springs, Tennessee. It is the intent of the board of commissioners that the Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Oliver Springs, Tennessee, the same as if the code sections were copied herein verbatim. (as added by Ord. #2019-01-17, Jan. 2019 **Ch3\_2-7-19**)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

**8-103. 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 Town of Oliver Springs 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 Town of Oliver Springs on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #2019-01-17, Jan. 2019 **Ch3\_2-7-19**)

**8-104. Annual privilege tax to be paid to the town recorder.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Oliver Springs shall remit annually to the town clerk the appropriate tax described in § 8-103. 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. #2019-01-17, Jan. 2019 **Ch3\_2-7-19**)

**8-105. Concurrent sales of liquor by the drink and beer.** Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the Town of Oliver Springs, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of § 8-212 of the ordinances of the Town of Oliver Springs, qualify to receive a beer permit from the city. (as added by Ord. #2019-01-17, Jan. 2019 **Ch3\_2-7-19**)

**8-106. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #2019-01-17, Jan. 2019 **Ch3\_2-7-19**)

**8-107. Violations and penalty.** Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city/town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #2019-01-17, Jan. 2019 **Ch3\_2-7-19**)

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Application of new owner.
- 8-209. Types of consumption permits
- 8-210. Public display of license required.
- 8-211. Privilege tax.
- 8-212. Beer permits shall be restrictive.
- 8-213. Limitation on number of permits.
- 8-214. Interference with public health, safety, and morals prohibited.
- 8-215. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-216. Restrictions on permit holder.
- 8-217. Revocation or suspension of beer permit.
- 8-218. Civil penalty in lieu of revocation or suspension.
- 8-219. Loss of clerk's certification for sale to minor.
- 8-220. Violations and penalty.
- 8-221.--8-225. Deleted.

**8-201. Beer board established.** There is hereby established a beer board to be composed of the town council. The mayor shall be the chairman of the beer board. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3\_2-7-19*)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings, in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives an adequate notice thereof to each member. The board may adjourn a

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<sup>1</sup>State law reference

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

meeting at any time to another time and place. (1989 Code, § 2-202, as replaced by Ord. #06-16-02B. Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3\_2-7-19**)

**8-203. Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; names of the board members present and absent; names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B. Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3\_2-7-19**)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B. Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3\_2-7-19**)

**8-205. Powers and duties of the beer board.**<sup>1</sup> The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B. Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3\_2-7-19**)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B. Feb. 2006, as replaced by Ord. #2016-12-15B, \_\_\_\_\_ **Ch3\_2-7-19**, and Ord. #2019-01-17, Jan 2019 **Ch3\_2-7-19**)

**8-207. Permit required for engaging in beer business.**<sup>2</sup> 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

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-106.

<sup>2</sup>State law reference

Tennessee Code Annotated, § 57-5-103.



board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Oliver Springs. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3\_2-7-19*)

**8-208. Application of new owner.** The board shall be furnished with the name of the proposed buyer or transferee, who shall be required to make application for a permit to the board. Such application shall conform to the requirements for other applications for permits as set out in this chapter. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3\_2-7-19*)

**8-209. Types of consumption permits.** (1) Permits may be applied for and issued to grocery businesses, for the sale of beer for off premises consumption only. The store must have five thousand dollars (\$5,000.00) wholesale inventory of groceries. For the purpose of this chapter a "grocery business" is hereby defined as a place for the selling of general supplies for the table and household use.

(2) Permits may be applied for and be issued to restaurants for the sale of beer for on premises consumption only. The restaurant shall serve both noon and evening meals; offer a family dining atmosphere; and serve meals which may be consumed within the interior of the restaurant at tables or booths.

(3) For the purpose of this chapter, a "restaurant" is defined as a structure in a commercial zoned district which is designed for, and engaged primarily in, the preparation and sale of meals served by waiters and waitresses for consumption within the structure. Any business which offers drive-up or drive-through service is not a restaurant for the purpose of this paragraph. All establishments within the town limits of Oliver Springs engaged in the lawful and licensed sale of beer for either on premises or off premises consumption prior to July 14, 1984, may continue such lawful sale of beer in accordance with their applicable license until such time as they discontinue beer sales for a continuous period of at least one hundred (100) days. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3\_2-7-19*)

**8-210. Public display of license required.** (1) Any business that is issued a permit to sell beer is required to publicly display a license to sell beer in accordance with the laws of the State of Tennessee.

(2) The beer board shall issue said license at the same time that it issues the permit to sell beer to the applicant's business.

(3) The failure of a business to comply with the requirement to publicly display said license shall be a violation of the laws of the State of Tennessee and the Town of Oliver Springs. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3\_2-7-19**)

**8-211. Privilege tax.**<sup>1</sup> There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town of Oliver Springs, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3\_2-7-19**)

**8-212. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorized sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.<sup>2</sup> (Ord.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-104(b).

<sup>2</sup>State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under Tennessee Code Annotated, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated, § 16-18-302, city/town courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City/town courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated, §57-5-30(a) a local offense.

#93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 ***Ch3\_2-7-19***)

**8-213. Public display of license required.** (1) Any business that is issued a permit to sell beer is required to publicly display a license to sell beer in accordance with the laws of the State of Tennessee.

(2) The beer board shall issue said license at the same time that it issues the permit to sell beer to the applicant's business.

(3) The failure of a business to comply with the requirement to publicly display said license shall be a violation of the laws of the State of Tennessee and the Town of Oliver Springs. (Ord. #93-09-02, Sept. 1993, as amended by Ord. #96-10-17, Oct. 1996, and replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 ***Ch3\_2-7-19***)

**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, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within five hundred feet (500') of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (1989 Code, § 2-214, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 ***Ch3\_2-7-19***)

**18-215. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.** It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.<sup>1</sup> (This provision shall not apply to grocery stores selling beer for off-premises consumption only.)

(2) As the Town of Oliver Springs, Tennessee has passed a referendum

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<sup>1</sup>State law reference

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

approving the sale of liquor by the drink within the corporate limits of the Town of Oliver Springs, the hours and operation for the sale of beer shall be set and governed pursuant to the rules and regulations set forth by the Tennessee Alcoholic Beverage Commission.<sup>1</sup>

(3) Make or allow any sale of beer to any person who is not allowed to purchase or consume beer under Tennessee state law.

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

(5) Make or allow any sale of beer to any intoxicated person or to any feebleminded, insane, or otherwise mentally incapacitated person. Allow drunk persons to loiter about his premises.

(6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content as defined in Tennessee Code Annotated, § 57-5-101.

(7) Fail to provide and maintain separate sanitary toilet facilities for men and women. In addition, it shall be unlawful for any Class 2 on premises permit holder to employ any person under the age of eighteen (18) on the premises in any capacity whatsoever.

(8) Identification required prior to sale. Any person, before purchasing or attempting to purchase beer, is required to furnish to the permittee, his or her agent or employee, a photo identification produced by the State of Tennessee, or by any other state or territory of the United States, or any other county of the world, which contains the birth date of the person. All beer sales require a photo identification check to confirm the age of the person, regardless of appearance of the person to be of legal age.

(9) Permittees shall prominently display on or near the cash register where payment for the sale of beer is made and recorded, and on the beer cooler or where beer is merchandised signs not less than six inches (6") high and ten inches (10") wide, which states:

(10) "A MINOR WHO PURCHASES OR ATTEMPTS TO PURCHASE BEER SHALL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW." (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006), and Ord. #2019-01-17, Jan 2019 ***Ch3\_2-7-19***)

**8-216. Restrictions on permit holder.** It shall hereafter be unlawful for any person, firm, corporation or association to engage in the business regulated hereunder to make or permit to be made any sales or distribution of

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 51-5-106(a), for cities with liquor by the drink, the Alcoholic Beverage Commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under Tennessee Compilation Rules and Regulations § 0100-01-.03(2).

such beverages to minors; to allow any minor to loiter about such place of business and the burden of establishing the age of any such minor shall be upon the owner or employees of such place of business; all beer sales requires an identification check to confirm age regardless of appearance of purchaser to be of legal age; to employ minors directly in the sale of such beverages; to sell or distribute such beverages to persons who are feebleminded, intoxicated, insane, or otherwise mentally incapacitated; to employ any person who has been convicted of any violation of the state statutes prohibiting the sale, possession, manufacture and transportation of alcoholic beverages or any other crime involving moral turpitude within the past ten (10) years. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, amended by Ord. #07-19-07D, July 2007, and replaced by Ord. #2019-01-17, Jan 2019 **Ch3\_2-7-19**)

**8-217. Revocation or suspension of beer permits.** The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3\_2-7-19**)

**8-218. Civil penalty in lieu of revocation or suspension.**

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

(2) Penalty, revocation or suspension.<sup>1</sup> 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 Town of Oliver Springs may impose (as added by Ord. #06-16-02B, Feb. 2006, amended by Ord. #07-19-07D, July 2007, and replaced by Ord. #2019-01-17, Jan 2019 *Ch3\_2-7-19*)

**8-219. Loss of clerk's certification for sale to minor.**<sup>2</sup> If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #06-16-02B, Feb. 2006, and replaced by Ord. #2019-01-17, Jan 2019 *Ch3\_2-7-19*)

**8-220. Violations and penalty.** Except as provided in § 8-219, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #06-16-02B, Feb. 2006, and replaced by Ord. #2019-01-17, Jan 2019 *Ch3\_2-7-19*)

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<sup>1</sup>Tennessee law reference

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

<sup>2</sup>State law reference

Tennessee Code Annotated, § 57-5-607

8-221.--8-225. Deleted. (as deleted by Ord. #2019-01-17, Jan. 2019  
*Ch3\_2-7-19*)

## CHAPTER 3

### WINE IN RETAIL FOOD STORES

#### SECTION

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

8-302. Application for certificate.

**8-301. Inspection fee on retail food store wine licensees.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-3-501 et seq., there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in Tennessee Code Annotated, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee. (as added by Ord. #2019-01-17, Jan. 2019 *Ch3\_2-7-19*)

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

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

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. (as added by Ord. #2019-01-17, Jan. 2019 *Ch3\_2-7-19*)



## TITLE 9

### BUSINESS, PEDDLERS, SOLICITORS, ETC.

#### CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. GAME ROOMS.
3. CABLE TELEVISION.
4. FLEA MARKETS.

#### CHAPTER 1

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

#### SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Additional licensing requirements, relationship to zoning districts and structure standards.
- 9-111. Violation and penalty.
- 9-112. Issuance of permits.

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

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

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to

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<sup>1</sup>Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-701.

street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

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

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

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

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

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

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

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<sup>1</sup>State law references

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

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

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

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (1989 Code, § 5-101)

**9-102. Exemptions.** The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1989 Code, § 5-102)

**9-103. Permit required.** No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (1989 Code, § 5-103)

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

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

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

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

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

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

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

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

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the town administrator, the town administrator shall submit to the chief of police a copy of the application form and the permit. (1989 Code, § 5-104)

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

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

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

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

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the town.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (1989 Code, § 5-105)

**9-106. Restrictions on transient vendors.** A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (1989 Code, § 5-106)

**9-107. Display of permit.** Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be

required to display the same to any police officer upon demand. (1989 Code, § 5-107)

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

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the town council. The permit issued to any person or organization under this chapter may be suspended or revoked by the town council, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the town administrator in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1989 Code, § 5-108)

**9-109. Expiration and renewal of permit.** The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the town. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1989 Code, § 5-109)

**9-110. Additional licensing requirements, relationship to zoning districts, and structure standards.**

(1) Residential districts.

(a) Product. Merchandise being sold must be produced on site and may include plants from the resident's garden and/or items such as arts and crafts produced as a hobby by a resident or produced by an approved and licensed home occupation.

(b) City business license. (i) No license required if sales do not extend beyond seven consecutive days or more than a total of twenty (20) days within a ninety (90) day period.

(ii) Where a license is required such license may be purchased at city hall. Failure to comply with required standards can result in forfeiture of license and closure of the operation.

(c) Structures. Tables, shelving and/or racks are permitted, but no structures for shelter shall be erected. Shelter must be limited umbrellas.

(d) Site plans. No approvals required if a business license is not required; however, the city building inspector shall be notified of the location and anticipated duration of the operation; failure to comply with required standards can result in closure of the operation. If a license is required, follow business district procedures; however, product and structure restrictions still apply.

(2) Business districts.

(a) Product. No restrictions.

(b) City business license. Required.

(c) Permanent structures. C structures, (defined as any structure providing shelter and/or storage space, and intended to remain in place for one year or longer) shall meet the following requirements:

(i) A concrete floor and other requirements of the Standard Building Code, ch. 19.

(ii) All structures shall be of sound and safe construction (no loose board, panels, etc.). The use of tarpaulins, plastic and such material as a part of the structure or shelter shall not be allowed.

(iii) All structures and surroundings must be neat and orderly.

(iv) All additions to permanent structures shall be permanent or have the appearance of permanent construction.

(d) Temporary structures. Shall meet the following minimum standards:

(i) Structures must be completely enclosed on at least three (3) sides except for screened windows or other openings for ventilation. The fourth side may be covered with neat lattice works or other material. The use of tarpaulins, plastic and such material as a part of the structure or shelter shall not be allowed.

(ii) All structures shall be of sound and safety construction (no loose board, panels, etc.)

(iii) All structures and surroundings must be neat and orderly.

(iv) The structure must have a floor.

(3) Licensing, site plan and structure approvals.

(a) An application with a site plan must be submitted to the building inspector at least fifteen (15) days prior to the regular meeting for approval by the planning commission.

(b) The site plan must show the exterior property boundaries and the proposed location of all structures.

(c) The application shall include a list of materials to be used for the structure. The planning commission may reject materials believed

to be unsafe and/or harmful to the aesthetic character and economic value to the town. (Ord. #90-18-10, Oct. 1990)

**9-111. Violation and penalty.** In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (1989 Code, § 5-110)

**9-112. Issuance of permits.** Permits for charitable or religious solicitations within the corporate limits shall be issued on a first to apply basis, to be conducted on Sunday between the hours of 1:00 PM and 3:00 PM by the requesting charitable or religious organization. All charitable or religious solicitation permits issued shall allow no more than eight (8) solicitors from the permittee to be within the street at any one (1) time and all solicitations shall take place at the intersection of Tri-County Boulevard and Winter Gap Road and Tri-County Boulevard and Oliver Springs Highway within the town corporate limits. Any violation of this section will be subjected to a fine of not less than fifty dollars (\$50.00) per incident. (as added by Ord. #03-04-03D, April 2003, and replaced by Ord. #05-11-17A, Nov. 2005)

**CHAPTER 2****GAME ROOMS**<sup>1</sup>**SECTION**

- 9-201. Prohibited in residential areas.  
9-202. Hours of operation regulated.  
9-203. Definitions.

**9-201. Prohibited in residential areas.** It shall be unlawful for any person to open, maintain, conduct, or operate any place where game rooms are kept for public use or hire on any premises located in any residential area except as may be permitted by title 14. (Ord. #91-21-11, \_\_\_\_\_)

**9-202. Hours of operation regulated.** It shall be unlawful for any person or entity to open, maintain, conduct, or operate any games for public use or hire from Saturday midnight until 1:00 P.M. on Sunday afternoon, or between the hours of midnight and 6:00 a.m. on other days. (Ord. #91-21-11, \_\_\_\_\_)

**9-203. Definitions.** A game room is defined as any room or any part thereof, store, establishment, or any area where any person or entity maintains pool tables, billiard tables, video games, bumper pool, table tennis, pen ball flipper machines, or any games of like or similar nature, used for fun and recreation whether maintained as a primary business function or a secondary business function. (Ord. #91-21-11, \_\_\_\_\_)

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.



## CHAPTER 3

### CABLE TELEVISION

#### SECTION

9-301. To be furnished under franchise.

**9-301. To be furnished under franchise.** Cable television service shall be furnished to the Town of Oliver Springs and its inhabitants under franchise granted to Tennessee Cablevision, Inc. by the Town Council of the Town of Oliver Springs. The rights, powers, duties and obligations of the Town of Oliver Springs and its inhabitants are executed by, and clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup> (1989 Code, § 13-401)

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #509 dated 9/16/84, and any amendments, in the office of the city recorder.

## CHAPTER 4

### FLEA MARKETS<sup>1</sup>

#### SECTION

9-401. Definitions.

9-402. Permit.

9-403. Display of permit.

9-404. Suspension or revocation of permit.

**9-401. Definitions.** (1) "Flea market." An activity where stalls or spaces within the bounds of a specific location are made available to the vendor of: handicraft items; new merchandise; or second hand items.

(2) "Market management." The person who owns or has charge, care or control of the flea market.

(3) "Person." Any individual, firm, trust, partnership, public or private association or corporation, or any other entity. (as added by Ord. #2014-19-15B, May 2014, repealed by Ord. #2015-19-3, April 2015, and added by Ord. #2015-2-4, April 2015)

**9-402. Permit.** The market management (the person who owns or has the charge, care, or control of the flea market) shall apply to the city manager for a permit. The permit application shall contain the name, address, telephone number, and any other information that would be necessary, reasonable, and appropriate, for either the town or the market management to efficiently and effectively operate and manage the flea market and for the town to enforce this chapter and/or any other ordinances. The permit shall also contain the statement as follows: "the market management agrees to comply with all laws, rules, and regulations issued or promulgated passed or approved by the State of Tennessee and the Town of Oliver Springs." (as added by Ord. #2014-19-15B, May 2014, repealed by Ord. #2015-19-3, April 2015, and added by Ord. #2015-2-4, April 2015)

**9-403. Display of permit.** The market management shall be required to display or exhibit the permit to any police officer, building inspector, city manager, or other official of the town or the state. (as added by Ord. #2014-19-15B, May 2014, repealed by Ord. #2015-19-3, April 2015, and added by Ord. #2015-2-4, April 2015)

**9-404. Suspension or revocation of permit.** The permit may be suspended by the city manager or the town council based on any false

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<sup>1</sup>Chapter 4 "Flea markets" was originally added by Ord. #2014-19-15B which was repealed by Ord. #2015-19-3, April 2015.

statement, material or mission, or untrue or misleading information which is contained in or left out of the application or any violation of this chapter. Notice of the hearing for suspension or revocation shall be given by the city administrator in writing, setting forth specifically the grounds of the complaint and the time and the place of the hearing. Such notice shall be mailed or hand delivered to the market management at the address shown on the permit application, and the hearing shall be held at least fifteen (15) days after the delivery of the notice. Market management shall be entitled to all aspects of due process of law regarding administrative hearings. (as added by Ord. #2014-19-15B, May 2014, repealed by Ord. #2015-19-3, April 2015, and added by Ord. #2015-2-4, April 2015)

**TITLE 10**

**ANIMAL CONTROL**

**CHAPTER**

1. IN GENERAL.
2. RABIES CONTROL.
3. VICIOUS DOGS.
4. DOMESTIC ANIMALS/PETS.
5. WILD OR EXOTIC ANIMALS.
6. CHICKENS.

**CHAPTER 1**

**IN GENERAL**

**SECTION**

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**10-101. Definitions.** The following definitions shall apply in the interpretation and enforcement of this chapter unless it is apparent from the context that a different meaning is intended:

(1) Animal. The term "animal" means and includes all living non-human creatures, domestic or wild, including livestock.

(2) Pet. The term pet shall mean any animal kept for pleasure rather than utility. Pet for this purpose shall not include any animals as deemed as livestock; wild or exotic by this chapter.

(3) Domestic animal. The term "domestic animal" shall mean any tame animal bred in captivity and which has never known the wild or any other animal which is not herein below defined as wild, exotic or livestock.

(4) Livestock. The term "livestock" means all farm animals, including but not limited to cattle, horses, pigs, fowl, sheep, goats, chickens, roosters, and mules.

(5) Pig. The term "pig" means any type of pig, hog, or swine including, but not limited to, potbellied pigs.

(6) Wild or exotic animal. Any animal which would ordinarily be confined to a zoo, or one (1) which would ordinarily be found in the wilderness of this or any other country, or one (1) which otherwise causes a reasonable person to be fearful of bodily harm or significant destruction of property. Such animals are further defined as being mammals or non-venomous reptiles, excluding non-poisonous snakes, weighing over fifty (50) pounds at maturity which are known at law a "ferae naturae." By way of example, such animals include but are not limited to any live monkey (non-human primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx, bear, deep, elephant, ostriches, sharks, and poisonous animal or reptile, or warm blooded animal, poisonous snake or tarantula which can normally be found in the wild state, or any other member of crocodylian, including, but not limited to, alligators, crocodiles, caimans, and gavials. Wild or exotic animals specifically do not include domestic animals, animal of species customarily used in the State of Tennessee as ordinary household pets, or animals of species customarily used in the State of Tennessee as livestock.

(7) Animal control officer. The term "animal control officer" means any officer of the Oliver Springs Police Department Division of Animal Control.

(8) At large. The term "at large" means off the premises of the owner and not under restraint.

(9) Attack. The term "attack" means an unprovoked attack in an aggressive manner on a human in which the victim suffered a scratch, abrasion, or bruise; or on a domestic animal that causes death or injury that requires veterinary treatment.

(10) Chief of police. The term "chief of police" means the chief of police for the Town of Oliver Springs.

(11) City manager town administrator. The term "city manager" means the city manager of the Town of Oliver Springs or his authorized designee.

"Town administrator" means the town administrator for the Town of Oliver Springs or his authorized designee.

(12) Confined. The term "confined" means securely confined indoors, within an automobile or other vehicle solely for transportation and transported in a humane manner, or confined in a securely enclosed and locked pen or structure or fence, electronic or otherwise, upon the premises of the owner of such animal. However, under no circumstances is an electronic or similar fence sufficient to confine an animal in heat or a vicious dog.

(13) Cruelty. The term "cruelty" means any act or omission of care that inflicts unnecessary physical pain, suffering on an animal, or that results in the death of an animal, including, but not limited to, the following:

- (a) Striking, beating, kicking, dragging, choking, or the use of an object or weapon to inflict pain upon or to injure an animal;
- (b) Use of caustic, flammable, boiling or heated substances on an animal;
- (c) Suffocation or drowning of an animal;
- (d) Transport or confinement of an animal in an inhumane manner;
- (e) Torture, maiming, or mutilation of an animal;
- (f) Overworking, over driving or driving an animal when overloaded;
- (g) Shooting a firearm or other missile-projecting weapon at an animal; wounding, capturing, or in any other manner molesting, injuring or killing an animal;
- (h) Inflicting burns, cuts, or lacerations on an animal by any method;
- (i) Failure to provide health related care or grooming of an animal;
- (j) Causing an animal, except livestock, to drag any heavy object, including but not limited to, cinder blocks, heavy weights, bricks, chains, or logs; or carrying any other object with the purpose of building up the strength or endurance of an animal; or
- (k) Any other act which causes harm or injury to an animal.

In the case of activities where physical pain is necessarily caused, such as medical, research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, "cruelty" means a failure to employ the most humane method reasonably available.

(14) Division of animal control. The term "division of animal control" means the Oliver Springs Police Department Division of Animal Control.

(15) Guard or attack dog. The term "guard dog" or "attack dog" means a dog trained to attack on command or to protect persons or property, by attacking or threatening to attack, and who will cease to attack upon command.

(16) Fowl. The term "fowl" means any wild or domesticated bird.

(17) Impoundment. The term "impoundment" means the taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

(18) Kennel. The term "kennel" means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, puppies, cats, or kittens or any other animal typically kept on such premises.

(19) Muzzle. The term "muzzle" means a device constructed of strong, soft material or metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or animal. Such device shall not interfere with the animal's ability to breathe.

(20) Owner. The term "owner" means any person having a right of property in an animal, or who keeps or harbors an animal or who has it in his or her care, or acts as its custodian or who permits an animal to remain on or about the person's premises. If an animal has more than one (1) owner, all owners are jointly and severally liable for the acts or omissions of an owner.

(21) Quarantine. The term "quarantine" means the humane confinement of an animal for the observation of symptoms for rabies, or other disease, in a secure enclosure that prevents the animal from coming into unplanned contact with any other animal or human being.

(22) Restraint. (a) For all animals, the term "restraint" means on the premises of the owner, or if off the premises, secured by leash or lead under the control of a person physically capable of restraining the animal and obedient to that person's commands.

(b) A dog or puppy may be restrained by a fixed point chain or tether for no more than eight (8) hours in a twenty-four (24) hour period.

(c) A dog may be exclusively restrained by a chain or tether provided that it is at least ten feet (10') in length, with swivels on both ends, and is properly attached to a pulley or trolley mounted on a cable which is also at least ten feet (10') in length and mounted at least four feet (4') and no more than seven feet (7') above ground level in a manner so as not to interfere or become entangled with objects on the property.

(d) Any tethering system employed shall not allow the dog or puppy to leave the owner's property.

(e) No chain or tether shall weigh more than one-eighth (1/8) of the dog or puppy's body weight.

(f) Any chain or tether must be attached to a properly fitting collar or harness worn by the dog or puppy.

(23) Severe attack. The term "severe attack" means an unprovoked attack upon a human being in which the victim suffered a severe bite or was shaken violently, and which causes serious physical trauma or death. (1989 Code, § 3-101, as replaced by Ord. #06-01-05, Jan. 2006, and Ord. #2014-5-15, May 2014)

**10-102. Number of animals allowed and vaccination requirement.**

(1) The maximum number of dogs and cats that a resident is allowed to keep shall be based on the size of the resident's lot. At no time shall the combined total number of dogs and cats exceed the following based on the size of their lot:

(a) Lots of one-fourth (1/4) acre or less are limited to a total of three (3).

(b) Lots of one-fourth to one-half (1/4 to one-half ) acres are limited to a total of four (4).

(c) Lots of one-half to three-fourths (1/2 to 3/4) acres are limited to a total of five (5).

(d) Lots of three-fourths to one (3/4 to 1) acres are limited to a total of six (6).

(e) Lots of one to two (1 to 2) acres are limited to a total of eight (8).

(f) Lots over two (2) acres are limited to a total of fifteen (15).

(2) In the case of a kennel the maximum number of animals does not include animals less than three (3) months old.

(3) All residents owning, keeping or harboring dogs or cats over three (3) months of age must have them vaccinated for rabies. (1989 Code, § 3-102, as replaced by Ord. #06-01-05, Jan. 2006, and amended by Ord. #2018-08-16F, Aug. 2018 *Ch3\_2-7-19*)

**10-103. Kennels.** All kennel owners and operators must comply with the following:

(1) Kennel owners or operators where dogs or cats are bred shall be required to pay an annual registration fee of fifty dollars (\$50.00). The annual registration fee is valid for one calendar year and is due on January 2 of each year.

(2) It shall be unlawful for any person owning or operating a kennel for breeding to fail to register their kennel.

(3) In order to maintain a healthy and sanitary environment kennels must be properly maintained so as to provide a clean and odor free environment, and have an effective program to control insects, parasites, and mammalian pests.

(4) Kennel owners must have a business license and charge sales tax. (1989 Code, § 3-103, as replaced by Ord. #06-01-05, Jan. 2006, as amended by Ord. #2018-08-16F, Aug. 2018 *Ch3\_2-7-19*)

**10-104. Confinement of animals in heat.** Every female animal in heat shall be confined for a period of twenty-four (24) days in such a manner that such animal cannot come into contact with another animal except for planned breeding. While exercised, the animal shall be properly leashed. (1989 Code, § 3-104, as replaced by Ord. #06-01-05, Jan. 2006)



**10-105. Animals kept off the owner's property, prohibited.** (1) No animal, except livestock, shall be kept on a vacant lot or area that is not adjacent to the owner's property. Any livestock kept must comply with zoning restrictions. (See 5-10.)

(2) An animal may be kept on the premises of the owner's business as protection while the business is closed, provided the owner complies with all applicable sections of this chapter. (1989 Code, § 3-105, as replaced by Ord. #06-01-05, Jan. 2006, and amended by Ord. #2014-5-15, May 2014)

**10-106. Animals at large prohibited.** No animal, whether registered or not, shall be allowed to run at large or upon the premises of one other than the owner unless secured by a leash or lead. (1989 Code, § 3-106, as replaced by Ord. #06-01-05, Jan. 2006)

**10-107. Impoundment of animals running at large.** (1) It shall be the duty of the animal control officer or his duly authorized representative to apprehend and impound in an animal shelter any animal found running at large.

(2) An animal wearing a valid city tag shall be held for a period of seven (7) working days from the date of apprehension. Untagged, unregistered animals shall be held for a period of three (3) working days. Days are defined as days the animal shelter is open.

(3) Any animal not claimed within the times provided in subsection (2) may be destroyed or sold.

(4) The impoundment of an animal under this section shall not relieve the owner thereof from prosecution for permitting such animal to run at large in violation of § 10-106.

(5) The record of the owner, and not the particular animal, for one (1) year prior to the date of the current violation, shall be considered when calculating the number of offenses committed.

(6) Any unaltered animal that has been impounded three (3) times within any twelve (12) month period shall be spayed or neutered within thirty (30) days of release from the shelter. The owner must show proof of the procedure to the division of animal control.

(7) In addition to, or in lieu of, apprehending and impounding an animal found at large, the animal control officer, upon determining the owner, may return the animal to the owner and issue a summons requiring the owner to appear in city court for determination of whether or not there has been a violation within the meaning of this section.

(8) No animal shall be released from impoundment unless and until it has been vaccinated and registered and a tag placed on its collar. (1989 Code, § 3-107, as replaced by Ord. #06-01-05, Jan. 2006)

**10-108. Impounding fees.** The impounding fees are as follows:

- (1) Registered animal wearing a valid tag,
  - (a) Twenty dollars (\$20.00) for the first offense,
  - (b) Thirty dollars (\$30.00) for the second offense, and
  - (c) One hundred dollars (\$100.00) for the third offense plus an additional fifty dollars (\$50.00) for every subsequent offense.
- (2) Unregistered animal or registered animal not wearing a valid tag,
  - (a) Thirty dollars (\$30.00) for the first offense,
  - (b) Forty dollars (\$40.00) for the second offense, and
  - (c) One hundred dollars (\$100.00) for the third offense plus an additional fifty dollars (\$50.00) for every subsequent offense. (1989 Code, § 3-108, as replaced by Ord. #06-01-05, Jan. 2006)

**10-109. Failure to re-claim animal at large.** Any owner who has been notified that his or her animal has been impounded and who refuses to pay the impounding fee set forth in § 10-111 shall be subject to a penalty for failure to re-claim the animal. In determining the number of failures to re-claim, the entire record of the owner with regard to every animal owned will be considered. The penalty shall be as follows:

- (a) First failure to re-claim, fifty dollars (\$50.00).
- (b) Second failure to re-claim, one hundred dollars (\$100.00).
- (c) Third and subsequent failures to re-claim, two hundred and fifty dollars (\$250.00). (1989 Code, § 3-109, as replaced by Ord. #06-01-05, Jan. 2006)

**10-110. Authority to kill animals at large.** If any animal found at large in violation of this chapter cannot be safely taken up and impounded and either poses a threat to a person or the public or is seriously injured, such animal may be killed by any police officer or animal control officer. Nothing in this section shall be construed to prevent a police officer or animal control officer from killing an animal in self-defense. (1989 Code, § 3-110, as replaced by Ord. #06-01-05, Jan. 2006)

**10-111. Possession of wild animals, prohibited.** It is unlawful for any person to own or possess a wild animal within the city limits. (1989 Code, § 3-111, as replaced by Ord. #06-01-05, Jan. 2006)

**10-112. Cruelty to animals prohibited.** (1) It shall be unlawful for any person to maliciously or willfully strike, beat, abuse, or intentionally run down with a vehicle any animal, or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering, or death to an animal, or to do anything defined in § 10-101 under "cruelty."

(2) It shall be unlawful to color, dye, stain, or otherwise alter the natural color of any animal.

(3) Any person convicted of cruelty to animals shall be subject to a penalty of not less than two hundred dollars (\$200.00) and not to exceed five hundred dollars (\$500.00).

(4) Nothing in this section prevents a person from using reasonable force to drive away a vicious or trespassing animal or to take any action necessary to avoid injury to a person. (1989 Code, § 3-112, as replaced by Ord. #06-01-05, Jan. 2006)

**10-113. Improper care of animals prohibited.** No person owning or keeping an animal shall fail to provide it with the minimum care, nor shall such person keep an animal under unsanitary conditions or in an enclosure that is overcrowded, unclean or unhealthy.

(1) Except for emergencies or circumstances beyond the owner's control, an animal is deprived of minimum care if it is not provided with care sufficient to preserve the health and well-being of the animal considering the species, breed and type of animal. Minimum care includes, but is not limited to, the following requirements:

(a) Food of sufficient quantity, quality and nutrition to allow for normal growth or maintenance of body weight.

(b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source. Fowl shall at all times be provided with receptacles kept constantly filled with clean water.

(c) Access to a barn, doghouse, or other shelter sufficient to protect the animal from the elements.

(d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.

(2) An enclosure is overcrowded unless its area is at least the square of the length of the animal in inches (from tip of nose to base of tail) plus six inches (6") for each animal confined therein, and the height must allow for each animal to fully stand upright.

(3) An enclosure is unclean when it contains an excessive amount of animal waste.

(4) An enclosure is unhealthy when its condition is likely to cause illness or injury to the animal. (1989 Code, § 3-113, as amended by Ord. #99-04-03, March 1999, as replaced by Ord. #06-01-05, Jan. 2006)

**10-114. Abandonment.** It shall be unlawful for any person to abandon an animal that is under its ownership or care. If an animal is found abandoned, the animal may be impounded. Abandonment consists of:

(1) Leaving an animal for a period in excess of twenty-four (24) hours without providing for someone to feed, water and check on the animal's condition.

(2) Leaving an animal by a roadside or other area, or

(3) Leaving an animal on either public or private property without the property owner's consent.

Any person convicted of violating this section shall be subject to a penalty of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00). Each animal abandoned is a separate violation. (1989 Code, § 3-114, as replaced by Ord. #06-01-05, Jan. 2006)

**10-115. Poisoning.** It shall be unlawful for any person, other than a licensed veterinarian or a person under the direction of a veterinarian for humanitarian purposes, to:

- (1) Administer poison to any animal(s);
- (2) Distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any animal; or
- (3) Knowingly leave a poisonous substance of any kind or ground glass in any place with the intent to injure an animal or in any location where it may be readily found and eaten by an animal.

The provisions of this section are not applicable to licensed exterminators using poisons as part of a pest control program or to persons using commercial insecticides and rodent baits to control insects and wild rodents. (1989 Code, § 3-115, as replaced by Ord. #06-01-05, Jan. 2006)

**10-116. Noisy animals prohibited.** (1) No person owning or keeping any animal shall fail to prevent such animal from disturbing the peace of any other person by loud and persistent or loud and habitual barking, yelping, howling, braying, whinnying, crowing, calling or making any other noise, whether the animal is on or off the owner's premises.

(2) No person shall be charged with violating this section unless a written warning was given to the owner within the twelve (12) months preceding the alleged date of violation. Such warning is sufficient if it recites subsection (1) and states that a complaint was received. A warning is given if personally given to the owner or mailed first class to the owner. (1989 Code, § 3-116, as replaced by Ord. #06-01-05, Jan. 2006)

**10-117. Deleted.** (1989 Code, § 3-117, as replaced by Ord. #06-01-05, Jan. 2006, and deleted by Ord. #2018-08-16F, Aug. 2018 *Ch3\_2-7-19*)

**10-118. Citation procedure for violations of this chapter.** Whenever an animal control officer determines there has been a violation of any of the provisions in this chapter, in lieu of obtaining a warrant for the arrest of the offender, the animal control officer may prepare in quadruplicate a written notice to appear in city court containing the name and address of such person, the offense charged, and the time when such person shall appear in city court. The time specified for appearance shall not be less than five (5) days from the date of the issuance to appear, unless the person cited agrees to a shorter time

period. If the person so demands, the appearance in court shall be the first session of court following the citation. The cited person shall sign one (1) copy of the notice to appear. Signing the notice shall constitute the cited person's promise to appear on the date specified in the notice. One (1) copy of the notice shall be delivered to the cited person. (as added by Ord. #06-01-05, Jan. 2006)

**10-119. Failure to obey animal control citation.** No person shall violate his or her written promise to appear provided for in § 10-118, regardless of the disposition of the charge for which the citation was originally issued. (as added by Ord. #06-01-05, Jan. 2006)

**10-120. Acceptance of guilty pleas and penalties for animal control violations.** The city court clerk is hereby authorized to accept pleas of guilty for violations of this chapter, to accept designated penalties in connection with such pleas, to issue receipts therefor, and to appear for such person in court for the purpose of entering pleas of guilty, all in accordance with such procedures as may be established by the judge of the city court. Such penalties shall be accepted upon the entry of any plea of guilty before the court clerk. The amount of such penalty to be accepted shall be so designated by rule of court promulgated by the judge of the city court; provided that no such penalty may be accepted for a sum less than the minimum penalty imposed by any section of this chapter for such offense. Any person given a citation for a violation of any provision of this chapter may post the penalty appropriate thereto, and notify the clerk of the city court that he or she will not appear for trial in which case the matter may be entered on the docket for trial. (as added by Ord. #06-01-05, Jan. 2006)

**10-121. Collection and disposition of fees.** All fees required by this chapter shall be collected as required and shall be deposited in the general fund. (as added by Ord. #06-01-05, Jan. 2006)

**10-122. Penalties.** Any person violating any provision of this chapter, unless the penalty is specified in the section, shall be punished by a penalty not to exceed five hundred dollars (\$500.00). Each day a violation exists shall be deemed a separate violation. (as added by Ord. #06-01-05, Jan. 2006)

**10-123. Severability.** If any section, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this chapter. (as added by Ord. #06-01-05, Jan. 2006)

## CHAPTER 2

### RABIES CONTROL

#### SECTION

- 10-201. Vaccination of animals.
- 10-202. Apprehension and disposition of rabid animals and suspects.
- 10-203. Quarantine of animals inflicting, or suspected of inflicting, a bite or suspected of being rabid.
- 10-204. Quarantine of animals in contact with rabid animal.
- 10-205. Report required when person is bitten by an animal.
- 10-206. Veterinarians to report result of examination of animal that has bitten person.
- 10-207. Forwarding of head to state health department.
- 10-208. Surrender and examination of carcasses of animals.

**10-201. Vaccination of animals.** (1) It shall be unlawful for any person to own, keep, or harbor any dog or cat, or other animal that requires vaccination for rabies, which has not been vaccinated against rabies as required by state law.

(2) Evidence of such vaccination shall consist of a certificate bearing the owner's name and address, number of the vaccination tag issued, date of vaccination, date the animal shall be re-vaccinated, description and sex of the animal vaccinated, type and lot number of the vaccine administered and the signature of the person administering the vaccine.

(3) The certificate shall be prepared in triplicate, the original to be given to the owner, the first copy filed in the office of the local health department, and the second copy retained by the person administering the vaccine.

(4) All vaccinations shall be administered by or under the supervision of a veterinarian licensed by the State Board of Veterinary Medical Examiners to practice veterinary medicine in the State of Tennessee. (as added by Ord. #06-01-05, Jan. 2006)

**10-202. Apprehension and disposition of rabid animals and suspects.** Any animal capable of being infected with rabies which is rabid or believed to be rabid shall be immediately reported to the police department. Such animal shall be taken up and impounded if this can be accomplished with safety. If it is necessary for the city to destroy the animal to prevent further biting or for the safety of the community, every effort shall be made to avoid damage to the brain. (as added by Ord. #06-01-05, Jan. 2006)

**10-203. Quarantine of animals inflicting, or suspected of inflicting, a bite or suspected of being rabid.** (1) Any animal that is

suspected of or has bitten a human being, or is suspected of being infected with rabies, shall be quarantined at a facility designated by the animal control officer for no less than ten (10) days from the time the bite or scratch occurred. The owner shall be responsible for all quarantine fees and costs.

(2) No animal that is suspected of or has bitten a human being or is suspected of being infected by rabies shall be killed or destroyed or removed from the city unless authorized by the animal control officer.

(3) Only animals that appear to be without rabies shall be released from quarantine or impoundment.

(4) No person shall hide, kill, conceal or aid or assist in hiding, killing, or concealing any animal suspected of being infected with rabies or shall conceal or permit the same to be removed from the city for the purpose of preventing the quarantine.

(5) There shall be placed in a conspicuous place in plain view of all entrances to the place of quarantine a placard on which shall be printed, in letters not less than two inches (2") high, the words "Rabies-Quarantine." The place of quarantine shall be cleaned and disinfected to the satisfaction of the animal control officer. (as added by Ord. #06-01-05, Jan. 2006)

**10-204. Quarantine of animals in contact with rabid animal.** All animals capable of being infected with rabies that have come in contact with a rabid animal shall be quarantined and vaccinated as follows:

(1) If no vaccination for rabies has been given within the previous twelve (12) months, the animal shall be vaccinated and quarantined for ninety (90) days.

(2) If the animal has been vaccinated for rabies within the previous twelve (12) months, the animal shall be re-vaccinated and quarantined for thirty (30) days. (as added by Ord. #06-01-05, Jan. 2006)

**10-205. Report required when person is bitten by an animal.** Whenever a person is bitten by an animal capable of being infected with rabies, prompt report of such bite shall be made to the police department. Such report shall be made by any physician attending the person bitten, or, if such person is at a hospital, the report shall be made by the person in charge. Such report shall contain all information required by the town. When a physician was not consulted or the person not taken to a hospital, the report shall be made by the person bitten or any other person with knowledge of the facts. (as added by Ord. #06-01-05, Jan. 2006)

**10-206. Veterinarians to report result of examination of animal that has bitten person.** Whenever a veterinarian is called upon to examine an animal capable of transmitting rabies that has bitten a person, the veterinarian shall promptly report the results of the examination to the proper town authority. (as added by Ord. #06-01-05, Jan. 2006)

**10-207. Forwarding of head to state health department.** When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under quarantine, the division of animal control shall send the head of such animal to the state health department for pathological examination. (as added by Ord. #06-01-05, Jan. 2006)

**10-208. Surrender and examination of carcasses of animals.** The carcass of any dead animal found within the city shall, upon demand, be surrendered to the division of animal control for examination if, in the opinion of the officer, such examination is necessary or advisable. (as added by Ord. #06-01-05, Jan. 2006)



## CHAPTER 3

### VICIOUS DOGS

#### SECTION

- 10-301. Definition.
- 10-302. Procedure for declaring a dog vicious.
- 10-303. Notification of vicious dog declaration.
- 10-304. Hearing on vicious dog declaration.
- 10-305. Appeal from vicious dog declaration.
- 10-306. Requirements for keeping a vicious dog.
- 10-307. Impoundment.
- 10-308. Notice of impoundment.
- 10-309. Hearing on impoundment and/or destruction.
- 10-310. Exceptions.
- 10-311. Change of status.
- 10-312. Change of ownership.
- 10-313. Dog fighting.
- 10-314. Right of entry.

**10-301. Definitions.** "Vicious dog" means:

- (1) Any dog with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals; or
- (2) Any dog which, without provocation, has attacked or bitten a human being or domestic animal; or
- (3) Any dog owned or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting. (1989 Code, § 3-201, as replaced by Ord. #06-01-05, Jan. 2006)

**10-302. Procedure for declaring a dog vicious.** (1) An animal control officer, police officer or any adult person may request under oath that a dog be classified as vicious as defined in § 10-304 by submitting a sworn, written complaint. Upon receipt of such complaint, the animal control officer shall notify the owner of the dog, in writing, that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.

(2) At the conclusion of an investigation, the animal control officer may:

(a) Determine that the dog is not vicious and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner; or

(b) Determine that the dog is vicious and order the owner to comply with the requirements for keeping a vicious dog set forth in § 10-309, and if the dog is impounded, release the dog to its owner after

the owner has paid all fees incurred for impoundment. If all impoundment fees have not been paid within ten (10) days after a final determination that the dog is vicious, the town may cause the dog to be humanely destroyed.

(3) Nothing in this article shall be construed to require a dog to be declared vicious prior to taking action under state law. (1989 Code, § 3-202, as replaced by Ord. #06-01-05, Jan. 2006)

**10-303. Notification of vicious dog declaration.** (1) Within five (5) days after declaring a dog vicious, the city manager shall notify the owner by certified mail or personal delivery of the dog's designation as a vicious dog and of the requirements for keeping a vicious dog as set forth in § 10-309. The city manager shall also notify the division of animal control of the designation of any dog as a vicious dog.

(2) The notice shall inform the owner that he or she may request, in writing, a hearing to contest the city manager's finding and designation within five (5) days after delivery of the vicious dog declaration notice. (1989 Code, § 3-203, as replaced by Ord. #06-01-05, Jan. 2006)

**10-304. Hearing on vicious dog declaration.** (1) The city manager shall hold a hearing within ten (10) days after receiving the owner's written request for such a hearing. The city manager shall provide notice of the date, time and location of the hearing to the owner by certified mail or personal delivery and to the complainant by regular mail.

(2) At a hearing, all interested parties shall be given the opportunity to present evidence on the issue of the dog's viciousness. Criteria to be considered in the hearing shall include but not be limited to the following:

- (a) Provocation,
- (b) Severity of attack or injury to a person or animal,
- (c) Previous aggressive history of the dog,
- (d) Observable behavior of the dog,
- (e) Site and circumstances of the incident, and
- (f) Statements from interested parties.

(3) A determination at the hearing that the dog is in fact a vicious dog as defined in § 10-301 shall subject the dog and its owner to the requirements of this article.

(4) Failure of the owner to request a hearing shall result in the dog being finally declared a vicious dog and shall subject the dog and its owner to the requirements of this article. (1989 Code, § 3-204, as replaced by Ord. #06-01-05, Jan. 2006)

**10-305. Appeal from vicious dog declaration.** If the city manager determines that a dog is vicious at the conclusion of a hearing conducted under

§ 10-304, that decision shall be final unless the owner of the dog appeals the decision to circuit court. (as added by Ord. #06-01-05, Jan. 2006)

**10-306. Requirements for keeping a vicious dog.** The owner of a vicious dog shall be subject to the following requirements:

(1) **Confinement.** All vicious dogs shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The pen or structure shall have minimum dimensions of five feet (5') in width and length by ten feet (10') in height and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet (2'). All pens or structures must be kept clean and sanitary. The enclosure must provide shelter and protection from the elements and must provide adequate exercise room, light and ventilation. Under no circumstances may a vicious dog be confined by a fence, whether it is electronic, a similar underground wire system, or otherwise. Under no circumstances may more than one (1) dog be kept in any one pen or structure.

(2) **Indoor confinement.** No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the structure on its own volition. In addition, no vicious dog may be kept in a house or structure when open windows or screen doors are the only obstacle preventing the dog from exiting the house or structure.

(3) **Number of vicious dogs per residence.** Only one (1) dog that has been declared vicious may be owned per residence.

(4) **Leash and muzzle.** The owner of a vicious dog shall not allow the dog to go outside its kennel, pen, or structure unless the dog is muzzled, under the physical control of a capable adult, and restrained by a leash not more than four feet (4') in length, which shall be bright yellow in color, and of sufficient strength to control the dog. The muzzle must not cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human being or animal.

(5) **Signs.** The owner of a vicious dog shall display, in a prominent place on the owner's premises, a clearly visible warning sign reading "Beware of Vicious Dog." The sign shall be readable from the driveway entrance or street. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog. Similar signs shall be posted on the dog's kennel, pen or structure. The sign shall be at least twelve inches (12") by twelve inches (12") in size.

(6) **Insurance.** The owner of a vicious dog shall obtain public liability insurance of at least one hundred thousand dollars (\$100,000.00), per dog, insuring the owner for any damage or personal injury that may be caused by his vicious dog. The policy shall contain a provision requiring the city to be notified

immediately by the agent issuing the policy in the event that the policy is canceled, terminated or expired. The owner must provide proof of the insurance to the division of animal control. If there is a lapse in insurance or a cancellation, the owner shall be in violation of this chapter. (as added by Ord. #06-01-05, Jan. 2006)

**10-307. Impoundment.** When a dog has severely attacked a human being or domestic animal, and a police officer or animal control officer witnessed the attack or witnessed the injuries caused by the attack, such dog shall be impounded. (as added by Ord. #06-01-05, Jan. 2006)

**10-308. Notice of impoundment.** Within five (5) days of impoundment of a dog under § 10-307, the division of animal control shall notify the dog's owner, if known, in writing of the impoundment. (as added by Ord. #06-01-05, Jan. 2006)

**10-309. Hearing on impoundment and/or destruction.** (1) The owner of an impounded dog shall have the right to file, within five (5) days after receiving notice, a written request for a hearing before the city manager to contest the impoundment.

(2) Upon request by the owner for a hearing pursuant to subsection (1), a hearing shall be held within ten (10) days after the request for a hearing. Notice of the date, time and location of the hearing shall be provided by certified mail or delivered personally to the dog's owner.

(3) The city manager shall issue a decision after the close of the hearing and shall notify the owner in writing of the decision.

(4) After considering all of the relevant evidence, the city manager may request the district attorney general to petition the circuit court to order the destruction of the impounded dog, or may release the dog to its owner conditional on the owner complying with the requirements for keeping a vicious dog as set forth in § 10-306.

(5) If state law changes and permits a municipality to order the destruction of a dog as a result of an attack on a person or other animal, then the city manager shall automatically have the power to order the destruction of said dog under subsection (4) without going through circuit court. (as added by Ord. #06-01-05, Jan. 2006)

**10-310. Exceptions.** (1) This article shall not apply to any dog used by the police department or law enforcement agencies.

(2) No dog shall be declared vicious for injury or damage sustained by a person who was entering the owner's property to commit a burglary, robbery, assault, willful trespass or other tort or crime.

(3) No dog shall be declared vicious for injury or damage sustained by a person who was teasing, tormenting, abusing, assaulting, or otherwise provoking the dog.

(4) No dog shall be declared vicious solely because it bites or attacks:

(a) A person assaulting its owner, excluding a police officer attempting to subdue or effect the arrest of a suspect; or

(b) An unrestrained animal that attacks it or its young while it is restrained in compliance with this chapter. (as added by Ord. #06-01-05, Jan. 2006)

**10-311. Change of status.** The owner of a vicious dog shall notify the division of animal control:

(1) Immediately if the vicious dog is unconfined and on the loose, or has attacked a human being or domestic animal without provocation;

(2) If the owner has moved outside of the city limits and shall give the owner's new address; or

(3) If the dog has died. (as added by Ord. #06-01-05, Jan. 2006)

**10-312. Change of ownership.** (1) If the owner of a vicious dog sells, gives away, or otherwise transfers custody of the vicious dog, the owner shall, within three (3) days, provide the division of animal control with the name, address, and telephone number of the new owner.

(2) The previous owner shall notify the new owner of the dog's designation as a vicious dog and, if the new owner resides within the city limits, of the requirements and conditions for keeping a vicious dog set forth in § 10-306.

(3) If the new owner resides within the city limits, the new owner must obtain the required enclosure prior to the acquisition of the vicious dog or confine the dog indoors.

(4) The new owner must fully comply with the provisions of this article, including obtaining liability insurance, prior to the acquisition of the vicious dog. (as added by Ord. #06-01-05, Jan. 2006)

**10-313. Dog fighting.** (1) No person shall possess, harbor, or maintain care or custody of any dog for the purpose of dog fighting, nor shall any person train, torment, badger, bait, or use any dog for the reason of causing or encouraging the dog to attack human beings or domestic animals.

(2) No person shall permit a dog fight to take place upon their premises or premises within their control.

(3) No person shall knowingly be a spectator at a dog fight.

(4) Any dog found on the premises of the dog fight or in the immediate vicinity shall be impounded.

(5) A conviction under this section shall not relieve a person from prosecution for cruelty to animals under § 10-110. (as added by Ord. #06-01-05, Jan. 2006)

**10-314. Right of entry.** It shall be the duty and authority of the chief of police or his authorized representative to enter onto any premises, public or private, to make inspections for the purpose of carrying out the provisions of this chapter. (as added by Ord. #06-01-05, Jan. 2006)

## CHAPTER 4

### DOMESTIC ANIMALS/PETS

#### SECTION

- 10-401. Application.
- 10-402. Restrictions on number of pets.
- 10-403. Permits.
- 10-404. Prohibition.
- 10-405. Exception.
- 10-406. Zoning.

**10-401. Application.** The provisions of title 10, chapter 4, §§ 10-401 to 10-405 shall apply only to domestic animal pets. (as added by Ord. #2014-5-15, May 2014)

**10-402. Restrictions on number of pets.** No owner or caretaker of any residential building shall knowingly allow any pets over the age of four (4) months to be kept, harbored or maintained within any residential building or on any residential lot or parcel of property in the city without a permit, except as herein below specified and provided.

Maximum Number of Pets Allowed	Lot of Parcel Size
3	One-quarter (1/4) acre or less
4	Exceeding one-quarter acre up to, and including, one-half (1/2) acre
5	Exceeding one-half (1/2) acre up to, and including, three-quarter (3/4) acre
6	Exceeding three-quarter (3/4) acre up to, and including, one (1) acre
8	Exceeding one (1) acre up to, and including, two (2) acres
10	Exceeding two (2) acres up to and including three (3) acres

(as added by Ord. #2014-5-15, May 2014)

**10-403. Permits.** Any owner or caretaker of any residential building desiring to keep, harbor or maintain more pets than allowed in § 10-402 shall file a written application therefor upon a form provided by the animal control

officer, which application shall state the name, address and telephone number of the owner or caretaker, the size of the lot or parcel of property, the number and kind of pets desired to be kept, and a short statement of the reason(s) for the request.

The animal control officer shall review the information supplied by the owner or caretaker and inspect the residential building and/or lot or parcel of property after which he shall reasonably ascertain if any pets over the maximum number of pets herein provided should be allowed, and if he determines the same should be allowed, he shall decide how many pets will be allowed, and issue a permit therefor.

Any permit issued hereunder shall specify any restrictions, limitations, conditions or prohibitions which the animal control officer deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health or safety.

Any permit issued hereunder may be modified from time to time or revoked by the animal control officer for failure to conform to the restrictions, limitations, conditions or prohibitions therein contained. Such modification or revocation shall be effective from and after ten (10) days following the mailing of written notice thereof by certified mail to the owner or caretaker keeping, harboring or maintaining such pets. The fee for such permit shall be twenty-five dollars (\$25.00) which shall be paid at the time of the making of the application therefor. (as added by Ord. #2014-5-15, May 2014)

**10-404. Prohibition.** No owner or caretaker of a domesticated animal pet shall be allowed to keep, harbor or maintain such animal inside a building or upon a lot or parcel of property which is not residential except as otherwise provided in title 10. (as added by Ord. #2014-5-15, May 2014)

**10-405. Exception.** The provisions of this chapter do not apply to fish, amphibians, reptiles and birds which would be considered domestic animal pets and which are kept inside the building in an appropriate self-contained enclosure. (as added by Ord. #2014-5-15, May 2014)

**10-406. Zoning.** The provisions of this chapter are set forth for residential structures in R-1, R-2, and R-3 set alone on three (3) acres or less; or within residential neighborhoods and or subdivisions. This provision does not pertain to A-1 Zoning or farm lands outside of residential neighborhoods and or subdivisions zoned within the R-1, R-2 or R3 areas that have a historical basis as being used as farm land or agricultural use.

The wording in this section has been based to ensure that we do not cause any changes to those citizens that raise cattle etc. on land that is located in R-1, R-2 and R-3 zoning areas that have a historical basis of farmland usage or agricultural usage. (as added by Ord. #2014-5-15, May 2014)



## CHAPTER 5

### WILD OR EXOTIC ANIMALS

#### SECTION

10-501. Prohibited.

10-502. Definition.

**10-501. Prohibited.** No person shall keep or be permitted to keep on his premises any wild or exotic animal(s) for any purpose or reason whatsoever. (as added by Ord. #2014-5-15, May 2014)

**10-502. Definition.** The following definition shall apply in the interpretation and enforcement of this chapter unless it is apparent from the context that a different meaning is intended:

"Wild or exotic animal" shall mean any animal which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or significant destruction of property. Such animals are further defined as being this mammals or venomous reptiles, excluding non-poisonous snakes, weighing over fifty (50) pounds at maturity which are known at law a "ferae naturae." By way of example, such animals include but are not limited to any live monkey (non-human primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx, bear, deep, elephant, ostriches, sharks, and poisonous animal or reptile, or warm blooded animal, poisonous snake or tarantula which can normally be found in the wild state, or any other member of crocodilian, including, but not limited to, alligators, crocodiles, caimans, and gavials. Wild or exotic animals specifically do not include domestic animals, animal of species customarily used in the State of Tennessee as ordinary household pets, or animals of species customarily used in the State of Tennessee as livestock. (as added by Ord. #2014-5-15, May 2014)

**CHAPTER 6****CHICKENS****SECTION**

10-601. Compliance

10-602. Violation.

**10-601. Compliance.** No owner, lessee or tenant of any property, located within the town shall keep chicken(s) except under the conditions set forth in the provisions of this ordinance.

(1) It shall be unlawful for any person owning or controlling any chickens

(2) To run at large within the corporate limits of the town.

(3) No chicken(s) shall be kept in such a place or condition as to become a nuisance either because of noise, odor or other reason.

(4) No chicken shall be kept within a distance of one hundred (100) linear feet of all neighboring pools, patios, residences and/or places of business within the city.

(5) The structure, pen or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition and free from all objectionable odors.

(6) The maximum number of chickens allowed six (6) hens and one (1) rooster.

(7) The composting of chicken manure is prohibited.

(8) An annual permit is required to keep chickens. The annual permit application will include the signatures from each adjacent neighbor and/or business. A permit will be issued if the applicant has demonstrated compliance with the criteria and standards in this ordinance.

(9) Existing chicken owners will be given ninety (90) days to obtain permits.

(10) After the first partial year, permits will expire on June 30th of each year. (as added by Ord. #2016-12-15, Dec. 2016 ***Ch3\_2-7-19***, and replaced by Ord. #2018-02-15B, Feb. 2018 ***Ch3\_2-7-19***)

**10-602. Violation.** Failure to comply with the requirements of this ordinance will result in the following actions:

(1) A warning will be issued for the first offense with fifteen (15) days allowed to bring the offense into compliance.

(2) A citation to court will be issued for the second offense.

(3) A permanent revocation for the third offense. (as added by Ord. #2016-12-15, Dec. 2016 ***Ch3\_2-7-19***, and replaced by Ord. #2018-02-15B, Feb. 2018 ***Ch3\_2-7-19***)

## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

1. ALCOHOL.
2. 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. REGULATING THE SALE OF TOBACCO TO MINORS.

#### CHAPTER 1

#### ALCOHOL<sup>2</sup>

#### SECTION

- 11-101. Drinking alcoholic beverages in public, etc.  
 11-102. Minors in beer places.

**11-101. Drinking alcoholic beverages in public, etc.** It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place. (1989 Code, § 10-202)

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<sup>1</sup>Municipal 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.

<sup>2</sup>Municipal 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).

**11-102. Minors in beer places.** No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption. (1989 Code, § 10-203)

**CHAPTER 2****FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling, etc.

**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. (1989 Code, § 10-303, modified)

**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 and battery upon another person. (1989 Code, § 10-401)

## 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. (1989 Code, § 10-501)

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

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

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of 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, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

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

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

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

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



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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the town council. 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. (1989 Code, § 10-502)

## 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 town personnel.

**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 town to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1989 Code, § 10-601)

**11-502. Impersonating a government officer or employee.** No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1989 Code, § 10-602)

**11-503. False emergency alarms.** It shall be unlawful for any person intentionally to 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. (1989 Code, § 10-603)

**11-504. Resisting or interfering with town personnel.** 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 town while such officer or employee is performing or attempting to perform his municipal duties. (1989 Code, § 10-604)

**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 town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1989 Code, § 10-701)

**11-602. Throwing missiles.** It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1989 Code, § 10-702)

**11-603. Discharge of firearms.** It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1989 Code, § 10-703, modified)

## CHAPTER 7

**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE  
WITH TRAFFIC****SECTION**

11-701. Trespassing.

11-702. Malicious mischief.

11-703. Interference with traffic.

**11-701. Trespassing.**<sup>1</sup> (1) On premises open to the public. (a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

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

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

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

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

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<sup>1</sup>State law reference

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

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.<sup>1</sup> (1989 Code, § 10-801)

**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. (1989 Code, § 10-802)

**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 prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1989 Code, § 10-803)

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<sup>1</sup>Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

**CHAPTER 8****MISCELLANEOUS****SECTION**

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Posting notices, etc.

**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. (1989 Code, § 10-901)

**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. (1989 Code, § 10-903)

**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. (1989 Code, § 10-902)

## CHAPTER 9

### REGULATING THE SALE OF TOBACCO TO MINORS

#### SECTION

- 11-901. Definitions.
- 11-902. Tobacco vending machines.
- 11-903. Requirements for production of identification.
- 11-904. Posting of tobacco products required.
- 11-905. Severability.
- 11-906. Penalty.

**11-901. Definitions.** As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) "Minor" means an individual who is less than eighteen (18) years of age.
- (2) "Retailer" means any person, firm, association, company, partnership, or corporation who operates a store, stand, booth, concession, or other place at which sales are made to purchasers for consumption or use of tobacco products.
- (3) "Sales conducted in person," means any sales payment for which the purchase of the tobacco item is received directly and in person from the purchaser by the seller or seller's employee. Tobacco vending machines, which are located in plain view of the seller or an employee and controlled by an electronic device activated by the seller or an employee, upon the buyer's presentation of acceptable identification, shall be deemed "sales conducted in person."
- (4) "Tobacco vending machine" means and includes any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, trade checks, slugs or credit cards. (as added by Ord. #06-16-02C, Feb. 2006)

**11-902. Tobacco vending machines.** It is unlawful to install, place or permit the use of any tobacco vending machine in any establishment which is open to minors, except in a place where the machine is not accessible to or cannot be used by minors; provided however, that this section shall not apply to the installation and use by the proprietor, proprietor's agent or employees, of tobacco vending machines behind a counter or in some place in any establishment in which access by minors is prohibited by law; provided, further, this chapter shall not apply to the installation and use of a tobacco vending machine in commercial buildings of industrial plants where the public is not

usually admitted and where such machines are intended for the sole use of the employees who are not minors. (as added by Ord. #06-16-02C, Feb. 2006)

**11-903. Requirements for production of identification.** No retailer or employee of a retailer shall sell or permit to be sold, by vending machine or otherwise, cigarettes or other tobacco products to any individual suspected of being a minor. If the retailer or the retailer's employee suspects that a minor is attempting to purchase a tobacco item, the retailer or retailer's employee shall request and examine identification from the purchaser and positively establish the purchaser's age as eighteen (18) years or greater before allowing the purchase of the tobacco item to occur. (as added by Ord. #06-16-02C, Feb. 2006)

**11-904. Posting of tobacco products required.** No retailer shall sell or permit to be sold, cigarettes or other tobacco products, unless the tobacco vending machine or other location at which the cigarettes or other tobacco products are available for purchase is posted with a notice which is clearly visible to anyone purchasing the products, and which states:

IT IS ILLEGAL TO SELL OR PERMIT TO BE SOLD ANY TOBACCO PRODUCTS TO ANY PERSON UNDER THE AGE OF EIGHTEEN (18) YEARS OF AGE.

The notice must be black letters at least one inch in height on a white background, and will be made available through the town clerk at the request of any retailer. (as added by Ord. #06-16-02C, Feb. 2006)

**11-905. Severability.** The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter, which can be given effect without the invalid provisions, or application. (as added by Ord. #06-16-02C, Feb. 2006)

**11-906. Penalty.** Any person, firm or corporation violating any provision of this chapter shall be fined not less than fifty dollars (\$50.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (as added by Ord. #06-16-02C, Feb. 2006)



**TITLE 12****BUILDING, UTILITY, ETC. CODES****CHAPTER**

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. HOUSING CODE.
6. SWIMMING POOL CODE.
7. AMUSEMENT DEVICE CODE.
8. EXCAVATION AND GRADING CODE.
9. MECHANICAL CODE.
10. MODEL ENERGY CODE.

**CHAPTER 1****BUILDING CODE**<sup>1</sup>**SECTION**

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

**12-101. 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 Standard Building Code,<sup>2</sup> 1994 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

reference as a part of this code, and is hereinafter referred to as the building code. (1989 Code, § 4-101, as amended by Ord. #91-06-05, May 1991, modified)

**12-102. Modifications.** (1) Definitions. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the town council. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the town council shall have appointed or designated to administer and enforce the provisions of the building code. When reference is made to the duties of certain officials named therein that designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

(2) Permit fees. The recommended schedule of permit fees set forth in Appendix "B" of the building code is adopted as the town's permit schedule. (1989 Code, § 4-102, as amended by Ord. #91-06-05, May 1991)

**12-103. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1989 Code, § 4-103, modified)

**12-104. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1989 Code, § 4-104)

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations.
- 12-205. Requirement for commercial grease interceptors.

**12-201. Plumbing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the Standard Plumbing Code,<sup>2</sup> 1994 edition with 1995 revisions, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1989 Code, § 4-201, as amended by Ord. #91-06-05, May 1991, modified)

**12-202. Modifications. Definitions.** Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the town council.

Wherever "Town Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the town council to administer and enforce the provisions of the plumbing code.

When reference is made to the duties of certain officials named therein that designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (1989 Code, § 4-202, as amended by Ord. #91-06-05, May 1991)

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

**12-203. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1989 Code, § 4-203, modified)

**12-204. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1989 Code, § 4-204)

**12-205. Requirement for commercial grease interceptors.** (1) A grease interceptor shall/will be installed in accordance with Section 1004.4<sup>1</sup> of the Standard Plumbing Code.

(2) The penalty for each and every violation of the aforesaid requirement shall be (in addition to any other penalties required by law) a fifty dollar (\$50.00) per day fine for each occurrence, plus court costs, attorneys fees, inspection fees, expenses, or other costs to the city, that shall be assessed against each offender per day, and further that a lawsuit for injunctive relief and other damages and penalties may be filed in a court of competent jurisdiction for mandatory relief, other relief, or damages and penalties, with the offender required to pay all attorneys fees, court costs, inspection fees, and other expenses of the city, in addition to the fines. (Ord. #95-15-06, June 1995)

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<sup>1</sup>Section 1004.4 of the Standard Plumbing Code requires a grease interceptor to be installed in the waste line leading from sinks, drains, or other fixtures in the following establishments: Restaurants, hotel kitchens, or bars, factory cafeterias or restaurants, clubs, or other uses where grease can be introduced into the drainage system that can affect line stoppage or hinder sewage disposal.

## CHAPTER 3

### ELECTRICAL CODE<sup>1</sup>

#### SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations.
- 12-305. Enforcement.
- 12-306. Modifications.

**12-301. Electrical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,<sup>2</sup> 1993 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1989 Code, § 4-301, as amended by Ord. #91-06-05, May 1991, modified)

**12-302. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1989 Code, § 4-302, modified)

**12-303. Permit required for doing electrical work.** No electrical work shall be done within this town until a permit therefor has been issued by the Clinton Utility Board. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1989 Code, § 4-303)

**12-304. Violations.** It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under

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<sup>1</sup>Municipal code references

Fire protection, fireworks and explosives: title 7.

<sup>2</sup>Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1989 Code, § 4-304)

**12-305. Enforcement.** The electrical inspector shall be such person as the town council shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1989 Code, § 4-305)

**12-306. Modifications.** When reference is made to the duties of certain officials named therein that designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #91-06-05, May 1991)

**CHAPTER 4****GAS CODE<sup>1</sup>****SECTION**

- 12-401. Title and definitions.
- 12-402. Purpose and scope.
- 12-403. Use of existing piping and appliances.
- 12-404. Bond and license.
- 12-405. Gas inspector and assistants.
- 12-406. Powers and duties of inspector.
- 12-407. Permits.
- 12-408. Inspections.
- 12-409. Certificates.
- 12-410. Fees.
- 12-411. Violations and penalties.
- 12-412. Nonliability.
- 12-413. Modifications.

**12-401. Title and definitions.** This chapter and the code herein adopted by reference shall be known as the gas code of the town. The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "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 mayor.

(2) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals.

(3) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.

(4) "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.

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers.

**12-402. 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

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<sup>1</sup>Municipal code reference

Gas system administration: title 19, chapter 2.

installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the Standard Gas Code,<sup>1</sup> 1994 edition, which is hereby 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. #91-06-05, May 1991)

**12-403. 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.

**12-404. 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 mayor a good and sufficient bond in the penal sum of \$10,000, 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 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.

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



**12-405. 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 town council.

**12-406. 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.

**12-407. 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 mayor; 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.

**12-408. 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 (6) inches 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.

**12-409. 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.

**12-410. Fees.** The permit fee schedule as recommended in Appendix "B" of the gas code is hereby adopted.

**12-411. Violations and penalties.** Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed.

**12-412. 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.

**12-413. Modifications.** When reference is made to the duties of certain officials named therein that designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #91-06-05, May 1991)

## CHAPTER 5

### HOUSING CODE

#### SECTION

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

**12-501. Housing 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 Standard Housing Code,<sup>1</sup> 1991 edition with 1992/1994 revisions, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (1989 Code, § 4-401, as amended by Ord. #91-06-05, May 1991, modified)

**12-502. Modifications.** (1) Definitions. Wherever the housing code refers to the "Housing Official" it shall mean the person appointed or designated by the town council to administer and enforce the provisions of the housing code. Wherever the "Department of Law" is referred to it shall mean the town attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the town council.

When reference is made to the duties of certain officials named therein that designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

(2) Penalty clause deleted. Section 108 of the housing code is deleted. (1989 Code, § 4-402, as amended by Ord. #91-06-05, May 1991)

**12-503. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the housing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1989 Code, § 4-403, modified)

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

**12-504. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1989 Code, § 4-404)

## CHAPTER 6

### SWIMMING POOL CODE

#### SECTION

- 12-601. Swimming pool code adopted.
- 12-602. Definitions.
- 12-603. Modifications.
- 12-604. Available in recorder's office.
- 12-605. Permit required.
- 12-606. Fence required.
- 12-607. Gates and doors to be self-closing.
- 12-608. Application of enclosure requirements.
- 12-609. Modifications.
- 12-610. Application of chapter.
- 12-611. Violations.

**12-601. Swimming pool code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516, and for the purpose of setting standards for the design, construction, or installation, alteration, repair or alterations of swimming pools, public or private and equipment related thereto. The Standard Swimming Pool Code,<sup>1</sup> 1991 edition with 1993/1994 revisions, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the swimming pool code. (Ord. #91-06-05, May 1991)

**12-602. Definitions.** For the purpose of this chapter, the following terms shall have the meanings herein ascribed to them:

(1) "Swimming pool." A body of water in an artificial or semi-artificial receptacle or other container at least 24 inches deep and at least 22 feet in perimeter, located indoors or outdoors, above or below the surface of the ground, and designed or used for wading, swimming, or bathing. This definition includes any child's pool or solid molded plastic or inflated rubber that meets with the above dimensions.

(2) "Pool depth." Pool depth is the distance between the floor of the pool and the maximum operating level when the pool is in use.

(3) "Fence." A structure of metal or masonry of required height continuous with or without gaps or holes. (1989 Code, § 4-501)

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

**12-603. Modifications.** When reference is made to the duties of certain officials named therein that designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #91-06-05, May 1991)

**12-604. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502 one (1) copy of the swimming pool code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-605. Permit required.** Before beginning construction, alteration, addition, or remodeling of any type swimming pool, private or public, the owner must obtain a building permit from the building inspector.

Upon making application, the following information must be provided for the building inspector:

- (1) A plot plan showing the location of the swimming pool within the lot. Setbacks to property lines on three sides must be indicated.
- (2) Proposed dimensions of pool.
- (3) Scaled plans and specifications of said pool providing layout, equipment, and other pertinent data to explain how the pool will be constructed and how it will comply with requirements stipulated in § 12-605.
- (4) Name, address, and business license of the contractor. (1989 Code, § 4-502)

**12-606. Fence required.** Every outdoor swimming pool or family private pool within the Town of Oliver Springs shall be completely surrounded by a fence or wall not less than five (5) feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates. A dwelling house or accessory building may be used as a part of such enclosure. (1989 Code, § 4-503)

**12-607. Gates and doors to be self-closing.** All gates or doors opening into such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except the door of any building which forms a part of the enclosure need not be so equipped. Latches shall be placed a minimum of 4 1/2 feet above the underlying ground or otherwise made inaccessible from the outside to small children. (1989 Code, § 4-504)

**12-608. Application of enclosure requirements.** The requirement for enclosure of swimming pools shall be applicable to all municipal pools or private family pools hereafter constructed, other than indoor pools, and shall apply to all existing pools which have the depth of at least 18 inches of water.

No person in possession of land within the town, either as owner, purchaser, lessee, tenant, or licensee, upon which is situated a swimming pool or private family pool having a depth of at least 18 inches of water shall fail to provide and maintain such fence or wall as herein provided. (1989 Code, § 4-505)

**12-609. Modifications.** The building inspector may make modifications in individual cases, upon a showing of good cause, with respect to the height, nature, or location of the fence, wall, gates, or latches, provided the protection of small children is not reduced thereby. The building inspector of Oliver Springs may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate, and latches described herein. The building inspector shall allow a reasonable period within which to comply with the requirements of this chapter. (1989 Code, § 4-506)

**12-610. Application of chapter.** The requirements of this chapter are applicable to all types of swimming pools. (1989 Code, § 4-507)

**12-611. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool code as herein adopted by reference and modified.

## CHAPTER 7

### AMUSEMENT DEVICE CODE<sup>1</sup>

#### SECTION

12-701. Amusement device code adopted.

12-702. Modifications.

12-703. Available in recorder's office.

12-704. Violations.

**12-701. Amusement device code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516, and for the purpose of regulating the installation, construction, alteration, repair, removal, operation and use of amusement rides and devices. The Standard Amusement Device Code,<sup>2</sup> 1985 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the amusement device code. (Ord. #91-06-05, May 1991)

**12-702. Modifications.** When reference is made to the duties of certain officials named therein that designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #91-06-05, May 1991)

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

**12-704. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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



## CHAPTER 8

### EXCAVATION AND GRADING CODE<sup>1</sup>

#### SECTION

- 12-801. Excavation and grading code adopted.
- 12-802. Modifications.
- 12-803. Application.
- 12-804. Plans and specifications.
- 12-805. Issuance of permit.
- 12-806. Engineering review fees.
- 12-807. Available in recorder's office.
- 12-808. Violations.

**12-801. Excavation and grading code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516, and for the purpose of setting forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments, the Standard Excavation and Grading Code,<sup>2</sup> 1985 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the excavation and grading code. (Ord. #91-06-05, May 1991)

**12-802. Modifications.** When reference is made to the duties of certain officials named therein that designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #91-06-05, May 1991)

**12-803. Application.** (1) To obtain a permit the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made;

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

(b) Describe the land on which the proposed work is to be done, by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;

(c) Be accompanied by plans and specifications as required in this code;

(d) State the estimated quantities of work involved;

(e) Be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority;

(f) Give such other information as reasonably may be required by the building official which may include:

(i) Temporary cover during the grading and development period.

(ii) Permanent grass and vegetative cover for the area.

(iii) Stabilization by means of mulching (non-vegetative materials).

(iv) Sodding the area subject to erosion

(v) Use of low-growing plants, vines, shrubs or other ground covers to stabilize sediment-producing areas.

(vi) Constructing diversionary channels and terraces across the slope.

(vii) Construction of structures that will stabilize the grade in water channels.

(viii) Sediment basins constructed in such manner that failure of the structure would not result in loss of life or interruption of use or service of public utilities.

(ix) Use of grassed waterways for the safe disposal of run-off water.

(x) Staging development to avoid having large areas in an erosive condition at one time.

(xi) Utilization of existing topography in planning development to minimize erosion, such as planning roadways parallel to contours.

(xii) Leaving critical areas in an undisturbed condition or correction of critical areas which cause erosion hazard.

(2) Information on plans. Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared.

The plans shall include the following information:

(a) General vicinity of the proposed site.

(b) Property limits and accurate contours of existing ground and details of terrain and area drainage.

(c) Limiting dimensions, elevations or finish contours to be achieved by the grading, and proposed drainage channels and relating construction.

(d) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated run-off of the area served by any drains. Upstream drainage must be considered and explained in any adverse effect is possible. Plans for removal, recontouring or other final disposition of sediment basins or other structural improvements or devices included in the plan. If a sediment basin is required, it should be designed by registered engineers in accordance with property guidelines.

(e) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed grading operations.

Specifications shall contain information covering construction and material requirements.

(f) All elevations must be stated in mean sea level datum and this fact indicated in a note on the plan sheet.

(g) Location of areas of proposed paving.

(h) Limits of vegetative clearing.

(i) Estimates of exposed time of denuded land.

(j) Plans for vegetation reestablishment.

(k) A schedule for performance of all earthwork, earth stabilization, and reclamation activities.

(l) A soil erosion control plan which shall consider the following items:

(i) Minimize grading - The plan should relate to the specific site conditions, and should keep land grading and land disturbance to a minimum under the circumstances.

(ii) Storm drainage - Both surface and underground storm water drainage systems should be integrated to accommodate the increased runoff incurred during land grading.

(iii) Cover - Existing and future protective vegetative cover should be emphasized, and grading operations and sediment control measures should minimize land exposure to erosion.

(iv) Sediment basins - Sediment basins for high sediment producing areas should be planned, installed, and maintained as safety devices to catch and trap excessive sediment from the development site.

- (v) Use of low-growing plants, vines, shrubs or other ground covers to stabilize sediment-producing areas.
- (vi) Constructing diversionary channels and terraces across the slope.
- (vii) Construction of structures that will stabilize the grade in water channels.
- (viii) Sediment basins shall be designed and constructed in such manner that failure of the structure would not result in loss of life or interruption of use or service of public utilities.
- (ix) Use of grassed waterways for the safe disposal of run-off water.
- (x) Staging development to avoid having large areas in an erosive condition at one time.
- (xi) Utilization of existing topography in planning development to minimize erosion, such as planning roadways parallel to contours.
- (xii) Leaving critical areas in an undisturbed condition or correction of critical areas which cause erosion hazard.
- (xiii) Within any sinkhole, no fill shall be used without approval of the city engineer.

**12-804. Plans and specifications.** When required by the building official, each application for a grading permit shall be accompanied by two sets of plans and specifications, and supporting data consisting of a soil engineering report and engineering geology report. The plans and specifications shall be prepared and signed by a civil engineer when required by the building official. The building official shall obtain recommendations from the city's consulting engineer, prior to approving such plans and issuing a cut and fill permit.

**12-805. Issuance of permit.** The application, plans and specification filed by an applicant for a permit shall be checked by the building official. Such plans shall be reviewed by the city's consulting engineer to check compliance with all applicable laws and ordinances. If the building official is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees have been paid, he shall issue a permit therefor to the applicant.

When the building official issues the permit, he shall endorse in writing or stamp on both sets of plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the building official, and all work shall be done in accordance with the approved plans.

**12-806. Engineering review fees.** The building official shall submit the application, plans, and specifications filed by the applicant to the city's, consulting engineer for evaluation and recommendations. The city's consulting engineer shall also make the necessary site inspection(s) and make appropriate recommendations thereof, prior to the issuance of a cut and fill permit. All costs engendered by the city's consulting engineer in the performance of the duties specified herein shall be borne by the project applicant. The building official shall act as the agent through which all engineering fees are collected.

**12-807. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502 one (1) copy of the standard excavation and grading code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-808. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the standard excavation and grading code as herein adopted by reference and modified.

## CHAPTER 9

### MECHANICAL CODE<sup>1</sup>

#### SECTION

- 12-901. Mechanical code adopted.
- 12-902. Modifications.
- 12-903. Available in recorder's office.
- 12-904. Violations.

**12-901. Mechanical code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516 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 Standard Mechanical Code,<sup>2</sup> 1994 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (Ord. #91-06-05, May 1991)

**12-902. Modifications.** When reference is made to the duties of certain officials named therein that designated officials of the Town of Oliver Springs who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #91-06-05, May 1991)

**12-903. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated § 6-54-502 one (1) copy of the mechanical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public.

**12-904. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified.

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<sup>1</sup>Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

## CHAPTER 10

### MODEL ENERGY CODE<sup>1</sup>

#### SECTION

- 12-1001. Model energy code adopted.
- 12-1002. Modifications.
- 12-1003. Available in recorder's office.
- 12-1004. Violations and penalty.

**12-1001. Model energy 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 Model Energy Code,<sup>2</sup> 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

**12-1002. Modifications.** Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Oliver Springs. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the town council shall have appointed or designated to administer and enforce the provisions of the energy code.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

**12-1003. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-1004. Violations and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.



## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. DETERMINATION AND ABATEMENT OF NUISANCES.
4. CONDEMNED BUILDING CLEARANCE.
5. ABANDONED, WRECKED, DISMANTLED MOTOR VEHICLES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds, dead trees, clutter, and rubbish, etc.
- 13-105. Dead animals.
- 13-106. House trailers.

**13-101. Health officer.** The "health officer" shall be such officer as the town council shall appoint or designate to administer and enforce health and sanitation regulations within the town. (1989 Code, § 8-101)

**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. (1989 Code, § 8-103)

**13-103. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1989 Code, § 8-104)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-213(12).

**13-104. Weeds, dead trees, clutter, and rubbish, etc.** (1) Weeds, poison ivy, etc., regulated or prohibited. It shall be unlawful for any person owning, leasing, occupying, or having control of property, regardless of whether the property is a vacant lot or contains any form of structure, in the Town of Oliver Springs, to permit the growth upon such property of weeds, grass, brush and all other rank or noxious vegetation to a height greater than twelve inches (12") when such growth is within two hundred feet (200') of any street, thoroughfare, or highway, within the town limits of Oliver Springs. The failure to cut and/or destroy such weeds, grass, brush, and all other rank or noxious vegetation shall constitute a violation of this chapter. It shall also be unlawful for any such person or persons to permit poison ivy, or other plants injurious to health to grow where they may cause injury or discomfort to any person within the Town of Oliver Springs regardless of height, for such are hereby declared to be a public nuisance. The failure to destroy such plants shall constitute a violation of this chapter.

(2) Rubbish accumulations, clutter, and dead trees or limbs prohibited. It shall also be unlawful for any person owning, leasing occupying, or having control of property, regardless of whether such property is a vacant lot or contains any form of structure, in the Town of Oliver Springs to permit the accumulation upon such property of rubbish in any form or nature, for such is hereby declared to be a nuisance. The failure to clean up and remove such rubbish shall constitute a violation of this chapter.

It shall also be unlawful for any person owning, leasing, occupying, or having control of property, regardless of whether such property is a vacant lot or contains any form of structure, in the Town of Oliver Springs to permit the accumulation of clutter as defined by a number of things, items or objects scattered or piled in a disorderly or unorganized fashion in any form of nature, for such is hereby declared to be a nuisance. The failure to clean up and remove such clutter shall constitute a violation of this chapter.

The failure to cut and remove dead trees and dead or broken tree limbs shall constitute a violation of this chapter in as much as same constitutes a nuisance and a menace to the life and property of the citizens of this town.

(3) Unlawful to pile rubbish, etc., so as to obstruct drainage or traffic vision. In complying with the aforesaid section or sections of this chapter, it shall be unlawful for any person owning, leasing, occupying, or having control of property in the Town of Oliver Springs to rake up, cut up, or pile up said weeds, grass, vegetation, dead or broken tree limbs, dead trees, or rubbish into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles and of pedestrians and obstruct the flow of water drainage.

(4) Publication of notices relative to this chapter. Publication of the provisions in this chapter after passage in the Oak Ridger shall be considered sufficient notice to affected persons to comply with its provisions. Publication of a notice concerning this chapter, in any newspaper of general circulation in

the Town of Oliver Springs, may be made at the discretion of the town once during the month of June, July, August, and such shall be considered only as a reminder to affected persons to comply with its provisions in succeeding years after passage.

(5) Fill material regulated. It shall be unlawful for any person on leasing, occupying, or having control of property, regardless of whether the property is a vacant lot or contains any form of structure in the Town of Oliver Springs, to permit dumping of noxious or biodegradable material for the purpose of using this material as a fill. It shall also be unlawful for any dumping or filling of public or private property without a written permit from the Town of Oliver Springs.

(6) Fill material permit. Anyone wishing to fill or dump on property within the Town of Oliver Springs, regardless of whether the person owns, leases, has possession of, uses, or has permission to dump, or someone or some entity that does, the person wishing to dump should apply for a permit with the Oliver Springs Building Inspector, and a fee of \$15.00 shall be paid upon application. The building inspector should then investigate the situation, and shall grant or deny the permit as appropriate. Any denial of such permit may be appealed to the Board of Zoning Appeals for the Town of Oliver Springs.

(7) Enforcement of this chapter. If any property owner does not comply with the provisions of this chapter, the city manager and/or the chief of police and/or a designee appointed by the city manager will take action against any violators. A notice shall be sent by certified mail to the last known address of the owner, owner's agent, or any occupant of such parcel or lot of land citing the violations and the requirements for compliance, including but not limited to: cutting, removal, and/or destruction of said weeds, grass, brush, vegetation, rubbish, household debris, construction debris, or auto parts within ten (10) days of the sent date of notice.

If, during, or after ten (10) days, the owner, owner's agent, or occupant of said property contacts the town in writing with a request and reason for a time extension, the city manager and/or the police chief or the designee of the city manager shall have the option to grant an extension of time in writing in order to give the owner, owner's agent, and/or occupant of said property additional time to bring the property into compliance.

If, after ten (10) days, the owner, owner's agent, or occupant of said property has failed or refused to bring the property into compliance and/or failed or refused to contact the town in writing with a request and reason for a time extension, the city manager and/or police chief and/or the designee of the city manager shall have the option to order the immediate clean-up of said property. Such an order to clean-up the property may be executed by the Town of Oliver Springs work crews or may be contracted out to an independent contractor.

All costs for clean-up of the property shall be borne by the property owner. A bill of clean-up costs shall be sent to the property owner for the entire costs of clean-up and any administrative handling costs for processing the clean-up.

Said bill shall be paid within sixty (60) days from the date of the bill. If the bill is not paid within the sixty (60) day time period, an additional charge of ten percent (10%) per month shall be added to the bill. If the bill is not paid within the aforesaid sixty (60) day time period, the unpaid amount may be sent to the town's attorney for collection; and/or the unpaid amount shall be added to and placed on the property tax roll of the Town of Oliver Springs as a lien upon the property and collected in the same manner as other town taxes are collected. All costs associated with the original bill, the ten percent (10%) additional charges, and any attorney fees, collection costs, court costs, or lien costs shall be added to the original bill and the ten percent (10%) additional charge and borne by the owner of the property, and shall be placed on the tax roll of the Town of Oliver Springs as a lien upon the property and collected in the same manner as other town taxes are collected. It is the intent of this chapter that the remedies of this chapter are cumulative and any, either or all may be exercised by the town at its discretion. (Ord. #94-15-09A, Sept. 1994, as amended by Ord. #01-06-21, June 2001, and Ord. #2013-05-09C, Aug. 2013)

**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 city recorder and dispose of such animal in such manner as the city recorder shall direct. (1989 Code, § 8-106)

**13-106. House trailers.** It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the town and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1989 Code, § 8-102)

**CHAPTER 2****JUNKYARDS****SECTION**

## 13-201. Junkyards.

**13-201. Junkyards.**<sup>1</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1989 Code, § 8-501)

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<sup>1</sup>State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

## CHAPTER 3

### DETERMINATION AND ABATEMENT OF NUISANCES

#### SECTION

- 13-301. Health and sanitation nuisances unlawful.
- 13-302. Duty of chief of police to report nuisances.
- 13-303. Procedure for abating nuisances.
- 13-304. Notice of hearings.
- 13-305. Hearings for determination of nuisances.
- 13-306. Reports of hearings.
- 13-307. Date when determinations become final.
- 13-308. Penalty for violations.
- 13-309. Removal of dangerous or unlawful structures.

**13-301. Health and sanitation nuisances unlawful.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1989 Code, § 8-601)

**13-302. Duty of chief of police to report nuisances.** The chief of police shall be charged with the duty of reporting in writing to the town council any building, structure, excavation, or condition existing within the corporate limits that appears to constitute a hazard to the safety or health of the residents of the town. (1989 Code, § 8-602)

**13-303. Procedure for abating nuisances.** Upon receipt of such notice by the chief of police, the mayor shall order the town administrator to prepare a notice to the registered owner of the real property upon which such building, structure, excavation, or condition exists to be mailed to the last known address. Said notice shall contain the following:

- (1) The condition complained of.
- (2) Time, place, and date and before what body a hearing will be conducted to determine whether or not the condition complained of constitutes a hazard to the safety or health of the residents of Oliver Springs.
- (3) A charge to the registered owner, or his or her representative, to be present at that hearing.
- (4) Notice that the decision of the hearing body will become final ten (10) days after hearing.

(5) After the hearing body's final decision that the condition constitutes a hazard to the safety or health of the residents of Oliver Springs, ten (10) days will be granted for the condition to be corrected so as not to constitute a hazard to the health or safety of the residents of Oliver Springs.

(6) After the decision of the hearing body becoming final and the expiration of ten (10) days, if the condition has not been corrected, the owner shall be punishable under the general penalty clause for this code. (1989 Code, § 8-603)

**13-304. Notice of hearings.** The notice provided in § 13-303 shall be posted in the United States Mail thirty (30) days before hearing. (1989 Code, § 8-604)

**13-305. Hearings for determination of nuisances.** Upon the date and time and at the place set forth in the notice provided in § 13-303, a hearing shall be conducted before a quorum of the town council, with the mayor as presiding officer, to determine whether the condition constitutes a hazard to the health or safety of the residents of Oliver Springs. The chief of police shall present to the town council any evidence that said condition constitutes a hazard to the safety or health of the residents of Oliver Springs. The owner of the real property upon which the condition exists, or his representative, may present any rebutting evidence. The town council may, in their discretion, visit the scene of the condition. (1989 Code, § 8-605)

**13-306. Reports of hearings.** Within five (5) days of said hearing, the town council shall render in writing a determination as to whether or not said condition constitutes a hazard to the health or safety of the residents of Oliver Springs, and a copy of that determination shall be posted in the U.S. Mail to the last known address of the registered owner of the real property upon which the condition exists. (1989 Code, § 8-606)

**13-307. Date when determinations become final.** The determination of the town council shall become final ten (10) days after the written determination is rendered. (1989 Code, § 8-607)

**13-308. Penalty for violations.** If the determination of the town council is that the condition constitutes a hazard to the health or safety of the residents of Oliver Springs, the owner shall have ten (10) days within which to correct the condition constituting a hazard to the health and safety of the residents of Oliver Springs. If the owner fails to correct the condition within ten (10) days after the hearing becomes final, he shall be punishable under the general penalty clause for this code. (1989 Code, § 8-608)

**13-309. Removal of dangerous or unlawful structures.** Whenever in the opinion of the town council, any building, fence, or other structure of any kind, or any part thereof, is liable to fall down and endanger persons or property, or where any building or other structure has been erected or allowed to remain in any locality contrary to ordinance, the town council may, by resolution, order any owner or occupant of the premises on which said building or other structure stands to take down or remove the same within the prescribed by such resolution. A copy of which resolution shall be served upon said owner or occupant, and if such owner or occupant shall neglect or refuse to take down or remove same within the time prescribed by such resolution, then the town council shall cause such building, fence, or other structure to be taken down or removed by and under the direction of the town, and bill the owner or occupant the cost of such removal, plus 10% for inspection and other incidental costs in connection therewith. Upon failure of the owner or occupant to remit to the town the amount of such charges, the town shall assess the expenses thereof (plus an additional 10%) on the land on which the structure stood, which expenses shall be declared a lien on said land and may be collected by writ or attachment or by suit against the owner in any court or competent jurisdiction. (1989 Code, § 8-609)



## CHAPTER 4

### CONDEMNED BUILDING CLEARANCE

#### SECTION

- 13-401. Title.
- 13-402. Definitions.
- 13-403. Existence of structures unfit for human habitation.
- 13-404. Town administrator designated to act.
- 13-405. Institution of action and notification by town administration.
- 13-406. Determination of and further notice by town administration.
- 13-407. Failure of owner to comply to vacate and repair.
- 13-408. Failure of owner to remove or demolish.
- 13-409. Creation of lien and payment into court.
- 13-410. Conditions rendering structure unfit for human habitation.
- 13-411. Service of complaints or orders.
- 13-412. Enjoining enforcement of order.
- 13-413. Powers given to the town administrator.

**13-401. Title.** This chapter shall be known and may be cited as the City of Oliver Springs "Condemned Building Clearance Ordinance". (Ord. #94-15-09, Sept. 1994)

**13-402. Definitions.** The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter, unless a different meaning clearly appears from the context:

(1) "Municipality" shall mean the Town of Oliver Springs, TN.  
(2) "Governing body" shall mean the Oliver Springs Town Council.  
(3) "Public officer" shall mean the town administrator or his designated agent who is authorized by this chapter to exercise the powers prescribed by this chapter.

(4) "Public authority" shall mean any officer who is in charge of any department or branch of government of the municipality or state relating to health, fire, building regulations, or other activities concerning structures in the municipality.

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

(6) "Parties in interest" shall mean all individuals, associations, corporations and other who have interests of record in a structure and any who are in possession thereof.

(7) "Structure" shall mean any building or structure or part thereof, used and occupied for human habitation or by the public in general or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed within (Ord. #94-15-09, Sept. 1994)

**13-403. Existence of structures unfit for human habitation.** There exists in the Town of Oliver Springs, structures which are unfit for human habitation, due to dilapidation, defects increasing the hazards of fire, accident other calamities; lack of ventilation, light or sanitary facilities or due to other conditions rendering such structures unsafe or unsanitary or dangerous or detrimental to the welfare of the residents of the Town of Oliver Springs. (Ord. #94-15-09, Sept. 1994)

**13-404. Town administrator designated to act.** The town administrator is designated as the public officer of the Town of Oliver Springs who is to exercise the powers herein prescribed.

In the event that the town administrator is unwilling or is unable to exercise the powers herein prescribed, or in the alternative, in the event that the town council in its sole discretion, decides to have an alternate enforcement officer for whatever reason, the town council can elect a permanent alternate enforcement officer or an alternate enforcement officer for a specific purpose or to solve an existing violation, for the purposes of exercising the powers herein prescribed. The alternate enforcement officer shall have all of the powers, duties, and responsibilities, as the regular enforcement officer. In the event of an election of an alternate enforcement officer as provided in this paragraph, any where the term "town administrator" is mentioned in this chapter, the word or office of alternate enforcement officer is submitted therein. (Ord. #94-15-09, Sept. 1994)

**13-405. Institution of action and notification by town administrator.** Whenever a petition is filed with the town administrator by a public authority or by at least one (1) resident of the Town of Oliver Springs charging that any structure is unfit for human habitation, or use in general, or whenever it appears to the town administrator (or his own motion) that any structure is unfit for human habitation or use, the Town of Oliver Springs shall, if after making a preliminary investigation, such investigation discloses a basis for such charges, issue and cause to be served upon the owner of the 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 town administrator (or his designated agent) at a time and place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that the owners and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the town administrator or his designated agent. As contained herein, "public authority" shall mean any officer who is in charge of any department or branch of the government of the Town of Oliver Springs or the State of Tennessee relating to

health, fire, building regulations or other activities concerning structures in the Town of Oliver Springs. (Ord. #94-15-09, Sept. 1994)

**13-406. Determination of and further notice by town administration.** If, after such notice and hearings as above prescribed, the Town of Oliver Springs determines that the structure under consideration is unfit for human habitation, or public use, he shall state in writing his findings 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 said structure can be made at a reasonable cost in relation to the value of the structure requiring the owner within the time specified in the order to repair, alter, or improve such structure to render it fit for human habitation or public use or if not adequately repaired, altered or improved within the time specified in the order to vacate and close the structure as a human habitation; or

(2) If to repair, alteration or improvement of the said structure cannot be made at a reasonable cost in relation to the value of the structure requiring the owner within the time specified in the order to remove or demolish such structure. Rebuilding in violation of existing zoning ordinances will not be permitted. The town administrator shall determine the value of the structure in question existing on the land and the value of the land, itself, not to be considered and if the structure can be made to conform to such standards as will make it properly habitable by an expenditure of not more than fifty percent (50%) of said value, the order referred to in the preceding paragraph shall contain the first alternative. If an expenditure of more than fifty percent (50%) of the value just referred to would be necessary to make the structure properly habitable, the order in the preceding paragraph shall contain the second alternative. (Ord. #94-15-09, Sept. 1994)

**13-407. Failure of owner to comply to vacate and repair.** If the owner falls to comply with the order under part (1) of § 13-306, the town administrator may cause such structure to be repaired, altered, or improved or be vacated and closed; and in such event the town administrator may cause to be posted on the main entrance of any structure so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful". (Ord. #94-15-09, Sept. 1994)

**13-408. Failure of owner to remove or demolish.** If the owner fails to comply with an order as set forth in part (2) of § 13-306, the town administrator may cause such structure to be removed or demolished. (Ord. #94-15-09, Sept. 1994)

**13-409. Creation of lien and payment into court.** The amount of the cost of such repairs, alterations or improvements or vacating and closing or removed or demolition by the town administrator shall be a lien against a real property on which such cost was incurred. If the structure is removed or demolished by the town administrator, 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 by the town administrator, 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, provided however that nothing in this section shall be construed to impair or limit in any way the power of the town administrator to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (Ord. #94-15-09, Sept. 1994)

**13-410. Conditions rendering structure unfit for human habitation.** In addition to the other standards set forth in this chapter, the town administrator or his authorized agent may determine that a structure is unfit for human habitation or public use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structures, the occupants of neighboring dwellings or other residents of the city; such conditions may include the following (but without limiting the generality of the foregoing): Defects in increasing the hazards of fire, accident or other calamities, lack of adequate ventilation, light or sanitary facilities, dilapidation, disrepair, structural defects, and uncleanness. (Ord. #94-15-09, Sept. 1994)

**13-411. Service of complaints or orders.** Complaints or orders set issued by the town administrator pursuant to the requirements of this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the town in the exercise of reasonable diligence and the said town administrator or his authorized agent shall make affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall be filed for record in the register's office of the county in which the structure is located and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (Ord. #94-15-09, Sept. 1994)

**13-412. Enjoining enforcement of order.** Any person affected by an order issued by the town administrator or his authorized agent may file a bill

in the Chancery Court for an injunction restraining the said administrator from carrying out the provisions of the order and the court may, upon the filing of such bill, issue a temporary injunction restraining the said administrator pending the final disposition of the cause; provided, however, that within sixty (60) days after posting and service of the order of the town administrator such persons shall file such bills in the court. Hearings shall be had by the court on such bills within twenty (20) days or as soon as possible, and shall be given preference over other matters on the court's calendar.

The court shall hear and determine the issue raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the finding of the town administrator as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the town administrator shall be entitled to recover any damages for action taken pursuant to any order of the town administrator, or because of noncompliance by such person with any order of the town administrator. (Ord. #94-15-09, Sept. 1994)

**13-413. Powers given to the town administrator.** The town administrator is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

(1) To investigate or have investigated the structure conditions in the town in order to determine which structures therein are unfit for human habitation.

(2) To administer oaths, affirmations, examine witnesses and receive evidence.

(3) To enter upon premises for the purpose of making examinations provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of such officers, agents and employees as deems necessary to carry out the purposes of this chapter.

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #94-15-09, Sept. 1994)

## CHAPTER 5

### ABANDONED, WRECKED, DISMANTLED MOTOR VEHICLES

#### SECTION

13-501. Title.

13-502. Definitions.

13-503. Storing, parking, or leaving dismantled or other such motor vehicles prohibited and declared nuisance; exceptions.

13-504. Notice to remove.

13-505. Responsibility for removal.

13-506. Content of notice.

13-507. Removal of motor vehicle from property.

**13-501. Title.** This chapter shall be known and may be cited as the "Abandoned, Wrecked, Dismantled, Motor Vehicle Ordinance." (Ord. #91-16-12, Dec. 1991)

**13-502. Definitions.** For the purposes of this chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Town" is the Town of Oliver Springs.

(2) "Police department" means the Oliver Springs Police Department.

(3) "City manager" means the Town of Oliver Springs City Manager.

(4) "Motor vehicle." The term "motor vehicle," as used in this chapter, shall include all vehicles propelled by any power other than muscular power.

(5) "Antique" shall refer to any vehicle that is over twenty-five (25) years of age.

(6) "Abandoned motor vehicle" means any motor vehicle of any age that shows proof of abandonment; including but not limited to, flat or missing tires and or wheels pooling of water in vehicle, grass weeds or vegetation growing up around and or through; conditions that make the vehicle inoperable; including wrecked, dismantled, stripped, etc., for a period of thirty (30) days or any motor vehicle that does not display current tags or where an owner cannot show proof of insurance; or a motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or a motor vehicle that has remained on private property without consent of the owner or person in control of the property for more than forty-eight (48) hours.

(7) "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

(8) "Private property" shall mean any real property within the town which is privately owned and which is not public property as defined in this section.

(9) "Public property" shall mean any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel and shall also mean any other publicly owned property or facility.

(10) "Junked vehicle" Any vehicle, which is wrecked, dismantled, partially dismantled or discarded.

(11) "Wrecked" shall mean any vehicle with signs of damage from collision, etc. that is not operable.

(12) "Dismantled or partially dismantled" shall mean any vehicle that is missing any major body, electrical and or operation parts.

(13) "Inoperable" shall mean to any vehicle that is missing components that allow for operation on public streets and or rights-of-way.

(14) "Un-registered/tagged or insured" shall mean any vehicle that does not comply with State of Tennessee registration and or insurance requirements. (Ord. #91-16-12, Dec. 1991, as replaced by Ord. #2014-5-15A, May 2014)

**13-503. Storing, parking, or leaving dismantled or other such motor vehicles prohibited and declared nuisance; exceptions.** No persons shall park, store, leave, or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, rusted, junked, or partially dismantled condition, use any motor vehicle for storage of any items of personal property, whether attended or not, upon any public or private property within the town for a period of time in excess of forty-eight (48) hours. Any vehicle that is unlicensed or uninsured that has set on any parcel of land weather vacant or occupied shall be considered a nuisance. The presence of an abandoned, wrecked, dismantled, rusted, junked, or partially dismantled vehicle or parts thereof, on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the town and properly operated in the appropriate business zone, pursuant to the zoning laws of the town, or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, or any vehicle retained by the owner for antique collection purposes, or any vehicle held and or stored for person on active military leave.

However, junked motor vehicles, or any parts or accessories thereof, or thereto held in conjunction with a business enterprise, such as a body repair shop, used car sales facility, paint shop, vehicle detention facility, or storage facility, etc., shall not exceed the number of ten (10) of any such vehicles upon said property. Such vehicles must be placed on subject property no closer to any

abutting streets or roads than the setback line of the major building. This provision may be waived if proper screening is erected in the form of fencing or landscaping so as to hide vehicles from view, or if said vehicles are housed on a temporary basis, not to exceed fifteen (15) days. If there is no building on the property upon which said vehicles are located, the entire property must be screened by natural objects, plantings, fences or other appropriate means so as not to be visible in any manner whatsoever from any street or highway upon which same are located. Further, no business as is defined in this paragraph shall allow to accumulate or shall place within view of abutting streets and roads, any vehicle parts such as tires, engine blocks, wheels, bumpers, etc. Vehicle parts shall be kept fully out of sight if stored outside, or be stored within an enclosed building. (Ord. #91-16-12, Dec. 1991, as amended by Ord. #07-19-07C, July 2007, and replaced by Ord. #2014-5-15A, May 2014)

**13-504. Notice to remove.** Whenever it comes to the attention of the Oliver Springs Building Inspector that any violation of this chapter exists in the Town of Oliver Springs, a notice in writing shall be served upon the occupant of the land where the violation exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the violation and requesting its removal in the time specified in this chapter. The building inspector shall give the notice to remove to the owner or occupant of the private property where the violation is located at least ten (10) days before the time of compliance.

It shall constitute sufficient notice when a copy of same is posted upon the private property on which the motor vehicle or violation is located and duplicate copies would be sent by certified mail to the owner or occupant of the private property at his last known address. (Ord. #91-16-12, Dec. 1991, as replaced by Ord. #2014-5-15A, May 2014, and Ord. #2015-4-17A, April 2015)

**13-505. Responsibility for removal.** Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled, motor vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. (Ord. #91-16-12, Dec. 1991)

**13-506. Content of notice.** The notice shall contain the request for removal within the time specified in this chapter, and the notice shall advise that upon failure to comply with the notice to remove, said owner abandoned vehicle or the property owner on whose property said vehicle is abandoned be cited into city court at its next regular session. (Ord. #91-16-12, Dec. 1991)

**13-507. Removal of motor vehicle from property.** If the violation described in the notice has not been remedied within said ten (10) days, after the said subject has been notified, the subject will be cited into city court, at the



next regular session. Violation of this chapter shall constitute a misdemeanor, punishable upon conviction, by a fine not exceeding \$50.00 or by imprisonment, not exceeding 30 days, or both, in accordance with the general penalty clause for Tennessee Code Annotated, § 55-15-104. Provided however, each day or part of a day, during which a violation is allowed to continue, shall constitute a separate offense. (Ord. #91-16-12, Dec. 1991)

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.
4. MOBILE HOMES AND TRAILERS.

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

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

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members, with four (4) members constituting a quorum. One (1) of these shall be the mayor who will be a member ex officio. One (1) other member shall be a member of the town council. The other five (5) members shall be appointed by the mayor. Except for the initial appointments, the terms of office for the appointive members shall be four (4) years each, subject to reappointment at the end of their respective appointed terms. The five (5) at-large members shall be appointed in the following manner: three (3) members for two (2) years, and two (2) members for four (4) years. In addition, the mayor shall appoint three (3) alternates to serve in the absence of the appointed planning commission members. These alternate members shall serve under the same terms and guidelines of the appointed planning commission members as defined in this chapter and have the same authority when serving in such capacity. The terms of the mayor and councilman shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor who shall have the authority to remove any appointive member at his pleasure. All members shall serve without compensation. (1989 Code, § 11-101, as amended by Ord. #04-15-01, Jan. 2004)

**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. (1989 Code, § 11-102)

**14-103. Additional powers.** Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1989 Code, § 11-103)

**CHAPTER 2**

**ZONING ORDINANCE**

**SECTION**

14-201. Land use to be governed by zoning ordinance.

**14-201. Land use to be governed by zoning ordinance.** Land use within the Town of Oliver Springs shall be governed by Ordinance Number 82-12-02B, titled "Zoning Ordinance, Oliver Springs, Tennessee," and any amendments thereto.<sup>1</sup> (1989 Code, § 11-301)

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<sup>1</sup>Ordinance No. 82-12-02B, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## CHAPTER 3

### FLOOD DAMAGE PREVENTION ORDINANCE<sup>1</sup>

#### SECTION

- 14-301. Statutory authorization, findings of fact, purpose and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-406. Variance procedures.

**14-301. Statutory authorization, findings of fact, purpose and objectives.** (1) Statutory authorization. The legislature of the State of Tennessee has in §§ 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Oliver Springs, Tennessee, mayor and board of alderman, do ordain as follows:

(2) Findings of fact. (a) The Town of Oliver Springs, Tennessee, mayor and its legislative body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

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

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

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

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<sup>1</sup>Ordinance No. 940901A, and any amendments thereto, were published as separate documents. Ordinance 2015-7-5, May 2015 replaced Ord. #940901A adding this chapter to the municipal code.

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

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

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

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

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

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

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

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

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

(d) To minimize prolonged business interruptions;

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

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

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

(h) To maintain eligibility for participation in the NFIP. (as replaced by Ord. #2015-7-5, May 2015)

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

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

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

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

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

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

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

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

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

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

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

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

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

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

(9) "Building" see "structure."

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

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

(12) "Emergency Flood Insurance Program" or "emergency program" means the program as implemented on an emergency basis in accordance with

section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

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

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

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

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

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

(a) The overflow of inland or tidal waters;

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

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

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

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

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



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

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

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

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

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

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

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

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

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

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights

greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

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

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

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

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

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

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

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

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

(ii) Directly by the Secretary of the Interior.

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

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

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

(40) "Manufacture home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

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

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

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

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

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

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

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

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

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

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

(51) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

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

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

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

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

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

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

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

(57) "State coordinating agency" the Tennessee Department of Economic and Community Development, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

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

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

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

(a) The market value of the structure should be

(i) the appraised value of the structure prior to the start of the initial improvement, or

(ii) in the case of substantial damage, the value of the structure prior to the damage occurring.

(b) The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state and local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

(62) "Variance" is a grant of relief from the requirements of this ordinance.

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

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various

magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #2015-7-5, May 2015)

**14-303. General provisions.** (1) Application. This ordinance shall apply to all areas within the incorporated area of the Town of Oliver Springs, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Oliver Springs, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) dated June 18, 2007 and Flood Insurance Rate Map (FIRM), Community 470005, Panel Numbers 47001C0205F, 47001C0212F, 47001C0214F, 47001C0215F, 47001C0216F and 47001C0218F dated January 17, 2007 and 47129C0375C dated June 18, 2007, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

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

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

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

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

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

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

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance

shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Oliver Springs, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #2015-7-5, May 2015)

**14-304. Administration.** (1) Designation of ordinance administrator. The Roane County Codes Enforcement Officers are hereby appointed as the administrators to implement the provisions of this ordinance.

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

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

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

(iii) A FEMA Floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-305(1) and (2).

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

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

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

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

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

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

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

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

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

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

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

(vi) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-304(2).



(vii) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-304(2).

(viii) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-304(2).

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

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

(xi) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #2015-7-5, May 2015)

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

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

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

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

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

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

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

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

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

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

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

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

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-305(2);

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

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

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-305(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial

improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section subsection (c) "enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section subsection (c): "enclosures."

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

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

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

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

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

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

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

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

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

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-305(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels,

(B) In expansions to existing manufactured home parks or subdivisions, or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

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

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

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet

(3') in height above the highest adjacent grade (as defined in § 14-302).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-305(1) and (2).

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

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

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

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

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

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

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

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

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

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (See § 14-305(5)).

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

increased flood heights and velocities. Therefore, the following provisions shall apply:

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

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

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

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

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

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

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new

construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-305(1) and (2).

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

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-305(2).

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

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2). Within approximate A Zones, require that those subsections of § 14-305(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' - 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-305(1) and (2), apply:

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-305(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

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

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-304 and 14-305 shall apply.

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

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



(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-304 and 14-305. (as added by Ord. #2015-7-5, May 2015)

**14-406. Variance procedures.** (1) Municipal board of zoning appeals.

(a) Authority. The Town of Oliver Springs, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

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

(c) Appeals: how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of twenty-five dollars (\$25.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The Town of Oliver Springs, Tennessee Municipal Board of Zoning Appeals shall hear and decide

appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of

zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-304(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #2015-7-5, May 2015)

## CHAPTER 4

### MOBILE HOMES AND TRAILERS

#### SECTION

- 14-401. Definitions.
- 14-402. Regulation of mobile homes.
- 14-403. Regulation on mobile home parks.
- 14-404. Regulation of travel trailers and travel trailer parks.
- 14-405. Permits.
- 14-406. Fees for permits.
- 14-407. Application for permit.
- 14-408. Enforcement.
- 14-409. Appeals.
- 14-410. Violation and penalty.

**14-401. Definitions.** (1) "Mobile home (trailer)." A detached single family dwelling unit with any or all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities and the like.

(2) "Mobile home park." The term mobile home park shall mean any plot of ground within the Town of Oliver Springs on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located.

(3) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(4) "Travel trailer." A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing or a unit which:

(a) Can operate independent of connections to external sewer, water, and electrical systems;

(b) Contains water storage facilities and may contain a lavatory, kitchen sink, and/or bath facilities; and/or

(c) Is identified by the manufacturer as a travel trailer.

(5) "Travel trailer park." The term travel trailer park shall mean any plot of ground within the Town of Oliver Springs on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located.

(6) "Health officer." The director of a town, county, or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(7) "Permit." A permit is required for mobile home parks, single mobile homes, and travel trailer parks. Fees charged under the permit requirement are for inspection and the administration of this chapter.

(8) "Buffer strip." An evergreen buffer shall consist of a greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of evergreen trees and shrubs or hedge planted in rows which will eventually grow to a height of not less than ten (10) feet. (1989 Code, § 11-201)

**14-402. Regulation of mobile homes.** (1) It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the town where the mobile home is outside any designated and licensed mobile home park after the date of the adoption of this code.

(2) The owner or occupant of any mobile home already placed on a lot, on or before the date of the adoption of this code, will be permitted to reside at the present location. However, if at any time the ownership or occupancy of either the lot or mobile home shall change or if the mobile home is moved from its present location, the mobile home owner shall be given a period not to exceed thirty (30) days in which to remove the mobile home and to comply with all provisions of this chapter.

(3) No mobile home shall be used, placed, stored, or serviced by utilities within any mobile home park in the town unless there is posted near the door of the mobile home a valid town permit sticker and a Tennessee State License. (1989 Code, § 11-202)

**14-403. Regulation of mobile home parks.** (1) Permit for mobile home park. No place or site within the town shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the building inspector in the name of such person or persons for the specific mobile home park. The building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

(2) Existing mobile home parks. Mobile home parks in existence as of the effective date of this chapter shall be required to obtain a mobile home park permit. Pre-existing mobile home parks which cannot comply with the requirements regarding mobile home parks shall be considered as a non-conforming use; provided, however, if at any time the ownership of the park shall change, the new owner shall be given a period not to exceed 30 days in which to comply with current mobile home park regulations in all respects.

Failure to do so shall render him ineligible for a mobile home park permit at its then present location.

Pre-existing mobile home parks shall have a period, not to exceed six months, in which to comply with all state regulations applicable thereto which were in force prior to the establishment of the mobile home park.

(3) Inspections by building inspector. The building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(4) Length of occupancy. No mobile home space shall be rented in any mobile home park except for periods of sixty (60) days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the American Standards Association Code Provision A-119.1-1963; American Standard for Regulation in Mobile Homes of Electrical, Heating and Plumbing Systems; or Mobile Homes Manufacturers Association, Mobile Home Standards for Plumbing, Heating, and Electrical Systems; or any state or municipal administered codes insuring equal or better plumbing, heating, or electrical installations.

(5) Location and planning. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the municipal planning commission.

(6) Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than two (2) acres. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management.

(7) Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is twelve (12).

(8) Minimum mobile home space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen (15) feet of open space between mobile homes or any attachment such as a garage or porch,<sup>1</sup> and at least fifteen (15) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailers and any building or structure, twenty (20) feet between any trailer and property line

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<sup>1</sup>If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile home spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space.

and thirty-five (35) feet from the right-of-way of any public street or highway. Excluding the buffer strip and parking space, each mobile home space shall contain:

- (a) A minimum lot area of two thousand-two hundred and fifty (2,250) square feet;
- (b) A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet;
- (c) A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet; and
- (d) A minimum width of at least thirty (30) feet and a minimum depth of at least seventy-five (75) feet.

(9) Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after written approval of plans and specifications has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the mobile home park operator to provide such treatment as is deemed necessary by the health officer to maintain a safe, potable water supply. Water shall be furnished at the minimum capacity of two hundred and fifty (250) gallons per day per mobile home space. An individual water service connection shall be provided for each mobile home space.

(10) Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Each mobile home space shall be equipped with at least a four (4) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and sub-surface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home on such a single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate shall be determined as outlined in Appendix A of the Tennessee Department of Health Bulletin, entitled "Recommended Construction of Large Septic Tank Disposal Systems for Schools, Factories and Institutions." This bulletin is available on request from the department. No mobile home shall be placed over a soil absorption field. In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

(11) Refuse. The storage, collection, and disposal of refuse in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight, and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

(12) Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code and Tennessee Department of Commerce and Insurance Regulation No. 15, entitled "Regulations Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization.

(13) Streets. Minimum widths of various streets within mobile home parks shall be:

One-way, with no on-street parking . . . . .	12 ft.
One-way, with parallel parking on one side only . . . . .	18 ft.
One-way, with parallel parking on both sides . . . . .	26 ft.
Two-way, with no on-street parking . . . . .	20 ft.
Two-way, with parallel parking on one side only . . . . .	28 ft.
Two-way, with parallel parking on both sides . . . . .	36 ft.

Streets shall have a gravel base consisting of size 25 (Grade D) stone compacted to six (6) inches and a paved surface of asphaltic concrete (hot mix) as specified in the Tennessee Department of Highways' Standard Specifications for Road and Bridge Construction, 1968, Section 411, compacted to one (1) inch with not less than an average weight of one hundred (100) pounds per square yard.

(14) Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two-car tenants, and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home spaces. Where practical, one (1) car space shall be located on each lot or located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less



than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so that access can be gained only from internal streets of the mobile home park.

(15) Buffer strip. An evergreen buffer strip shall be planted along all boundaries of the mobile home park (see definition). (1989 Code, § 11-203)

**14-404. Regulation of travel trailers and travel trailer parks.**

(1) It shall be unlawful for any travel trailer to be occupied or serviced outside any properly designated travel trailer park. This provision shall not apply to the storage of travel trailers, provided said trailer unit is neither temporarily or permanently occupied as a dwelling unit while within the town limits.

(2) Permit for travel trailer park. No place or site within the town shall be established or maintained by any person, group of persons, or corporation as a travel trailer park unless he holds a valid permit issued by the building inspector in the name of such person or persons for the specific travel trailer park. The building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

(3) Inspections by building inspector and county health officer. The building inspector and county health officer is hereby authorized and directed to make inspections to determine the condition of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and of the general public. The building inspector or county health officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(4) Length of occupancy. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than fourteen (14) days.

(5) Minimum size of travel trailer space. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.

(6) Site planning improvements shall conform to the standards established in Regulations VI-XX of the State Regulations Governing the Construction, Operation and Maintenance of Organized Camps in Tennessee, as provided in Pub. Acts 1965, ch. 65. (1989 Code, § 11-204)

**14-405. Permits.** The following requirements for permits shall apply to any mobile home park, individual mobile home, and travel trailer park within the corporate limits.

(1) Mobile home parks. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits, any mobile home park unless such person or persons shall first obtain a permit therefor.

(2) Individual mobile homes. It shall be unlawful for any person to maintain an individual mobile home as a dwelling unless a permit has been

obtained therefor. It shall be the responsibility of the owner of the mobile home to secure the permit.

(3) Travel trailer park. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits, any travel trailer park unless such person or persons shall first obtain a permit therefor. (1989 Code, § 11-205)

**14-406. Fees for permits.** An annual permit fee shall be required for mobile home parks, individual mobile homes, and travel trailer parks.

(1) Mobile home parks. The annual permit fee for mobile parks shall be fifty (50) dollars.

(2) Individual mobile homes. The annual permit fee for each individual mobile home shall be twenty-five (25) dollars. Before said permit can be issued by the town, the state mobile home license number shall be required. The fee for transfer of the permit because of change of ownership or occupancy shall be five (5) dollars.

(3) Travel trailer parks. The annual permit fee for each travel trailer park shall be ten (10) dollars per travel trailer space. (1989 Code, § 11-206)

**14-407. Application for permit.** (1) Mobile home parks. Applications for a mobile home park shall be filed with and issued by the building inspector subject to the planning commission's approval of the mobile home park plan. Applications shall be in writing and signed by the applicant and shall be accompanied with an approved plan and location of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

- (a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one inch;
- (b) Name and address of owner of record;
- (c) Proposed name of park;
- (d) North point and graphic scale and date;
- (e) Vicinity map showing location and acreage of mobile home park;
- (f) Exact boundary lines of the tract by bearing and distance;
- (g) Names of owners of record of adjoining land;
- (h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
- (i) Proposed design including streets, proposed street names, buffer strip plan, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, other structures, and any land to be used for purposes other than mobile home spaces;
- (j) Provisions of water supply, sewerage, and drainage;

(k) Such information as may be required by the town to enable it to determine if the proposed park will comply with legal requirements; and

(l) The applications and all accompanying plans and specifications shall be filed in triplicate. Certificates that shall be required are:

(i) Owner's certification;

(ii) Planning commission's approval signed by the secretary; and

(iii) Any other certificate deemed necessary by the planning commission.

(2) Individual mobile homes. Application for individual mobile home permits shall be filed with and issued by the building inspector. Applications shall be in triplicate form and signed by the applicant. The application shall contain the following:

(a) The name of the applicant and all people who are to reside in the mobile home;

(b) The location and description of the mobile home: make, model, and year;

(c) The state mobile home license number; and

(d) Any additional information as may be required by the town to enable it to determine if the mobile home and site will comply with all legal requirements.

(3) Travel trailer parks. Applications for travel trailer parks shall meet the same requirements as contained in § 14-407(1). (1989 Code, § 11-207)

**14-408. Enforcement.**<sup>1</sup> It shall be the duty of the county health officer and building inspector to enforce provisions of this chapter. (1989 Code, § 11-208)

**14-409. Appeals.** (1) Board of appeals. The Oliver Springs planning commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision, or determination made by the building inspector in the enforcement of this chapter may appeal for and receive a hearing by the planning commission (advised by the town attorney) for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of the

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<sup>1</sup>Municipal code reference

Where septic tanks are to be used, the planning commission shall require certificates of approval by the county health officer: title 18, chapter 2.

chapter, the planning commission with advice from the town attorney, may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision, or determination made by the building inspector.

(2) Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the town aggrieved by any decision of the planning commission and the town attorney may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee. (1989 Code, § 11-209)

**14-410. Violation and penalty.** Any person or corporation who violates the provisions of this chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the building inspector or county health officer after receipt of thirty (30) days written notice of such requirements shall be fined in accordance with the general penalty clause for this code of ordinances. (1989 Code, § 11-210)

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. REGULATING VEHICLE SIZES, WEIGHTS AND LOADS.
9. ALL-TERRAIN VEHICLES.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 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.

- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Operation of vehicles by minors.
- 15-123. Skateboard safety.

**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. (1989 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. (1989 Code, § 9-102)

**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. (1989 Code, § 9-103)

**15-104. 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. (1989 Code, § 9-105)

**15-105. Unlaned streets.** (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
- (b) When the right half of a roadway is closed to traffic while under construction or repair.
- (c) Upon a roadway designated and signposted by the town for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1989 Code, § 9-106)

**15-106. 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. (1989 Code, § 9-107)

**15-107. 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. (1989 Code, § 9-108)

**15-108. Miscellaneous traffic-control signs, etc.**<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1989 Code, § 9-109)

**15-109. 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,<sup>2</sup> published by the U. S. Department of Transportation, Federal

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

<sup>2</sup>This manual may be obtained from the Superintendent of Documents,  
(continued...)

Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the town. This section shall not be construed as being mandatory but is merely directive. (1989 Code, § 9-110)

**15-110. 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. (1989 Code, § 9-111)

**15-111. Presumption with respect to traffic-control signs, etc.** When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper town authority. (1989 Code, § 9-112)

**15-112. 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. (1989 Code, § 9-113)

**15-113. 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. (1989 Code, § 9-114)

**15-114. Clinging to vehicles in motion.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1989 Code, § 9-115)

**15-115. 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.

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<sup>2</sup>(...continued)



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. (1989 Code, § 9-116)

**15-116. 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. (1989 Code, § 9-117)

**15-117. 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. (1989 Code, § 9-118)

**15-118. 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. (1989 Code, § 9-119)

**15-119. 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." (1989 Code, § 9-120)

**15-120. 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. (1989 Code, § 9-121)

**15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.** (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc).

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section. (1989 Code, § 9-122)

**15-122. Operation of vehicles by minors. (1) Definitions.**

(a) "Minor" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a minor who has been emancipated by marriage or otherwise.

(b) "Adult" shall mean any person eighteen years of age or older.

(c) "Custody" means the control of the actual, physical care of the minor, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the minor. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the minor's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Juvenile" shall mean any person defined as such in Tennessee Code Annotated, § 37-1-101 et seq.

(e) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(f) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a minor, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a minor, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Oliver Springs unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a minor to permit any such minor to drive a motor vehicle upon the streets,

highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town. (1989 Code, § 9-123)

**15-123. Skateboard safety.** This section shall be known and may be cited as the skateboard safety section.

(1) **Definitions.** For the purposes of this section, the following terms, phrases, words, and their derivations have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Town." The Town of Oliver Springs.

(b) "Skateboard." A single board or platform of any material natural or synthetic with wheels or rollers affixed to the underside, having no mechanism or other device with which to steer or control the direction or movement thereof while being used, operated, or ridden.

(c) "Skateboarding." To use, ride, or operate a skateboard.

(d) "Public streets and highways." Any street or highway which includes the entire width between the boundary lines of every way publicly maintained for the purpose of vehicular travel and also means any other publicly owned property or facility.

(e) "Public sidewalk." Any walkway which includes the entire width between the boundary lines of every publicly maintained right of way for the purpose of pedestrian travel.

(f) "Public property." Any other publicly owned property or facility.

(g) "Public areas." Public streets, highways, sidewalks, and property as defined herein.

(h) "Person." Any person, regardless of age.

(i) "Prohibited." Cannot be used, ridden, or operated.

(2) No person shall use, operate, or ride upon any skateboard on any public street, highway, public sidewalk, or other public property within the Town of Oliver Springs except in a designated area located within the town park of Arrowhead.

(3) It is a misdemeanor for a parent or guardian to allow a minor to ride a skateboard in violation of this section. (1989 Code, § 9-124)

## 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. (1989 Code, § 9-201)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(2) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(3) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1989 Code, § 9-202)

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<sup>1</sup>Municipal 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. (1989 Code, § 9-203)

**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. (1989 Code, § 9-204)

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

**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 thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1989 Code, § 9-301)

**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. (1989 Code, § 9-302)

**15-303. In school zones.** Pursuant to Tennessee Code Annotated, § 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the town council has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school, or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1989 Code, § 9-303)

**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 town. (1989 Code, § 9-304)

## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1989 Code, § 9-401)

**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. (1989 Code, § 9-402)

**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. (1989 Code, § 9-403)

**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. (1989 Code, § 9-404)

**15-405. U-turns.** U-turns are prohibited. (1989 Code, § 9-405)

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<sup>1</sup>State 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 railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1989 Code, § 9-501)

**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. (1989 Code, § 9-502)

**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. (1989 Code, § 9-503)

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

**15-504. At railroad crossings.** Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1989 Code, § 9-504)

**15-505. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1989 Code, § 9-505)

**15-506. At "yield" signs.** The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1989 Code, § 9-506)

**15-507. At traffic control signals generally.** Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1989 Code, § 9-507)

**15-508. At flashing traffic control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1989 Code, § 9-508)

**15-509. At pedestrian control signals.** Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the town, such signals shall apply as follows:

(1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1989 Code, § 9-509)

**15-510. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (1989 Code, § 9-510)

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<sup>1</sup>State 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.

**15-601. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this town shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley 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. (1989 Code, § 9-601)

**15-602. Angle parking.** On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1989 Code, § 9-602)

**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. (1989 Code, § 9-603)

**15-604. Where prohibited.** No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic

(2) In front of a public or private driveway.

(3) Within an intersection.

(4) Within fifteen feet (15') of a fire hydrant.

(5) Within a pedestrian crosswalk.

(6) Within twenty feet (20') of a crosswalk at an intersection.

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.

(8) Within fifty feet (50') of the nearest rail of a railroad crossing.

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted.

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:

(a) Physically handicapped, or

(b) Parking such vehicle for the benefit of a physically handicapped person.

A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, § 55-8-160(c).

(14) In fire zones and fire lanes.

(15) Alongside any curb painted yellow or red by the town.

(16) There will be no parking on the shoulder of the four lane portions of Tri-County Boulevard within six (6) feet of the outside traffic lanes. Exceptions may be given to church, school, and other special civic functions upon prior notification of the Oliver Springs Chief of Police. (1989 Code, § 9-604)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1989 Code, § 9-605)

**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. (1989 Code, § 9-606)

## 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. Deposit of driver's license in lieu of bail.
- 15-706. Violation and penalty.

**15-701. Issuance of traffic citations.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the 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. (1989 Code, § 9-701)

**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. (1989 Code, § 9-702)

**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 fifteen (15) days during the hours and at a place specified in the citation. (1989 Code, § 9-703, modified)

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 7-63-101, et seq.



vehicle whose operator is arrested or any unattended vehicle which is illegally parked, so as to constitute an obstruction or hazard to normal traffic, which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until otherwise lawfully disposed of. (1989 Code, § 9-704)

**15-705. Deposit of driver's license in lieu of bail.** (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. The officer, or the court demanding bail, who receives any person chauffeur's or operator's license as herein provided, shall issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of Tennessee Code Annotated, § 55-50-801 et seq. (1989 Code, § 9-705)

**15-706. 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 parking violations the offender may waive his right to a judicial hearing and have the charges disposed of out of court, but the fine shall be \$25.00 within fifteen (15) days, except that for violation of § 15-604(13) of this code, the offender shall be punished in accordance with the general penalty provisions of this code of ordinances.

If the offender fails to appear at the hour and place specified in the citation and having failed to waive his right to a judicial hearing, then a

summons shall be issued for the driver and/or owner of the vehicle. When such summons is issued, the offender shall be subject to punishment under the general penalty provision of this code of ordinances. It shall be a violation of this code for the offender to fail to appear at the hour and place specified in the citation unless he has waived his right to a judicial hearing by paying the fine. (1989 Code, § 9-703, as amended by Ord. #92-16-04A, April 1992, modified)

## CHAPTER 8

### REGULATING VEHICLE SIZES, WEIGHTS AND LOADS

#### SECTION

- 15-801. Scope and effect of chapter.
- 15-802. operation of truck on boulevards and roadways.
- 15-803. Width of vehicles.
- 15-804. Projecting loads on passenger vehicles.
- 15-805. Height and length of vehicles and loads.
- 15-806. Special load limits.
- 15-807. Single-axle load limit.
- 15-808. Gross weight of vehicles and loads.
- 15-809. Officers may weigh vehicles and require removal of loads.
- 15-810. Permits for excess size and weight.
- 15-811. Liability for damage to highway or structure.
- 15-812. Load restrictions on highways, streets, and bridges.
- 15-813. Commercial vehicles prohibited on certain streets.
- 15-814. Fees for oversized vehicles.

**15-801. Scope and effect of chapter.** (1) It shall be unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street or highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this chapter or otherwise in violation of this chapter.

(2) The provisions of this chapter governing size, weight and load shall not apply to fire apparatus, road machinery, or to implements of husbandry, including farm tractors, temporarily moved upon a street or highway, or to a vehicle operated under the terms of a special permit issued as herein provided. (Ord. #95-07-12, Dec. 1995)

**15-802. Operation of trucks on boulevards and roadways.** (1) No trucks, except a truck engaged in the repairing or constructing of a park, boulevard, street, avenue or driveway under the authority of the board of parks and recreation commissioners, shall be allowed to enter upon any boulevard, parkway, street, avenue or park road under the control and management of the board of park commissioners posted with signs indicating that trucks are prohibited.

(2) Authority to make deliveries. Trucks carrying goods, merchandise or other articles to or from any location abutting upon any of such boulevards, parkways, streets or avenues, or within any park shall be permitted to enter thereon at the nearest point to said location and deliver or receive such goods, merchandise or other articles, but shall not proceed thereon farther than the nearest point of exit. (Ord. #95-07-12, Dec. 1995)

**15-803. Width of vehicles.** The total outside width of any vehicle or the load thereof shall not exceed eight feet, except as otherwise provided in this section. (Ord. #95-07-12, Dec. 1995)

**15-804. Projecting loads on passenger vehicles.** No passenger type vehicle shall be operated on any street or highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof. (Ord. #95-07-12, Dec. 1995)

**15-805. Height and length of vehicles and loads.** (1) No vehicle including any load thereon shall exceed a height of 13 feet 6 inches.

(2) No motor vehicle, except combinations coupled together, including any load thereon shall exceed a length of 4 feet extreme over-all dimension, inclusive of front and rear bumpers.

(3) No combination of truck-tractor, semitrailer or trailers coupled together shall consist of more than two towed units and no such combination of vehicles including any load thereof shall have an overall length, inclusive of front and rear bumper in excess of 65 feet except as otherwise provided in this chapter. (Ord. #95-07-12, Dec. 1995)

**15-806. Special load limits.** (1) Subject to the foregoing provisions of this chapter limiting the length of vehicles and loads, the load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet beyond the foremost part of the vehicle, and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than six feet beyond the rear of the bed or body of such vehicle.

(2) The limitations as to length of vehicles and loads heretofore stated in subsection (1) shall not apply to any load upon a pole trailer when transporting poles or pipes or structural material which cannot be dismembered, provided that no pole or pipe or other material exceeding 80 feet in length shall be so transported unless a permit has first been obtained as authorized. (Ord. #95-07-12, Dec. 1995)

**15-807. Single-axle load limit.** (1) The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed 22,400 pounds.

(2) For the purposes of this chapter an axle load shall be defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle. (Ord. #95-07-12, Dec. 1995)

**15-808. Gross weight of vehicles and loads.** Subject to the limit upon the weight imposed upon the highway through any one axle as set forth in § 15-807, the total gross weight with load imposed upon the highway by any one group of two or more consecutive axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the Tennessee Code Annotated. (Ord. #95-07-12, Dec. 1995)

**15-809. Officers may weigh vehicles and require removal of loads.**

(1) Any police officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same means of either portable or stationary scales and may require that such vehicle be driven to the nearest public scales in the event such scales are within two miles.

(2) Whenever an officer upon weighing a vehicle and load, as above provided, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to such limit as permitted under this chapter. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

(3) It shall be unlawful for a driver of a vehicle to fail or refuse to stop and submit the vehicle and load to a weighing or to fail or refuse when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section. (Ord. #95-07-12, Dec. 1995)

**15-810. Permits for excess size and weight.** (1) The chief of police, and the State Highway Commission with respect to highways under their jurisdiction, may in their discretion upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter upon any highway or street under the jurisdiction of the party granting such permit and for the maintenance of which said party is responsible.

(2) The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular street or highways for which permit to operate is requested, and whether such permit is requested for a single trip or for continuous operation.

(3) The chief of police and the State Highway Commission are authorized to issue or withhold such permit at its discretion; or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operation of

such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require the posting of a surety bond as may be deemed necessary to compensate for any injury to any roadway or road structure.

(4) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit, and no person shall violate any of the terms or conditions of such special permit. (Ord. #95-07-12, Dec. 1995)

**15-811. Liability for damage to highway or structure.** (1) Any person driving any vehicle upon any street or highway or highway structure shall be liable for all damage which said street, highway or structure may sustain as a result of any illegal operation, driving or moving of such vehicle or as a result of, operating, driving or moving any vehicle weighing in excess of the maximum weight in this chapter but authorized by a special permit issued as provided in this chapter.

(2) Whenever such driver is not the owner of such vehicle but is so operating, driving or moving the same with the express or implied permission of said owner, then said owner and driver shall be jointly and severally liable for any such damage.

(3) Such damage may be recovered in a civil action brought by the town counselor in behalf of the town or by authorities in control of such streets or highways or highway structure. (Ord. #95-07-12, Dec. 1995)

**15-812. Load restrictions on highways, streets, and bridges.** When the chief of police makes regulations placing load restrictions upon vehicles using certain highways, streets, or bridges and when signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified at any time upon any of the streets or parts of streets described in said regulations. A schedule of streets or parts of streets with load restrictions shall be maintained in the office of the town clerk and the chief of police. (Ord. #95-07-12, Dec. 1995)

**15-813. Commercial vehicles prohibited on certain streets.** When the chief of police makes regulations prohibiting commercial vehicles from using certain streets or parts of streets, and when signs are erected giving notice thereof, no person shall operate any commercial vehicle upon any of the streets or parts of streets described in said regulations except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter. A schedule of streets or parts of streets where

commercial vehicles are prohibited shall be maintained in the offices of the town clerk and the chief of police. (Ord. #95-07-12, Dec. 1995)

**15-814. Fees for oversized vehicles.** After proper application for an oversize permit has been granted by the chief of police, a fee of one hundred dollars (\$100.00) will be collected. (Ord. #96-19-09, Sept. 1996)

## CHAPTER 9

### ALL-TERRAIN VEHICLES

#### SECTION

15-901. All-terrain vehicles.

**15-901. All-terrain vehicles.** For the purpose of this chapter:

(1) All-terrain vehicles are ATV, UTV, dirt bikes and similar type vehicles determined to be suitable and appropriate for safe operation on the streets of the Town of Oliver Springs, Tennessee.

(2) The city council chooses the two (2) weekend per year to coincide with Coal Creek OHV spring and fall events. The council sets the days allowed to be Friday morning thirty (30) minutes before dawn to Saturday evening thirty (30) minutes after dusk.

(3) The operation of any such vehicle shall be subject to the following conditions or restrictions:

(a) Vehicle shall be registered.

(b) Operators shall be sixteen (16) or older and have a valid driver's license.

(c) The riding times are during daylight hours which include the thirty (30) minutes before dawn and the thirty (30) minutes after dusk.

(d) Riders must stay on designated and posted roads.

(e) Must carry liability insurance and be able to provide proof if requested.

(f) All riders must wear a protective helmet of a type approved by Tennessee Department of Transportation.

(g) Riders must lawfully obey all rules of the road applicable to other motor vehicles.

(h) Any such vehicle operated within the town shall be operated in a safe manner.

(i) Regular safety checkpoints will be conducted to ensure that rides are following procedures.

(j) Any violation to the state laws and the rules listed here will result in loss of privileges to operate vehicle on the specified paved road.

(4) The following described streets and roadways within the Town of Oliver Springs are hereby designated as open to all-terrain vehicle use:

(a) Windrock Road from city limits to intersection of Tri County Boulevard (state route 61).

(b) Green Street from city limits to intersection of Windrock Road.

(c) Winter Gap Road from intersection of Tri County Boulevard (state route 61) to the intersection of Kingston Avenue.



(d) Intersection of Kingston Avenue (300 block) to the intersection of Arrowhead Lane (400 block of Kingston Avenue).

(e) Arrowhead Lane into Arrowhead Park.

(f) Main Street from intersection of Winter Gap Road to the intersection of West Spring Street.

Violators of the provisions of this chapter, which are not a violation of Tennessee Code Annotated, § 55-8-185, shall be punishable by a civil penalty of no more than fifty dollars (\$50.00) and/or loss of permit. (as added by Ord. #2016-10-6B, Oct. 2016)

## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. RAILROAD GRADE CROSSINGS.
4. UNIFORM PROPERTY NUMBERING SYSTEM.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Vehicle load limits.

**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. (1989 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, alley, or sidewalk at a height of less than fourteen (14) feet. (1989 Code, § 12-102)

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

**16-103. Trees, etc., obstructing view at intersections prohibited.**

(1) Enforcement of this chapter. If the provisions of this chapter are not complied with the city manager shall give notice in writing to the owner, owner's agent or occupant of such lot or parcel of land of said conditions and require the cutting of said obstructions within fifteen (15) days of said notice. The notice shall provide a time and place for said person to appear at the town hall before the city manager and show cause why said order should not be complied with.

A copy of said written notice will also be placed on the bulletin board inside city hall.

If after the notice to appear and after the fifteen (15) days to comply said violations are not corrected the city manager shall notify the streets foreman to cut, remove and or destroy or have same cut, removed and the whole cost thereof or a minimum charge of one hundred dollars (\$100.00) whichever is the greater shall be paid by the owner of said lot or parcel of land. If the bill is not fully paid within one hundred twenty (120) days after the mailing of said bill, a ten percent (10%) penalty shall be added, and it shall be placed on the tax roll of the Town of Oliver Springs as a lien upon the property and collected in the same manner as other town taxes are collected.

(2) It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1989 Code, § 12-103, as amended by Ord. #2014-06-05A, June 2014)

**16-104. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup> (1989 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 town council. (1989 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 law. (1989 Code, § 12-106)

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<sup>1</sup>Municipal code reference

Building code: title 12, chapter 1.

**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. (1989 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. (1989 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. (1989 Code, § 12-109)

**16-110. Parades 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 clean up the resulting litter immediately. (1989 Code, § 12-110)

**16-111. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably to interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1989 Code, § 12-112)

**16-112. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1989 Code, § 12-113)

**16-113. Vehicle load limits.** The load limit for all vehicles on the streets and bridges owned or maintained by the town shall not be in excess of five (5) tons. (1989 Code, § 12-113)

## CHAPTER 2

### EXCAVATIONS AND CUTS<sup>1</sup>

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the building inspector or town administrator is open for business, and said permit shall be retroactive to the date when the work was begun. (1989 Code, § 12-201)

**16-202. Applications.** Applications for such permits shall be made to the building inspector or town administrator, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the building inspector or town administrator within twenty-four (24) hours of its filing. (1989 Code, § 12-202)

**16-203. Fee.** The fee for such permits shall be ten dollars (\$10.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and fifty cents (\$.50) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1989 Code, § 12-203)

**16-204. Deposit or bond.** No such permit shall be issued unless and until the applicant therefor has deposited with the building inspector or town administrator a cash deposit. The deposit shall be in the sum of one hundred dollars (\$100.00) if no pavement is involved or two hundred dollars (\$200.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the town administrator or building inspector may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the building inspector or town administrator a surety bond in such form and amount as the building inspector or town administrator shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration.

The town council may waive the provisions of this section in the case of utilities by providing by resolution separate provisions applicable to utilities operating under franchise grants. (1989 Code, § 12-204)

**16-205. Manner of excavating--barricades and lights--temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1989 Code, § 12-205)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this town shall restore said street, alley, or public place

to its original condition except for the surfacing, which shall be done by the town, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the town administrator or building inspector shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1989 Code, § 12-206)

**16-207. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the town administrator or building inspector in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1989 Code, § 12-207)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the town administrator or building inspector. (1989 Code, § 12-208)

**16-209. Supervision.** The town administrator or building inspector shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1989 Code, § 12-209)

**16-210. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the town administrator or building inspector. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge, and when two (2) or more adjoining driveways are provided for the same property, a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street.

Any person, firm, corporation, association, or others who plan to make any cut in curbs along town streets, alleys, or public ways in the Town of Oliver Springs shall first contact the building inspector. All such cuts shall be made by the street department of the Town of Oliver Springs but shall be paid for by the requesting party, upon the completion of the work. Such curb shall be replaced with concrete. The person, firm, corporation, association, or others requesting the cut will post with the town treasurer a cash bond equivalent to the cost of the project.

This bond will be held until approval of the work by the building inspector, providing the party has paid for the work. If payment is not forthcoming, the town will withhold the sum involved from the cash bond, plus any other sum needed to bring unsatisfactory work up to town codes. (1989 Code, § 12-210)



## CHAPTER 3

### RAILROAD GRADE CROSSINGS<sup>1</sup>

#### SECTION

- 16-301. Where electrical warning devices required.
- 16-302. Signal to consist of light and gong.
- 16-303. Installation of signals.
- 16-304. Operation of signals.
- 16-305. Responsibility for signals and operation of trains at crossings.
- 16-306. Violations.

**16-301. Where electrical warning devices required.** All persons, firms, and corporations operating railroads within the corporate limits shall install and maintain electrical warning devices to signal the approach of trains on all grade crossings where the railroad lines cross the following public streets in the Town of Oliver Springs: Highway 61 and 62. (1989 Code, § 12-301)

**16-302. Signal to consist of light and gong.** At each of the above designated grade crossings the signal device shall consist of a flashing red light which shall show the word "STOP" when trains, engines, or rail cars are approaching said crossings. The said flashing light shall be of such size as to be clearly readable and legible at a distance of three hundred (300) feet. The signal device shall also cause a gong to sound concurrently with the flashing signal upon the approach of trains, engines, or cars at said grade crossings. The gong shall be clearly audible to pedestrians and vehicular traffic approaching said crossings to warn them of the approach of engines, trains, and rail cars to said crossings. (1989 Code, § 12-302)

**16-303. Installation of signals.** The warning signal devices provided for in this chapter shall be installed, operated, and maintained on each side of each railroad crossing and on the right edge of the street or highway as it approaches the grade crossing. The flashing light signal and the gong shall be affixed to a metal post ten (10) feet above the sidewalk level. The flashing light signal shall be approximately eight and one-half (8 1/2) feet above the sidewalk level. These signals shall be located not further than fifteen (15) feet away from the nearest railroad track. In the event that it is impracticable to install the warning signal in the location as provided in this section at any of the specified crossings, the town council may authorize a different location which will

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<sup>1</sup>Municipal code references

Drivers to stop at railroad grade crossings: § 15-504.

Other traffic regulations: title 15.

efficiently protect the public in the use of the grade crossings. Such authorization shall be in writing in the form of a resolution and placed upon the minutes of the proceedings of the town council. (1989 Code, § 12-303)

**16-304. Operation of signals.** The signal lights shall commence flashing and the gongs shall commence ringing when the lead engine, train, or rail car is not closer than three hundred (300) feet from the center line of the street at the grade crossing. The lights shall continue to flash and the gongs shall continue to ring until the train, engine, or rail cars have completely cleared the grade crossing. (1989 Code, § 12-304)

**16-305. Responsibility for signals and operation of trains at crossings.** The installation, erection, and maintenance of the signal devices herein prescribed shall be without expense to the town; provided further, that as an alternate to the section requiring signal lights at the Highway 61 and 62 Crossings, the Louisville and Nashville Railroad Company can stop the train at these intersections and put out flagmen and stop the vehicular traffic and proceed across the tracks. (1989 Code, § 12-305)

**16-306. Violations.** Any person who shall violate the provisions of this chapter shall be punishable under the general penalty clause for this code. (1989 Code, § 12-306)

## CHAPTER 4

### UNIFORM PROPERTY NUMBERING SYSTEM

#### SECTION

- 16-401. Uniform numbering system adopted.
- 16-402. Assignment of numbers.
- 16-403. Administration.
- 16-404. Violations.
- 16-405. Street names.
- 16-406. 911 Street names and numbers.

**16-401. Uniform numbering system adopted.** A uniform system of numbering properties and principal buildings, as shown on the E-911 map, which is filed in the office of the E-911 board, is hereby adopted for use in the Town of Oliver Springs, Tennessee. This map and all explanatory matter thereon is hereby adopted and made a part of this chapter. (Ord. #95-07-20, \_\_\_\_\_)

**16-402. Assignment of numbers.** (1) All properties or parcels of land within the corporate limits of Oliver Springs, Tennessee, shall hereafter be identified by reference to the uniform numbering system adopted herein. All existing numbers of property and buildings not now in conformity with provisions of this chapter shall be changed to conform to the system herein adopted within six months from the date of passage of the provisions of this chapter.

(2) A separate number shall be assigned for each 50 feet of frontage in most parts of town and each 20 feet in the central business district as shown on the map.

(3) Even numbers shall be assigned on the east side of north-south streets and the north side of east-west streets. Odd numbers shall be assigned on the west side of north-south streets and the south side of east-west streets.

(4) A structure on a corner lot shall be assigned a number on the street it is facing. If it has two entrances which appear to both be "front" entrances, the number on the more significant street shall be assigned.

(5) Each individual business fronting on a public street shall be given a separate number. Doorways leading to several businesses or offices via a hallway or stairs shall be given a number.

(6) Multi-unit residential developments (mobile home parks, apartments, and duplexes unless they front on two different streets) shall be assigned different numbers.

(7) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as

to be visible from the street on which the property is located. (Ord. #95-07-20, \_\_\_\_\_)

**16-403. Administration.** (1) The E-911 board shall be responsible for maintaining the numbering system. In the performance of this responsibility, these persons shall be guided by the provisions of § 16-402 of this chapter.

(2) The E-911 board shall keep a record of all numbers assigned under this chapter. (Ord. #95-07-20, \_\_\_\_\_)

**16-404. Violations.** Violation of this chapter shall be a misdemeanor and may be punished in accordance with the general penalty clause for this code. (Ord. #95-07-20, \_\_\_\_\_)

**16-405. Street names.** No street will be named before it has been reviewed by the E-911 board, the Oliver Springs Planning Commission, and approved by the Oliver Springs Town Council. (Ord. #95-07-20, \_\_\_\_\_)

**16-406. 911 Street names and numbers.** All streets, and roadways, that are developed, constructed, owned, and maintained by private owners/ developers, that are traveled from time to time by the public shall be named and designated with proper approval and pursuant to § 16-405, installed at the owners expense with 911 street names and numbers prior to the city building inspector issuing a certificate of occupancy or use. (Ord. #98-01-10, Oct. 1998)

## TITLE 17

### REFUSE AND TRASH DISPOSAL<sup>1</sup>

#### CHAPTER

#### 1. REFUSE.

#### CHAPTER 1

#### REFUSE

#### SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Businesses contracting with private companies.
- 17-110. Residential garbage service user fees.

**17-101. Refuse defined.** Refuse shall mean and include household garbage, rubbish, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, leaves, brush, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1989 Code, § 8-201, as amended by Ord. #98-12-03, March 1998)

**17-102. Premises to be kept clean.** All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1989 Code, § 8-202)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within this town where refuse accumulates or is likely to accumulate, shall provide and keep covered not more than three (3) refuse containers for households and not more than five (5) refuse containers for each business establishment. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers picked up by commercial contractors. Furthermore, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Refuse will be picked up on a once a week basis for all households and businesses. (1989 Code, § 8-203)

**17-104. Location of containers.** Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the town for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1989 Code, § 8-204)

**17-105. 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. (1989 Code, § 8-205)

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the town council shall designate. Collections shall be made regularly in accordance with an announced schedule. (1989 Code, § 8-206)

**17-107. Collection vehicles.** The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1989 Code, § 8-207)

**17-108. Disposal.** The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the town council is expressly prohibited. (1989 Code, § 8-208)

**17-109. Businesses contracting with private companies.** Any business that wishes to contract with a private company will be given credit for one cubic yard of refuse. (1989 Code, § 8-209)

**17-110. Residential garbage service user fees.** (1) Fees established, definition, collection rules and regulations. (a) There is hereby established a residential garbage service user fee to be charged to and collected from each household in the Town of Oliver Springs, Tennessee on a monthly basis.

(b) Household is defined, for the purpose of this section, as all residential living units within the Town of Oliver Springs, whether occupied or not, to which garbage and refuse pick up service is furnished by the Town of Oliver Springs, and available for use, whether utilized or not, and for which pick up service is not otherwise required to be provided as a commercial unit (or apartment development is excess of six (6) units.)

(c) Where the service is provided to multi-unit dwellings or businesses each unit or business shall pay the monthly collection fee charge and the city administrator is authorized to access a separate per unit fee for each container. The city administrator may require businesses with large amounts of garbage, at his discretion, to make private arrangements for garbage service.

(d) The residential garbage service user fee is established at a rate set by the Oliver Springs Town Council.

(e) The city administrator is authorized and directed to institute collection mechanisms, rules, and regulations and means as shall be deemed by the city administrator to be efficient, appropriate and expedient to effect collections.

(2) Penalty for non payment. It is unlawful to refuse or neglect to pay the monthly residential garbage service user fee when billed. Each user shall be given ten (10) days from the billing date to make payment to the town. (as added by Ord. #02-08-06A, Aug. 2002, as amended by Ord. #2018-06-08, June 2018 **Ch3\_2-7-19**)

## TITLE 18

### WATER AND SEWERS<sup>1</sup>

#### CHAPTER

1. WATER AND SEWERS.
2. WASTEWATER REGULATIONS.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
4. FATS, OILS, AND GREASE.
5. WATER CURTAILMENT.

#### CHAPTER 1

### WATER AND SEWERS

#### SECTION

- 18-101. Town council to perform duties of water commission.
- 18-102. Town council to adopt rules and regulations.
- 18-103. Power of the town council over construction, maintenance, etc., of the water system.
- 18-104. Annual audit.
- 18-105. Application and scope of chapter.
- 18-106. Definitions.
- 18-107. Application and contract for service.
- 18-108. Service charges for temporary service.
- 18-109. Connection charges.
- 18-110. Service outside corporate limits.
- 18-111. Main extensions.
- 18-112. Water and sewer main extension variances.
- 18-113. Meters.
- 18-114. Meter tests.
- 18-115. Multiple services through a single meter.
- 18-116. Billing.
- 18-117. Discontinuance or refusal of service.
- 18-118. Re-connection charge.
- 18-119. Termination of service by customer.
- 18-120. Access to customers' premises.
- 18-121. Inspections.
- 18-122. Customer's responsibility for system's property.

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.



- 18-123. Customer's responsibility for violations.
- 18-124. Supply and resale of water.
- 18-125. Unauthorized use of or interference with water supply.
- 18-126. Limited use of unmetered private fire line.
- 18-127. Damages to property due to water pressure.
- 18-128. Liability for cutoff failures.
- 18-129. Restricted use of water.
- 18-130. Interruption of service.
- 18-131. Schedule of rates.
- 18-132. Responsible owner.
- 18-133. Sewer health hazard.
- 18-134. Sewer on private property.
- 18-135. Sewer policies.
- 18-136. Use of saddle.
- 18-137. Swimming pool regulations.
- 18-138. Leak adjustment policy.

**18-101. Town council to perform duties of water commission.** As authorized in Tennessee Code Annotated, § 7-35-406, the town council shall perform the duties of the water commission. (1989 Code, § 13-101)

**18-102. Town council to adopt rules and regulations.** The town council shall adopt rules and regulations to carry out the provisions of this chapter. (1989 Code, § 13-102)

**18-103. Power of the town council over construction, maintenance, etc., of the water system.** The town council shall have the general, complete, and exclusive control over the laying out, construction, reconstruction, and maintenance of all water and sewer lines owned by the town and used or to be used in connection with its water and sewer system. The town council shall hire all necessary employees to maintain and service said water and sewer system and fix the wages and salaries to be paid such employees, the same to be in keeping with the usual wages and salaries for similar services rendered in said town and in other towns of similar size in the State of Tennessee.

The town council shall let contracts for the construction and reconstruction of water and sewer lines, and the purchase of other equipment necessary in the operation of said water and sewer system, if a majority of said town council deems the same advisable and advantageous, but such contracts will only be let upon a competitive basis and after giving at least ten (10) days' written notice in a newspaper of general circulation in Roane County, Tennessee, calling for sealed bids therefor, to be opened at fixed date and place at a meeting of said town council, in the presence of a majority of said council; and the same shall be awarded to the lowest and best bidder, if satisfactory; but

if unsatisfactory, they may reject any or all bids and thereupon new bids may be called for and received, opened, and awarded in the manner herein provided. This will be the procedure for accepting bids for water and sewer line extension. Small jobs under \$5,000 may be negotiated by the water department director with approval by town council. All water line and sewer line extension plans will be developed by a licensed engineer. (1989 Code, § 13-103)

**18-104. Annual audit.** The town council shall have made an audit of the books and accounts and reports of the water and sewer department at the end of each year along with the audit of other town funds. The expense of said audit shall be paid out of the revenues derived from the water and sewer system. (1989 Code, § 13-104)

**18-105. Application and scope of chapter.** The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1989 Code, § 13-105)

**18-106. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

(2) "Household" means any person or persons living together in a dwelling.

(3) "Service line" shall consist of a pipe line extending from any water or sewer main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(4) "Discount date" shall mean the 16th day of the month. The discount date will always be on the 16th day of the month. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1989 Code, § 13-106)

**18-107. Application and contract for service.** Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a connection fee, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter, and general practice, the liability of the town to the applicant shall be limited to the return of any connection fee made by such applicant. (1989 Code, § 13-107)

**18-108. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1989 Code, § 13-108)

**18-109. Connection charges.** Water and/or sewer service lines will be laid by the town from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the town.

Before a new service line will be laid by the town, the applicant shall pay a connection fee for the installation in an amount to be set by the town council by appropriate ordinances or resolution.

This fee shall be used to pay the cost of laying such new service line and appurtenant equipment. If such cost exceeds the amount of the fee, the applicant shall pay to the town the amount of such excess cost when billed therefor.

When a service line is completed, the town shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer. (1989 Code, § 13-109)

**18-110. Service outside corporate limits.** Water service may be made available to properties outside the corporate limits under such terms and conditions as the town council may prescribe. (1989 Code, § 13-110)

**18-111. Main extensions.** For water main extensions cement-lined cast iron pipe, ductal iron PVC, and cement asbestos, class 150 American Water Works Association Standard (or other construction approved by the town council) not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe (or other construction approved by the town council) two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines.

For sewer main extensions eight-inch pipe of vitrified clay or other construction approved by the town council shall be used. Sewer main extension will be no less than 8" vitrified clay, PVC, ductal iron, or cast iron. All water meters and sewer laterals will be installed by town forces except for new contractual construction.

Where the main cannot be extended, a line less than 6" may be used provided the line is not less than 2".

Fire hydrants shall be spaced in accordance with requirements of the Department of Commerce Insurance and fire marshal.

Upon completion of such extensions and their acceptance by the town, such water and/or sewer mains shall become the property of the town. The persons paying the cost of constructing such mains shall execute any written instruments requested by the town to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the town shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. Any water or sewer main extension developed on the town right-of-way will be a part of the town system. Private lines may not be constructed on town right-of-way. The town council will accept water and sewer main extensions as part of the town system on the written recommendation of the engineer. The engineer will provide the town with a one year bond for the full amount of the project. (1989 Code, § 13-111)

**18-112. Water and sewer main extension variances.** Whenever the town council is of the opinion that it is to the best interest of the town and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the town council.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. The town council of the Town of Oliver Springs shall have the power to hear appeals asking for variances from this chapter. The town council shall grant variances from the terms of these provisions, but shall grant variances only when the change shall not violate the spirit of this chapter and shall only allow a fractional change from it. Those found in violation of this chapter will be dealt with using normal legal procedures. Only in cases where the property involved is below the level of the sewer main will a variance to the requirement that a person must connect to the sanitary sewer be considered. Variances shall be in writing. Appeals will be heard at regular council meetings. No variance can be given on violations of state statutes. Variances can be given from the terms of this chapter by reason of exceptional conditions related to the

fall of the land or to obstacles making sewer connection unreasonable. (1989 Code, § 13-112)

**18-113. Meters.** Before a meter is installed by the town, the applicant shall pay an installation fee to the town council. All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1989 Code, § 13-113)

**18-114. Meter tests.** The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. However, if a test required by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$12.00
1-1/2", 2"	15.00
3"	18.00
4"	22.00
6" and over	30.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the town. (1989 Code, § 13-114)

**18-115. Multiple services through a single meter.** No customer shall supply water or sewer service to more than one dwelling or premise from a

single service line and meter without first obtaining the written permission of the town.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the town's applicable water schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1989 Code, § 13-116)

**18-116. Billing.** Bills for residential water and sewer service will be rendered monthly at the option of the town.

Both charges shall be collected as a unit; no municipal employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the 16th day of the month to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the town if the envelope is datestamped on or before the final date for payment of the net amount.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service will be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date which is always the 16th day of the month. The town shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available. (1989 Code, § 13-117)

**18-117. Discontinuance or refusal of service.** The town shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the town for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

No service shall be discontinued unless the customer is given reasonable notice in advance of such impending action and the reason therefor. The customer shall also be notified of his right to a hearing prior to such disconnection if he disputes the reason therefor and requests such hearing by the date specified in the notice. When a hearing is requested, the customer shall have the right to have a representative at such hearing and shall be entitled to testify and to present witnesses on his behalf. Also, when such hearing has been requested, the customer's service shall not be terminated until a final decision is reached by the hearing committee and the customer is notified of that decision. (1989 Code, § 13-118)

**18-118. Re-connection charge.** Whenever service has been discontinued as provided for above, and reconnection is requested within thirty (30) days, a re-connection charge to be set by the town council from time to time by appropriate ordinance or resolution shall be collected by the town before service is restored. If reconnection is requested after thirty (30) days, a new meter installation charge will be required in accordance with § 18-107. (1989 Code, § 13-119)

**18-119. Termination of service by customer.** Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1989 Code, § 13-120)

**18-120. Access to customers' premises.** The town'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 town, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1989 Code, § 13-121)

**18-121. Inspections.** The town shall not be obligated to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The town 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 town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1989 Code, § 13-122)

**18-122. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer properly to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1989 Code, § 13-123)

**18-123. Customer's responsibility for violations.** Where the town furnishes water and/or sewer 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. The customer is responsible for the safe maintenance of his own system on his side of the meter. (1989 Code, § 13-124)

**18-124. Supply and resale of water.** All water shall be supplied within the town exclusively by the town 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 town. (1989 Code, § 13-125)

**18-125. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town. (1989 Code, § 13-126)

**18-126. Limited use of unmetered private fire line.** Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the town a written notice of such occurrence. (1989 Code, § 13-127)

**18-127. Damages to property due to water pressure.** The town 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 town's water mains. (1989 Code, § 13-128)

**18-128. Liability for cutoff failures.** The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the town has failed to cut off such service.

(2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the town's main.

Except to the extent stated above, the town shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible

damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1989 Code, § 13-129)

**18-129. Restricted use of water.** In times of emergencies or in times of water shortage, the town reserves the right to restrict the purpose for which water may be used by customers and the amount of water which customers may use. (1989 Code, § 13-130)

**18-130. Interruption of service.** The town will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1989 Code, § 13-131)

**18-131. Schedule of rates.** All water and sewer service shall be furnished under such rate schedules as the town council may from time to time adopt by appropriate ordinance or resolution.<sup>1</sup>

Adjustments to water and/or sewer rates due to known or suspected leaks is prohibited. (1989 Code, § 13-115)

**18-132. Responsible owner.** The town will require the owner, tenant, or occupant of each lot or parcel of land within the municipality which abuts upon a street or other public way containing a sanitary sewer, the elevation of which will permit a connection with such sanitary sewer, and upon which lot or parcel a building is situated for residential, commercial, or industrial use, to connect such building with such sanitary sewer and to cease to use any other means for the disposal of sewage, sewage waste, or other polluting matter. (1989 Code, § 13-132)

**18-133. Sewer health hazard.** Any broken sewer line or defunct septic tank or field line which is discharging sewage upon the ground is considered a health hazard and must be corrected within ten days after notice to do so by the

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<sup>1</sup>Administrative ordinances and resolutions are of record in the recorder's office.

owner of the property. Such repairs must be approved by the health and building inspector, and a permit must be issued by the health inspector for the continued use of the sanitary sewer, septic tank, or field line. (1989 Code, § 13-133)

**18-134. Sewer on private property.** A utility line extended by a private owner is extended and connected at his own expense and the maintenance of such line is the responsibility of said owner except for trunk lines. All such sewer extensions will be constructed in accordance with town ordinances and will be inspected by the building inspector for a fee set by the town council. The owner will dedicate to the town a ten foot easement on either side of the sewer. Sewer trunk lines will be a 8" line. All laterals will be 6" with connection to residential and small businesses to be not less than 4". Sewer lines will be schedule 40 plastic tile or heavier. Schedule 40 is required for 4", 6", and 8" pipe. The sewer line must have 1/4" drop per foot for 4" lines and less for 6" and 8" lines and must have one cleanout per 75 feet. (1989 Code, § 13-134)

**18-135. Sewer policies.** The town will require the owner, tenant, or occupant of each lot or parcel of land within the town which abuts upon a street or other public way containing a sanitary sewer, the elevation of which will permit a connection with such sanitary sewer, and upon which lot or parcel a building is situated for residential, commercial, or industrial use, to connect such building with such sanitary sewer and to cease to use any other means for the disposal of sewage, sewage waste, or other polluting matter. (1989 Code, § 13-135)

**18-136. Use of saddle.** All connections, except main extensions, shall be made by the use of a saddle. These taps must be made with a tapping machine and with appropriate adapters. A substantial amount of concrete shall be placed around the saddle to insure a water-tight connection. The riser or connecting pipes shall be supported by whatever means necessary to a point where the first full length of horizontally laid pipe is placed on an undisturbed bedding. All connections shall be made with approved adapters and/or special fittings. (1989 Code, § 13-136)

**18-137. Swimming pool regulations.** There will be no sewer adjustments made for filling of private citizen's swimming pool, except in case of where an accident causes damage to the pool. This will be determined on a case by case by the water board. (Ord. #93-15-07, July 1993)

**18-138. Leak adjustment policy.** Whenever the meter readers detect a meter that has an unusual high reading he/she will immediately notify the

customer either in person, or by leaving a printed notice on the door knob informing them of a possible leak.

(1) When the Oliver Springs Water Department receives a complaint of excessive billing, the office manager will first determine if the meter was misread.

(2) If the meter was misread, the office manager may give credit based on a average daily use since the previous months bill.

(3) If the office manager finds the reading is incorrect, but the meter is faulty, he/she will give a credit based on the last six months average.

(4) Customers that are connected to the sewer system will have their water and sewer bill adjusted to the six months average, and all usages over the average will be billed at \$1.45 per 1,000 gallons of water.

(5) If the office manger finds the excessive billing is due to the customers plumbing, he/she will make a report to the town administrator which may make adjustments under the following conditions:

(a) An excessive bill must be at least twice the last six months average.

(b) An excessive bill may be adjusted only once in any twelve month period, except with water board approval.

(c) After the complaint is received, the office manager will have the meter inspected to see that the leak has been permanently repaired, and a letter be prepared by the customer stating the repair.

(d) The adjustment shall be an average of the last six months in which no leak was recorded, and all usage over the average will be billed at a rate of \$1.45 per 1,000 gallons of water.

(e) The customer will not pay a late charge if the adjustment procedure delays payment past the penalty date. (Ord. #93-15-07, July 1993)

## CHAPTER 2

### WASTEWATER REGULATIONS

#### SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Connection to public sewers.
- 18-204. Private domestic wastewater disposal.
- 18-205. Regulation of holding tank waste disposal.
- 18-206. Application for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-207. Discharge regulations.
- 18-208. Industrial user monitoring, inspection reports, records access, and safety.
- 18-209. Enforcement and abatement.
- 18-210. Penalties; costs.
- 18-211. Fees and billing.
- 18-212. Validity.

**18-201. Purpose and policy.** This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the Town of Oliver Springs, Tennessee, wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the system discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system;
- (5) To enable the Town of Oliver Springs to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal, state laws and regulations;
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the Town of Oliver Springs of must have adequate wastewater treatment either in the form of a connection to the municipal wastewater

treatment system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the Town of Oliver Springs and to persons outside the town who are, by contract or agreement with the town users of the municipal wastewater treatment system. Except as otherwise provided herein, the health officer of the Town of Oliver Springs, Tennessee, shall administer, implement, and enforce the provisions of this chapter. (1989 Code, § 8-301)

**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 director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

(3) "Authorized representative of industrial user." An authorized representative of an industrial 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 industrial 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.

(4) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20 centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards." The National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the town's NPDES permit for its

wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(8) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(9) "Control authority." The term "control authority" shall refer to the "Approval authority," defined hereinabove; or the town council if the town has an approved pretreatment program under the provisions of 40 CFR 403.11.

(10) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the town under either an express or implied contract requiring payment to the town for such service.

(11) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(12) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(13) "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 other duly authorized official of the said agency.

(14) "Garbage." Shall mean solid wastes generated from any domestic, commercial or industrial source.

(15) "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.

(16) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(17) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(18) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(19) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act (33 U.S.C. 1342).

(20) "Interference." The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the town's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic

Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(21) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(22) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Federal Water Pollution Control Act as amended.

(23) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard if thereafter promulgated within 120 days of 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.

(24) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or 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.

(25) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(26) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(27) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(28) "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, biological processes, or process changes or other means, except as prohibited by 40 CFR Section 40.36(d).

(29) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.



(30) "Publicly owned treatment works (POTW)." A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Town of Oliver Springs, who are, by contract or agreement with the Town of Oliver Springs users of the town's POTW.

(31) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(32) "Shall" is mandatory; "May" is permissive.

(33) "Slug." Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in 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 concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(34) "State." The State of Tennessee.

(35) "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.

(36) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(37) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the health officer.

(38) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(39) "Superintendent." The health officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(40) "Town." The Town of Oliver Springs or the Town Council, Town of Oliver Springs, Tennessee.

(41) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(42) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a 24-hour period

in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(43) "User." Any person who contributes, causes or permits the contribution of wastewater into the town's POTW.

(44) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(45) "Wastewater treatment systems." Defined the same as POTW.

(46) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof. (1989 Code, § 8-302)

**18-203. Connection to public sewers.** (1) Requirements for proper wastewater disposal. (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 service area of the Town of Oliver Springs, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the town any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

(c) Except as herein provided, 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 sewage.

(d) Except as provided in § 18-203(1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the property line over public access.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(f) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-204 of this chapter.

(2) Physical connection public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The town shall make all connections to the public sewer upon the property owner first obtaining a written permit from the health officer as required by § 18-206 of this chapter.

The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the health officer. A connection fee shall be paid to the town at the time the application is filed.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the town to meet all requirements of this chapter. All others may be sealed to the specifications of the town.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows:

Conventional sewer system - Four inches (4").

Small diameter gravity sewer - Two inches (2").

Septic Tank Effluent Pump - One and one quarter inches (1-1/4").

Where the septic tanks becomes an integral part of the collection and treatment system, the minimum size influent line shall be four inches (4") and the minimum size of septic tank shall be 1,000 gallons. Septic tanks shall be constructed of polyethylene and protected from flotation. The town shall have the right, privilege, and authority to locate, inspect, operate, and maintain septic tanks which are an integral part of the collection and treatment system.

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades:

Four inch (4") sewers - 1/8 inch per foot.

Two inch (2") sewers - 3/8 inch per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of ductile iron pipe class 50 or above or polyvinyl chloride pipe SDR-35 for gravity sewers and SDR-21 for pressure sewers. Joints shall be rubber or neoprene "o" ring compression joints. No other joints shall be acceptable.

(vi) A cleanout shall be located five (5) feet outside of the building, one as it crosses the property line and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of six (6) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches.

(vii) Connections of building sewers to the public sewer system shall be made only by the town and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the town. All such connections shall be made gastight and watertight.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary

sewage carried by such building drain shall be lifted by a pump and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the town before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the health officer or his authorized representative.

(b) The applicant for discharge shall notify the town when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the health officer or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance which will include repair or replacement of the building sewer as deemed necessary by the health officer to meet specifications of the town. (1989 Code, § 8-303)

**18-204. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided

in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-203(2)(e)(viii).

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the town to do so.

(2) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the town stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the health department of the appropriate county.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the Town of Oliver Springs and the health department of the appropriate county. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Town of Oliver Springs and the health department of the appropriate county.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Town of Oliver Springs and the health department of the appropriate county. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the Town of Oliver Springs and the health department of the appropriate county when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Town of Oliver Springs and the health department of the appropriate county.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of Tennessee, the Town of Oliver Springs and the county health department of the appropriate county. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the town's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be

imposed by the Town of Oliver Springs and the health department of the appropriate county. (1989 Code, § 8-304)

**18-205. Regulation of holding tank waste disposal.**

(1) Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the town to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the town when the conditions of this chapter have been met and providing the town is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the town to be set as specified in § 18-211. Any such permit granted shall be for one fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted 3-inch permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The health officer shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The health officer may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the operation of the POTW.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the town. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the Town of Oliver Springs. (1989 Code, § 8-305)

**18-206. Application for domestic wastewater discharge and industrial wastewater discharge permits.** (1) Application for discharge of

domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the town for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the town sewer shall not be made until the application is received and approved by the town, the building sewer is installed in accordance with § 18-201 of this chapter and an inspection has been performed by the health officer or his representative.

The receipt by the town of a prospective customer's application for service shall not obligate the town to render the service. If the service applied for cannot be supplied in accordance with this chapter and the town's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall acquire a permit within 180 days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the town, an application on a prescribed form accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 60 days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the town and shall include, but not be limited to the following information: name, address, and SIC number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-207(1) and (2) discharge variations -- daily, monthly, seasonal and 30 minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the town.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the



application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the town for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter.

(iv) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by § 18-207 of this chapter.

(v) The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the town of a prospective customer's application for wastewater discharge permit shall not obligate the town to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the town's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the town to the applicant of such service.

(vii) The town will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the town that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the town, the town shall deny the application and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the town. Permits may contain the following:

- (i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (ii) Limits on the average and maximum rate and time of discharge or requirements and equalization;
- (iii) Requirements for installation and maintenance of inspections and sampling facilities;
- (iv) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
- (v) Compliance schedules;
- (vi) Requirements for submission of technical reports or discharge reports;
- (vii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording town access thereto;
- (viii) Requirements for notification of the town of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (ix) Requirements for notification of slug discharged;
- (x) Other conditions as deemed appropriate by the town to ensure compliance with this chapter.

(d) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the town within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-206(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user,

different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Revocation of permit. Any permit issued under the provisions of the chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaire, permit application, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the town's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the town as confidential shall not be transmitted to any governmental agency or to the general public by the town until and unless prior and adequate notification is given to the user. (1989 Code, § 8-306)

**18-207. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment

standards or requirements. A user may 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 two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance, hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation

process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or 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.

(g) Any substances which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.

(h) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(i) 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 sewer system which exceeds 65°C (150° F) or causes the influent at the wastewater plant to exceed 40°C (104° F).

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(l) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the town in compliance with applicable state or federal regulations.

(m) Any wastewater which causes a hazard to human life or creates a public nuisance.

(n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty degrees (150°) F (0 and 65° C).

(o) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the town and the Tennessee Department of Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the town and the Tennessee Department of Health, to a storm sewer or natural outlet.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the following set of standards (Table A - User Discharge Restrictions) unless an exception is permitted as provided in

this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

**Table A - User Discharge Restrictions**

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5
Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides & Herbicides	BDL	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants, as MBAS	25.0	50.0
Zinc	3.0	5.0

\*Based on 24-hour flow proportional composite samples.

BDL = Below Detectable Limits

(3) Protection of treatment plant influent. The town shall monitor the treatment works influent for each parameter in the following table. (Table B - Plant Protection Criteria). Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the town shall initiate technical studies to determine the cause of the influent violation and shall recommend to the town the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pre-treatment levels for these parameters. The town shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any

applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

**Table B-Plant Protection Criteria**

<u>Parameter</u>	<u>Maximum Concentration (mg/l) (24 Hour Flow) Proportional Composite Sample</u>	<u>Maximum Instantaneous Concentration (mg/l) Grab Sample</u>
Aluminum dissolved (AL)	3.00	6.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.06	0.12
Barium (Ba)	2.50	5.0
Boron	0.4	0.8
Cadmium (Cd)	0.004	0.008
Chromium Hex	0.06	0.12
Cobalt	0.03	0.06
Copper (Cu)	0.16	0.32
Cyanide (CN)	0.03	0.06
Fluoride (F)	0.6	1.2
Iron (Fe)	3.0	6.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.1	0.2
Mercury (Hg)	0.025	0.05
Nickel (Ni)	0.15	0.30
Pesticides & Herbicides	.001	.002
Phenols	1.00	2.0
Selenium (Se)	0.01	0.02
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Zinc (Zn)	.03	0.6
Total Kjeldahl Nitrogen (TKN)	45.00	90.00
Oil & Grease	50.00	100.00
MBAS	5.00	10.0
BOD	220	350
COD	440	700
Suspended Solids	220	350

(4) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations



imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The town shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(5) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the town from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Health and/or the United States Environmental Protection Agency.

(6) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the town before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the town (or designated official) in person, by the telephone to enable countermeasures to be taken by the town to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC. Each user shall annually certify to the town compliance with this paragraph. (1989 Code, § 8-307)

**18-208. Industrial user monitoring, inspection reports, records access, and safety.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the town.

When in the judgment of the town, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the town may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the town, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The town may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Inspection and sampling. The town shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable

identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(3) Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the town a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a professional engineer registered to practice engineering in Tennessee.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the town during the months of June and December, unless required more frequently in the pretreatment standard or by the town, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the town and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the town may agree to alter the months during which the above reports are to be submitted.

(b) The town may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the town of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in

40 CFR, Part and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the town, Director of the Division of Water Quality Control, Tennessee Department of Health or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the town, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the town or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town employees and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (1989 Code, § 8-308)

**18-209. Enforcement and abatement.** (1) Issuance of cease and desist orders. When the town finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the town shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

- (a) Comply immediately;
- (b) Comply in accordance with a time schedule set forth by the town;
- (c) Take appropriate remedial or preventive action in the event of a threatened violation; or
- (d) Surrender the applicable user's permit if ordered to do so after a show cause hearing.

Failure of the town to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(2) Submission of time schedule. When the town finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a wastewater discharge permit, the town shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the town within 30 days of the issuance of the cease and desist order.

(3) Show cause hearing. (a) The town may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the town council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the town council 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 town council why the proposed 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.

(b) The town council may itself conduct the hearing and take the evidence, or the town council may appoint a person to:

(i) Issue in the name of the town council notice of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the town council for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of reproduction costs.

(d) After the town council or the appointed persons have reviewed the evidence, it/they may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewage, industrial wastes, or other wastes into the town's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the town, the city attorney may commence an action for appropriate legal and/or equitable relief in a court of competent jurisdiction. ( 5 )

Emergency termination of service. The town may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the town to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The town shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the town within 15 days of the date of occurrence.

(6) Public nuisance. Discharges or wastewater in any manner in violation of this chapter or of any order issued by the town council or health officer as authorized by this chapter is hereby declared a public nuisance and shall be corrected or abated as directed by the town council. Any person creating a public nuisance shall be subject to the provisions of the town code or ordinances governing such nuisance.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the town shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating this chapter or the owner or tenant of the property upon which the violation occurs, and the town shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the town shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation,

national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The Town of Oliver Springs shall sue for such damage in any court of competent jurisdiction. (1989 Code, § 8-309)

**18-210. Penalties; costs.** (1) Civil penalties. Any user who is found to have violated an order of the town council or the health officer, or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined not less than fifty and 00/100 dollars (\$50.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense.

(2) Costs recoverable. In addition to the penalties provided herein, the town may recover reasonable attorney's fees, engineering fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder. (1989 Code, § 8-310)

**18-211. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from user's of the town's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the town's schedule of charges and fees may include but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees;
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring; and
- (g) Other fees as the town may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-206 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the town's Sewer Department at the time the application is filed.

(5) Sewer user charges.<sup>1</sup> The town council shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

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<sup>1</sup>Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-206 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program. (1989 Code, § 8-311)

**18-212. Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the Town of Oliver Springs. (1989 Code, § 8-312)



## CHAPTER 3

### CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-301. Definitions.
- 18-302. Standards.
- 18-303. Construction, operation, and supervision.
- 18-304. Statement required.
- 18-305. Inspections required.
- 18-306. Right of entry for inspections.
- 18-307. Correction of existing violations.
- 18-308. Use of protective devices.
- 18-309. Unpotable water to be labeled.
- 18-310. Violations.

**18-301. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the town for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross connection." Any physical arrangement whereby the public water supply is connected, directly or indirectly, with any other water supply system, whether sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections.

(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.

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<sup>1</sup>Municipal code reference

Plumbing and related codes: title 12.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (1989 Code, § 8-401)

**18-302. Standards.** The municipal 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. (1989 Code, § 8-402)

**18-303. Construction, operation, and supervision.** It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Health and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the health officer or his representative. (1989 Code, § 8-403)

**18-304. Statement required.** Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the town 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. (1989 Code, § 8-404)

**18-305. Inspections required.** It shall be the duty of the health officer 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 town and as approved by the Tennessee Department of Health. (1989 Code, § 8-405)

**18-306. Right of entry for inspections.** The health officer or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (1989 Code, § 8-406)

**18-307. Correction of existing violations.** Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the town.

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 town shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the town 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. (1989 Code, § 8-407)

**18-308. Use of protective devices.** Where the nature of use of the water supplied a premises by the water department is such that it is deemed

(1) impractical to provide an effective air-gap separation,  
(2) that the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the town, 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 health officer 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 health officer 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 municipal 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 water superintendent 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 town 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 health officer 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 town.

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 town. (1989 Code, § 8-408)

**18-309. Unpotable water to be labeled.** In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1989 Code, § 8-409)

**18-310. Violations.** The requirements contained herein shall apply to all premises served by the town water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the town to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance

of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined under the general penalty clause for this municipal code of ordinances. (1989 Code, § 8-410)

## CHAPTER 4

### FATS, OILS, AND GREASE

#### SECTION

- 18-401. Voluntary removal of fat, oil, and grease.
- 18-402. Definitions.
- 18-403. Discharge of FOG.
- 18-404. Control of FOG.
- 18-405. Grease Control Equipment (GCE).
- 18-406. Installation of GCE.
- 18-407. Maintenance of GCE.
- 18-408. Additives.
- 18-409. Implementation.
- 18-410. Fees.
- 18-411. Permitting.
- 18-412. Enforcement.
- 18-413. Severability.

**18-401. Voluntary removal of fat, oil, and grease.** The town council of Oliver Springs encourages all users of the sanitary sewer system to take voluntary steps to reduce the amount of fats, oils, and grease that is poured, drained or washed down drains into the sanitary sewer system. (as added by Ord. #2013-04-01, Feb. 2013)

**18-402. Definitions.** In the interpretation and application of this chapter the following words and phrases shall have the indicated meanings:

(1) "Best Management Practices (BMPs)" means actions or schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the requirements of this chapter.

(2) "Fats, Oils, and Grease (FOG)." Organic polar compounds derived from animal and/or plant sources. If lab testing is required to quantify the amount of FOG, the Hexane Extractable Material test is to be used or an equivalent 40 CFR 136 approved method.

(3) "Food Service Establishment (FSE)." Any establishment, business or facility engaged in preparing, serving or making food available for consumption. Single family residences are not a FSE, however, multi-residential facilities may be considered a FSE at the discretion of the wastewater plant head operator and or city manager. FSEs are classified as follows:

Class 1: Deli-engaged in the sale of cold-cut and microwaved sandwiches/subs with no frying or grilling on site, ice cream shops and beverage bars as defined by North American Industrial Classification System (NAICS) 722515 or mobile food vendors as defined by NAICS 722330. Bed and breakfast establishments as defined by NAICS 72119.

Class 2: Limited-service restaurants (a.k.a. fast food facilities) as defined by NAICS 722513 except fast food with a food line that is heavily fried and a history of FOG discharges that interfere with the sanitary sewer system, and catering as defined by NAICS 722320.

Class 3: Full service restaurants as defined by NAICS 722110.

Class 4: Buffet and cafeteria facilities as defined by NAICS 72212.

Class 5: Institutions (schools, hospitals, prisons, etc.) as defined by NAICS 722310 but not to exclude self-run operations.

(4) "Grease, brown." Fats, oils, and grease that are discharged to the grease control equipment.

(5) "Grease, yellow." Fats, oils, and grease that have not been in contact with or contaminated from other sources such as water, wastewater, solid waste and can be readily recycled.

(6) "Grease Control Equipment (GCE)." A device for separating and retaining wastewater FOG prior to the wastewater exiting the FSE property and entering into the sanitary sewer system. GCE includes grease traps and grease interceptors or other devices approved by the wastewater plant head operator or city manager.

(7) "Grease interceptor." An interceptor whose rated flow exceeds fifty (50) gallons per minute (g.p.m.) and is located outside the building.

(8) "Grease trap." An interceptor whose rated flow is fifty (50) g.p.m. or less and is typically located inside the building.

(9) "Grease recycle container." A container used for the storage of yellow grease for recycling.

(10) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity flow.

(11) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the sanitary sewer collection operation, the treatment processes or operations, or the sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(12) "Tee (influent & effluent)." A T-shaped pipe attached to the horizontal influent and effluent pipes of a grease interceptor and extending downward into the trap to depths specified by design which on the influent side forces influent flow into the center of the trap and prevents floating FOG from escaping the effluent pipe.

(13) "Black water." Wastewater containing human waste from sanitary fixtures such as toilets and urinals.

(14) "Gray water." Refers to all other wastewater other than black water. (as added by Ord. #2013-04-01, Feb. 2013)

**18-403. Discharge of FOG.** Oliver Springs Municipal Code § 18-207, "No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW (sanitary sewer system of Oliver Springs)." Prohibited discharges include, "Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty (150) degrees F (0 and 65° C)." (as added by Ord. #2013-04-01, Feb. 2013)

**18-404. Control of FOG.** (1) All existing and new FSEs shall effectively control the discharge of FOG into the sanitary sewer system. A Class 1 FSE may do this through the use of restaurant industry best management practices such as those published by the National Restaurant Association. See: [http://www.foodservicerresource.com/FORMS%20&%20PDFS/FOG\\_ToolKit.pdf](http://www.foodservicerresource.com/FORMS%20&%20PDFS/FOG_ToolKit.pdf). If best management practices fail to prevent sanitary sewer system interferences Class 1 FSEs shall install grease control equipment (GCE) as specified in § 18-405, or by the superintendent.

(2) All new Class 2-5 FSEs shall install grease control equipment in sizes specified in § 18-405 or by the superintendent and properly maintain that equipment in such a way to prevent interference with the sanitary sewer system.

(3) Existing FSEs that do not meet these minimum sizes may continue to use existing GCE and/or best management practices if the discharge from the FSE is not interfering with the sanitary sewer system and the superintendent gives written permission stating that the current GCE and practices are preventing interference with the sanitary sewer system. Upon written notice from the superintendent that the existing GCE or BMPs are inadequate to protect the sanitary sewer system from interference, the FSE shall have sixty (60) days to install additional GCE to prevent FOG interference with the sanitary sewer system.

(4) All FSEs with GCE shall maintain records of cleaning and maintenance of that equipment. Records include at a minimum the date of cleaning or maintenance, company or person conducting the cleaning or maintenance, and the amount of grease and water removed from the equipment. A grease waste hauler completed manifest will meet this requirement.

(5) Yellow grease such as fryer oil, shall not be discharged into the GCE or into stormwater conveyances. The use of yellow grease recycling containers is encouraged.

(6) Owners of commercial property will be held responsible for wastewater discharges from FSE leaseholders on their property.

(7) All FSEs shall provide access to town utility personnel (after proper identification) for the purpose of inspection of GCE, kitchen equipment and



practices, and any cleaning and drain remediation products which relate to the wastewater and FOG discharge. (as added by Ord. #2013-04-01, Feb. 2013)

**18-405. Grease Control Equipment (GCE).** (1) Minimum acceptable size of GCE is as follows. Larger sizes may be required by the superintendent.

- (a) Class 1: 20 gpm/40 lbs grease trap.
- (b) Class 2: 500 gallon grease interceptor.
- (c) Class 3: 1,000 gallon grease interceptor.
- (d) Class 4: 1,500 gallon grease interceptor.
- (e) Class 5: 2,000 gallon grease interceptor.

(2) Any FSE either new or existing that is found by the superintendent to be interfering with the sanitary sewer system may be asked to install GCE that is larger than the minimum size and take other steps to stop that interference.

(3) Existing FSEs that do not meet these minimum sizes may continue to use existing GCE and/or best management practices if the discharge from the FSE is not interfering with the sanitary sewer system and the superintendent gives written permission stating that the current GCE and practices are preventing interference with the sanitary sewer system. Upon written notice from the superintendent that the existing GCE or BMPs are inadequate to protect the sanitary sewer system from interference, the FSE shall have sixty (60) days to install additional GCE to prevent FOG interference with the sanitary sewer system.

(4) Additionally FSEs that discharge the water from dishwashing machines through a grease interceptor shall install a GCE which is larger than the minimum to allow for cooling of the discharge and thereby prevent discharge of FOG into the sanitary sewer system.

(5) Grease traps. These small, under-the-counter units shall be installed according to drawings provided by the superintendent and shall include vented flow restrictor prior to the trap. Dishwashing machines shall not be installed onto these units. Failure to follow this requirement will render the trap ineffective and the FSE shall be instructed to install a large external grease interceptor. (as added by Ord. #2013-04-01, Feb. 2013)

**18-406. Installation of GCE.** (1) Owners/users are responsible for installation of the GCE.

(2) Grease traps shall be installed according to the requirements in § 18-405.

(3) Grease interceptors shall be substantially similar to sample drawings available from the superintendent.

(4) Tanks must be water tight and protected from rainwater inflow and infiltration.

(5) Two (2) access manholes with a minimum of twenty-four inch (24") diameter shall be provided, one directly over the influent pipe and Tee and one directly over the effluent pipe and Tee.

(6) Influent and effluent pipes shall be four inches (4") or larger PVC Schedule 40 or stronger.

(7) Influent and effluent pipes shall be equipped with Tee fittings properly positioned to direct influent downward to within two thirds (2/3) of the floor, and effluent Tee shall block all surface grease and terminate twelve inches (12") above the floor.

(8) The tank shall be constructed to have two (2) compartments. Two thirds (2/3) of the volume shall be in the influent side and one third (1/3) on the effluent side. A solid baffle wall shall extend from the bottom to within six inches (6") of the top and shall be equipped with a six inch (6") elbow installed in the baffle wall two thirds (2/3) of the depth from the surface to allow water to flow between compartments.

(9) Manhole covers shall be of materials and strength to withstand expected surface loads, and secured to prevent accidental entry.

(10) Interceptors shall be located for effective cleaning and not blocked by structures or landscaping.

(11) Interceptor sizes greater than two thousand five hundred (2,500) gallons shall be satisfied by two (2) tanks installed in series. (as added by Ord. #2013-04-01, Feb. 2013)

**18-407. Maintenance of GCE.** (1) Owners/users are responsible for maintenance of the GCE.

(2) Grease traps should be cleaned once every two weeks, or sometimes more often, if the combined depth of FOG and solids exceed fifty percent (50%) of the trap.

(3) Grease interceptors shall be pumped when the layer of FOG and settled solids combined reaches twenty-five percent (25%) of the tank depth.

(4) When grease interceptors are pumped, the entire contents, FOG layer, settled solids and water shall be fully removed. No water may be returned to the tank.

(5) Interceptors shall be inspected for deterioration and damage by the waste grease hauler each time the unit is cleaned.

(6) Deteriorated or damaged tanks shall be repaired or replaced within sixty (60) days. (as added by Ord. #2013-04-01, Feb. 2013)

**18-408. Additives.** (1) Additives include but are not limited to products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes and bacteria. They may be inorganic or organic in origin.

(2) The use of additives is prohibited with the following exceptions:

(a) Additives may be used to clean FSE drain lines but only in such quantities that will not cause FOG to be discharged from the GCE

to the sanitary sewer or cause temporary breakdown of the FOG that will later re-congeal in the downstream sewer pipes.

(b) If a product used can be proven to contain one hundred percent (100%) live bacteria, with no other additives, a request for permission to use the product shall be made to the superintendent. The request must be submitted in writing with a full disclosure material safety data sheet and a certified statement from the manufacturer. (as added by Ord. #2013-04-01, Feb. 2013)

**18-409. Implementation.** This chapter empowers the superiniendent to adopt reasonable operating policies to facilitate the implementation of this chapter. These policies may include but are not limited to: FSE inspections, GCE sizing and maintenance, FSE wastewater discharge testing and monitoring, approval or disapproval of GCE servicing vendors (grease waste haulers), permitting of FSEs, and other operating policies needed to protect the sanitary sewer system from interference from FOG. (as added by Ord. #2013-04-01, Feb. 2013)

**18-410. Fees.** This chapter empowers the town to estitblish fees (through a separate fee ordinance) to offset costs associated with the implementation of this chapter. Possible fees include: inspection fees, permitting fees, surcharge fees for high strength discharges, cleanup fees associated with FOG cleanup within the sanitary sewer system, and other fees necessary for implementation of this chapter. (as added by Ord. #2013-04-01, Feb. 2013)

**18-411. Permitting.** The town may use FSE permits as a way of implementing this chapter, and may further require the permitting or certification of GCE service and pumping vendors. (as added by Ord. #2013-04-01, Feb. 2013)

**18-412. Enforcement.** Violators of this chapter may be issued FSE permits, cited to city court, general sessions court, chancery court, or other court of competent jurisdiction, face fines, have water and/or sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or user and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all of the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety

or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user; and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (as added by Ord. #2013-04-01, Feb. 2013)

**18-413. Severability.** If any section, phrase, sentence or portion of this chapter is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of remaining portions thereof. (as added by Ord. #2013-04-01, Feb. 2013)

## CHAPTER 5

### WATER CURTAILMENT

#### SECTION

- 18-501. Authorization to declare.
- 18-502. Prohibited situations.
- 18-503. Category shall be declared.
- 18-504. Scaling declaration to be made by mayor and city manager.
- 18-505. Water shortage emergency categories.
- 18-506. Implementations.
- 18-507. Water waste prohibited.
- 18-507. Enforcement of ordinance.
- 18-508. No supply or pressure guarantee during shortage.
- 18-509. Definitions.

**18-501. Authorization to declare.** The mayor and city manager jointly are hereby authorized to declare a water shortage emergency to exist in accordance with the standards set out in § 18-503. The declarer must immediately attempt to contact all alder members to inform them of the emergency action. An end to a water shortage emergency must be declared by the mayor and board of alderman. (as added by Ord. #2017-01-05, Dec. 2016 *Ch3\_2-9-19*)

**18-502. Prohibited situations.** The following situations are prohibited within the system's service area, when a water shortage emergency has been declared under § 18-501:

- (1) Failure to repair a controllable leak of water; and
- (2) Use of a lawn sprinkler system during or immediately after a rain event. (as added by Ord. #2017-01-05, Dec. 2016 *Ch3\_2-9-19*)

**18-503. Category shall be declared.** The declaration of a water shortage emergency shall designate whether it is a category 1, 2 or 3. Water shortage emergencies as outlined in § 18-505 of this ordinance. (as added by Ord. #2017-01-05, Dec. 2016 *Ch3\_2-9-19*)

**18-504. Scaling declaration to be made by mayor and city manager.** The declaration may be scaled up or down during the emergency, as declared by the mayor in conjunction with city manager. (as added by Ord. #2017-01-05, Dec. 2016 *Ch3\_2-9-19*)

**18-505. Water shortage emergency categories.** The Town of Oliver Springs has four (4) categories of a water shortage emergency. They are listed below with an initiating condition and the actions to be taken in each category.

Category	Initiating Conditions	Actions
1. Water alert	Drought conditions in the region become serious enough for the forestry division to ban issuing burn permits.	Voluntary water reductions. Notify water board.
2. Serious shortage	When the water department has to purchase twenty percent (20%) more than the annual average due to lack of flow at the raw water source.	Mandatory water reduction. Notify water board.
3. Critical shortage and water emergency	Drought conditions become severe enough that the source of raw water has been fully depleted or water source has been contaminated.	Water use prohibitions. Immediate notification of implementation of stage 1 and 2 actions. Seek assistance from other agencies. Emergency water board meeting.

(as added by Ord. #2017-01-05, Dec. 2016 *Ch3\_2-9-19*)

**18-506. Implementations.** The following will be implemented as listed for each of the water shortage categories in § 18-505 once a water shortage emergency has been declared.

(1) Category 1---Water alert. The declaration will activate a process to notify the customers of the potential water shortage and what voluntary measures that are asked to be implemented.

The customers will be asked to voluntarily:

(a) Cease frivolous use of water.

(b) Notify the local news media, if appropriate, to ask for their assistance in notifying customers.

(c) Initiate other water conservation measures

(2) Category 2---Serious water shortage. The declaration will activate a process to notify the customers of the potential water shortage and what mandatory water restrictions are in effect.

(a) Cease frivolous use of water.

(b) Notify the local news media, if appropriate, to ask for their assistance in notifying customers.

(c) Notify outside agencies for assistance.

(d) Notify the fire department of the situation.

(e) Initiate other water conservation measures

(f) Watering of landscape is prohibited, except for sod or plants which were planted within the last four (4) weeks.

(g) No water for washing motorbikes, motor vehicles, boat trailers, or other vehicles except at a commercial washing facility that practices wash water recycling. (Exceptions include vehicles that must be cleaned to maintain public health and welfare such as food carriers and solid waste transfer vehicles.)

(h) No water to wash sidewalks, walkways, driveways, parking lots, and other hard-surfaced areas.

(i) No water to wash buildings and structures, except as needed for painting or construction.

(j) No water for a fountain or pond for aesthetic or scenic purposes, except where necessary to support fish life.

(k) No water for dust control unless absolutely necessary.

(l) No water for gutter cleaning.

(m) Flushing of fire hydrants or water-mains will only be allowed to preserve water quality or system maintenance.

(n) No water to fill, refill, or add to any indoor or outdoor swimming pools or hot tubs, except if one of the following conditions is met: the pool is used for a neighborhood fire control supply or the pool's use is required by a medical doctor's prescription.

(3) Category 3---Critical water shortage and emergency shortage. The declaration will activate a process to notify the customers of the potential water shortage and what mandatory water restrictions are in effect.

(a) No water from hydrants for construction purposes (except on a case-by-case basis), fire drills, or any purpose other than firefighting.

(b) Implement limitations on commercial uses of water, depending on the severity of the shortage.

(c) Issue public service announcements to notify customers of the severity of the conditions.

(d) All Category 1 and 2 restrictions will be in effect.

(e) Call an emergency city council meeting. These decisions will be based upon whether the water use is defined as essential use, domestic use or non-essential use per the definitions found in § 18-509 of this ordinance.

(f) Implement other actions as deemed necessary by the city council. Implement backup plans: such as purchasing water from other systems, hauling water to the city, designating water distribution points and supplying bottled water.

**18-507. Enforcement of ordinance.** Water/waste prohibitions set forth in this ordinance will be strictly enforced. Violators may be cited pursuant to Oliver Springs Municipal Code, and water service may be interrupted for repeat violations as set forth herein. (as added by Ord. #2017-01-05, Dec. 2016 *Ch3\_2-9-19*)

**18-508. No supply or pressure guarantee during shortage.** The city cannot and does not guarantee either sufficient supply or adequate or uniform pressure during a water shortage. The city shall not be liable for any damages or loss resulting from an inadequate or interrupted supply, from pressure variations, or for damages from the resumption of service when such conditions are not due to willful fault or neglect on its part. (as added by Ord. #2017-01-05, Dec. 2016 *Ch3\_2-9-19*)

**18-509. Definitions.** (1) "Essential use." The use of water is strictly for firefighting, safety, sanitation, health and medical purposes, and the use to satisfy federal, state and local public health and safety requirements.

(2) "Domestic use." Any use of water for household purpose such as drinking, bathing, heating, cooking, sanitation or cleaning, whether the use occurs in a residence or in a commercial or industrial establishment.

(3) "Non-essential use." All other uses for water other than essential or domestic use. (as added by Ord. #2017-01-05, Dec. 2016 *Ch3\_2-9-19*)



**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

1. ELECTRICITY.
2. GAS.

**CHAPTER 1**

**ELECTRICITY**<sup>1</sup>

**SECTION**

19-101. To be furnished by the Clinton Utilities Board.

**19-101. To be furnished by the Clinton Utilities Board.** Electricity shall be provided to the Town of Oliver Springs and its inhabitants by the Clinton Utilities Board. The rights, powers, duties, and obligations of the Town of Oliver Springs and its inhabitants, are stated in the agreements between the parties.<sup>2</sup> (1989 Code, § 13-201)

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<sup>1</sup>Municipal code reference  
Electrical code: title 12.

<sup>2</sup>The agreements are of record in the office of the recorder.

**CHAPTER 2****GAS**<sup>1</sup>**SECTION**

19-201. To be furnished by the Powell-Clinch Utility District.

**19-201. To be furnished by the Powell-Clinch Utility District.** Gas shall be provided to the Town of Oliver Springs and its inhabitants by the Powell-Clinch Utility District. The rights, powers, duties, and obligations of the Town of Oliver Springs and its inhabitants, are stated in the agreements between the parties.<sup>2</sup> (1989 Code, § 13-301)

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<sup>1</sup>Municipal code reference  
Gas code: title 12.

<sup>2</sup>The agreements are of record in the office of the recorder.

**TITLE 20****MISCELLANEOUS****CHAPTER**

1. LIBRARY BOARD OF DIRECTORS.
2. PARKS AND RECREATION DEPARTMENT.
3. PARTITION FENCES.
4. CEMETERY BOARD OF DIRECTORS.
5. SKATE PARK REGULATIONS.
6. PUBLIC RECORDS POLICY.

**CHAPTER 1****LIBRARY BOARD OF DIRECTORS****SECTION**

- 20-101. Established.
- 20-102. Library to comply with law.
- 20-103. Membership, appointment, and vacancies.
- 20-104. Terms, vacancies, and holdovers.
- 20-105. Officers and duties.
- 20-106. Duties of the board.

**20-101. Established.** In order that the Town of Oliver Springs may operate a library which will provide educational, cultural, and other general functions required for the public welfare, and since this library must have guidance, be fiscally responsible, and have fiscal supervision, the town council, believing it to be in the best interest of all the citizens of Oliver Springs, hereby establishes a board of directors for the library. (1989 Code, § 1-901)

**20-102. Library to comply with law.** The library, as a financial and service recipient member of the Tennessee Regional Library System, shall abide by the state law relative to libraries. (1989 Code, § 1-902)

**20-103. Membership, appointment, and vacancies.** The board of directors of the Oliver Springs Library shall consist of five (5) members, one member being a councilman, who shall generally provide guidance for the operation of the library.

The council member of the board shall be appointed by the mayor at the first meeting of the town council in each fiscal year.

The other four (4) members of the board of directors shall be qualified voters and preferably residents of the town.

Election to the board shall be by the town council, after notification by the town council.

Interim vacancies on the board shall be filled by the town council, after notification by the council member or the board chairperson, from a list of persons nominated by the public or by the town council. (1989 Code, § 1-903)

**20-104. Terms, vacancies, and holdovers.** The four (4) citizen board members shall serve for a single four year term except that in order to achieve continuity initially, one director shall be elected for a term of one year, one director for a term of two years, one director for a term of three years, and one director for a term of four years. The incumbent members of the board at the time of passage of the provisions of this chapter shall continue in their normal term of office.

Interim vacancies shall be declared upon the resignation, death, change in residency out of the region of the town of a member, or when a member misses two (2) consecutive meetings within one year without sufficient reasons.

In the event that the town council fails to elect a successor to any member at the end of the normal term of office, that member shall continue in office as a qualified member of the board until officially replaced. (1989 Code, § 1-904)

**20-105. Officers and duties.** The board shall annually elect a chairperson, a vice chairperson, a secretary, and a treasurer from their number at the first regular meetings after the beginning of the fiscal year.

The vice chairperson shall assume the duties of the chairperson when the chairperson is absent from the town, temporarily incapacitated, etc.

The secretary shall be responsible for keeping minutes of all meetings or business conducted by the board, and these minutes shall be retained as a permanent record. The records shall be made available for inspection by any citizen.

The treasurer shall be responsible for ascertaining the validity of bills presented for payment, based upon budget appropriations and official board action, and presenting such valid bills to the town administrator for payment from the library's account. Monies from any source related to the library programs, or gifts thereto, shall be promptly deposited with the town treasurer and credited to the library's account. The treasurer shall keep a financial account of income and approved disbursements and provide a quarterly record thereof to the board. The records of the treasurer shall be made available, if requested, for aiding an audit of the library's account. (1989 Code, § 1-905)

**20-106. Duties of the board.** The board shall establish the need for positions of employment and recommend these positions of employment to the town council for all functions of the library, including a librarian, and fix compensation for the same within the budget and make recommendations to the town administrator regarding the employment of any employee for the library.

It shall be the responsibility of the board, in cooperation with the head librarian, to establish library policy.

It shall be the board's responsibility to authorize payment for any expense not specifically provided for in the budget. All authorized disbursements shall be by check issued against the account of the library and signed by the town administrator or an officer appointed by him.

The board shall submit a proposed detailed annual budget to the town council prior to the council adopting the annual town budget, and it shall be considered along with the regular town budget and shall be in accord with sections of the municipal code, except that unused funds, donations, or other income not designated for a specific purpose by the donor shall be held in the library account to reduce the amount needed as an appropriation for operations for the ensuing year, or for needed repair, replacement, or capital improvements.

The board shall solicit volunteers and funds from organizations, clubs, and individuals for various educational and cultural programs. (1989 Code, § 1-906)

## CHAPTER 2

### PARKS AND RECREATION DEPARTMENT

#### SECTION

- 20-201. Creation and general duties.
- 20-202. Director; compliance with law; finances.
- 20-203. Recreational areas and opportunities.
- 20-204. Recreational programs.
- 20-205. Purchases, concessions, gifts, etc.
- 20-206. Powers, duties, and qualifications of park director.
- 20-207. Park rules and regulations.

**20-201. Creation and general duties.** There is hereby created a park and recreation department and the town council shall assume the duties and obligations of the recreation board including upkeep and maintenance of parks, hiring, establishing financial obligations (past, present, and future), hearing citizen complaints, scheduling activities, and insuring the parks against liabilities. (1989 Code, § 1-1001)

**20-202. Director; compliance with law; finances.** The parks and recreation department shall be placed under a full time director. The director will be answerable to the mayor and town council.

The parks and recreation department will adhere to all laws, ordinances, and codes of the town.

Basic control of financial matters will rest with the town council, which is the primary funding agency. (1989 Code, § 1-1002)

**20-203. Recreational areas and opportunities.** Arrowhead Park and other town parks and recreation area are public property and as such shall provide recreational opportunities for all citizens and adequate time to participate in same.

The maintenance and upkeep of Arrowhead Park and other town parks and recreation areas shall be carried out by the town. (1989 Code, § 1-1003)

**20-204. Recreational programs.** Recreation programs will be developed and implemented by the parks and recreation director.

Programs shall include, but not be limited to, softball, tennis, baseball, basketball, soccer, physical fitness, and crafts. (1989 Code, § 1-1004)

**20-205. Purchases, concessions, gifts, etc.** All purchases for the parks and recreation department will be made through purchase orders and the approval of the town administrator.

The sale of concessions will be under the parks and recreation director and will be carried out equitably through the participation of various clubs and organizations providing their own materials and work force.

All gifts and donations will be turned in to the town treasurer and a receipt for same will be issued. Such gifts and donations will be placed in the recreation fund to become part of the parks and recreation committee budget. (1989 Code, § 1-1005)

**20-206. Powers, duties, and qualifications of park director.** The park director shall be the chief administrative officer in charge of the management of public parks, playgrounds, and other recreational area and of a comprehensive recreational program for the area of the Town of Oliver Springs. He shall administer the policies of the town council, recommend rules and regulations to the town council for its consideration, and perform such other duties as may be assigned to him by the town council. The director shall have training and successful experience in park and recreational work and shall hold at least a bachelor's degree in recreation and be of strong character. The park director shall devote full time to his job and shall:

(1) Assume responsibility for the maintenance and upkeep of Arrowhead Park and other town parks and recreation areas through the assistance of the other departments of the town government (streets, sanitation, water, fire, and police).

(2) Assume the responsibility for the scheduling of all activities of Arrowhead Park and other town parks and recreation areas.

(3) Assume the responsibility in conjunction with the Oliver Springs Police Department for the maintenance of law and order at Arrowhead Park and other town parks and recreation areas.

(4) Assume the responsibility for the development and implementation of programs for all age groups in the area of, among other things:

- (a) Softball.
- (b) Baseball.
- (c) Tennis.
- (d) Physical fitness.
- (e) Basketball.
- (f) Crafts.
- (g) Soccer.

(5) Assume the responsibility for overseeing and directing the sale of concessions.

(6) Report to the town council at least once monthly at a regular or called council meeting.

(7) Assume the responsibility for directing all finances from the park activities through the town treasurer and for following established procedures (purchase orders) for the expenditure of funds. (1989 Code, § 1-1006)

**20-207. Park rules and regulations.** (1) In general. The rules contained in this section shall apply in general as follows:

(a) Any requirement or provision of this section relating to any act includes the causing, procuring, or aiding of the act, or the permitting or allowing of any minor to do any prohibited act.

(b) A park employee in the performance of his duties is not bound by these rules.

(c) Any act prohibited by these rules may be performed under a permit obtained from the town council or park director.

(d) Copies of these rules are to be posted in the parks and are presumed to be known by all park users.

(2) Prohibited uses. The following uses are prohibited:

(a) Vandalism of any park structures or grounds.

(b) Littering, including placing household garbage in park receptacles.

(c) Sound track advertising.

(d) Disorderly conduct.

(e) Gambling in any form.

(f) Fireworks and firearms.

(g) Injuring, harassing, or feeding animals.

(h) Consumption of alcoholic beverages and possession of illegal drugs.

(3) Regulated uses. The following uses are subject to permit or other restriction:

(a) Permits must be obtained to reserve park facilities, use the park for any prohibited use, or when otherwise required by this subsection.

(b) Facilities may be reserved only by persons within the Oliver Springs town limits.

(c) Placing posters and signs is prohibited except by permit.

(d) Selling of any merchandise is prohibited except through the concession stands or by permit.

(e) Building of fires is prohibited except in grills or by permit.

(f) Skating and skateboarding on roadways is prohibited except where permitted by signs or by permit.

(g) Camping is prohibited except by permit.

(h) Model aviation is permitted except in the vicinity of playing fields and playgrounds which are in use.

(i) Horses are prohibited except where permitted by signs.

(j) Any sport, game, or competition is permitted in proper areas except where prohibited by signs.

(k) Pets must be under the control of their owners. Any pet found at large may be seized and impounded by the humane department of Oliver Springs.



(l) Park hours are 7:30 A.M. to 11:00 P.M. No person will be allowed to remain in the park after 11:00 P.M. except by permit. Persons will be allowed to enter the park between sunrise and 7:30 A.M. by permit or by parking outside the park and entering on foot.

(4) Regulation of vehicles. The following regulations apply to vehicle use in park areas:

(a) Regulatory signs must be observed unless directed otherwise by a police officer or park employee.

(b) Speed limit throughout the park is 15 miles per hour.

(c) Reckless driving is prohibited.

(d) Motorized vehicles are confined to the roads and parking areas and are not to be driven on any turf or trail unless so directed by a police officer or park employee. No vehicles of any kind, including bicycles, are to be driven on baseball, softball, or football fields.

(e) Only licensed drivers are to operate motorized vehicles inside the park. Driving lessons shall not be given in the park.

(f) Maintenance of vehicles, such as changing oil is prohibited in the park. (1989 Code, § 1-1007)

## CHAPTER 3

### PARTITION FENCES

#### SECTION

#### 20-301. Partition fences.

**20-301. Partition fences.** The installation of any fence, including retaining walls, within ten (10) feet of any property line, public right-of-way, or public or private easement, shall be governed by the following:

(1) Prior to the installation or construction of fencing subject to this chapter, the property owner or agent shall present to the building inspector a copy of the official parcel or lot plat, or a copy of Roane County Tax Map showing the measured proposed location of said fencing, the names and telephone number of adjacent property owners, and the address of the property upon which the fence is being placed, erected, or constructed.

(2) The property owner/agent shall be provided a fencing registration form by the building inspector. The form is to be completed by the property owner/agent and returned to the building inspector prior to installation of fence.

(3) Private fencing shall not be placed on any public lands or easements without written prior approval. Where a fence is permitted on a public easement, it shall be setback at least three feet from the curb or the inside bank or edge of ditchlines, and if there is no curb or ditch, then, at a distance approved by the town administrator. No fence shall be erected that encloses either water meters or hydrants.

(4) Gates shall be located so that they will not block public sidewalks, streets, or easements. Fences shall not be erected in a manner that creates a hazard for drivers on public streets or drives entering or exiting a private driveway.

(5) Fencing less than six feet high shall contain no sharp edges such as barbs, spikes, or broken glass. Where such edges are used on fences of over six feet, warning notices shall be visibly posted.

(6) Fences shall not be electrical.

(7) Fences shall be of a design, quality, and construction that is generally acceptable and compatible in the neighborhood (approximately eight hundred feet on either side and two hundred feet to the front and rear).

(8) Fences may be erected as noise barriers, but shall comply with the above regulations.

(9) Variations from these regulations may be referred to the planning commission by the building inspector for comment and must be acted upon by the board of zoning appeals.

(10) Fences used to enclose swimming pools are exempt from the provisions of subsection (7) above. (1989 Code, § 4-601)

## CHAPTER 4

### CEMETERY BOARD OF DIRECTORS

#### SECTION

- 20-401. Established.
- 20-402. Cemetery to comply with law.
- 20-403. Membership, appointment, and vacancies.
- 20-404. Terms, vacancies, and holdovers.
- 20-405. Officers and duties.
- 20-406. Duties of the board.
- 20-407. Power, duties, and qualifications for cemetery director.
- 20-408. Enhancement of cemetery.
- 20-409. Effective date.

**20-401. Established.** Although the Oliver Springs Cemetery Company has operated since 1888 in a reasonable, proper, and effective manner, after on hundred twenty (120) years of great changes and progress, it is appropriate that the Town of Oliver Springs acquire the assets of and operate the cemetery in order to provide for the continuity of and the continued operation of the cemetery. (as added by Ord. #08-06-05A.1, June 2008)

**20-402. Cemetery to comply with law.** The cemetery, as a final resting place for the remains of friends, relatives, and loved ones, shall comply with state law to the extent that state law applies, relative to cemeteries and the burial of bodies. (as added by Ord. #08-06-05A.1, June 2008)

**20-403. Membership, appointment, and vacancies.** The board of directors of the Oliver Springs Cemetery shall consist of five (5) members, one (1) member who shall be the city manager, one (1) member who shall be a councilman, and the other three (3) members shall be interested citizens and preferably residents of the town.

The town council member of the board shall be appointed by the mayor at the first meeting of the town council in each fiscal year.

The three (3) interested citizen members of the board of directors shall serve as volunteers and shall not be entitled to any compensation from the town. The city manager and the council member shall serve without any additional compensation from the town.

Election for the remaining members and/or the filling of any interim vacancy(ies) of the board shall be by town council. Interested citizens may make nominations of board members in writing and deliver their nominations to the mayor, who shall in turn submit any nominations to town council for a vote. (as added by Ord. #08-06-05A.1, June 2008)

**20-404. Terms, vacancies, and holdovers.** The term of the city manager director shall run concurrently with his/her service as city manager. The term of the town council member director shall run concurrently with his/her town council alderman term of office. The term of the remaining three (3) citizen directors shall be four (4) years, as established and set out as follows.

(1) The term of the citizen director position currently held by Tammy Barger shall expire on June 30, 2023, and the term of this citizen director seat shall then be four (4) years, with this citizen director term beginning on July 1, 2023, and expiring on June 30, 2027.

(2) The term of the citizen director position currently held by Mark Silvey shall expire on June 30, 2020, and the term of this citizen director seat shall then be four (4) years with this citizen director term beginning on July 1, 2020, and expiring on June 30, 2024.

(3) The term of the citizen director position currently held by Curt Gouge shall expire on June 30, 2022, and the term of this citizen director shall then be four (4) years, with this citizen term beginning on July 1, 2022 and expiring on June 30, 2026.

(4) Thereafter each citizen director shall serve a four (4) year term beginning and ending his/her four (4) year term coinciding with the appropriate fiscal year cycle.

(5) Interim vacancies shall be declared upon the resignation, death, or when a member misses two (2) consecutive meetings within one (1) year without sufficient reason.

(6) In the event that the town council fails to elect a successor to any director at the end of the normal term of office, that director shall continue in office as a qualified director of the board until officially replaced. (as added by Ord. #08-06-05A.1, June 2008, and replaced by Ord. #2018-08-16B, Aug. 2018 *Ch3\_2-7-19*)

**20-405. Officers and duties.** The board shall annually elect a chairperson, a vice chairperson, secretary, and a treasurer from their number at the first regular meeting after the beginning of the fiscal year. The chairperson shall also serve as the cemetery director. The chairperson, the vice chairperson, the secretary, the treasurer, and the cemetery director shall serve as volunteers and shall not be entitled to any compensation from the town.

The vice chairperson shall assume the duties of the chairperson when the chairperson is absent from the town, temporarily incapacitated, or absent from the meeting.

The secretary shall be responsible for keeping minutes of all meetings or business conducted by the board. These minutes shall be retained as a permanent record. The records shall be made available for inspection by any citizen.

The treasurer shall be responsible for ascertaining the validity of bills presented for payment, based upon budget appropriations, based upon revenues

generated from the sale of cemetery lots, based upon donations and contributions, based upon any other sources of revenue, and based upon official board action. The treasurer shall be responsible for presenting such valid bills to the town administrator for payment from the cemetery's account. Monies from any source related to the cemetery, the cemetery program, or gifts thereto, shall be promptly deposited with the town treasurer and credited to the account of the cemetery. The treasurer shall keep a financial account of income and approve disbursements and provide a quarterly record thereof to the board. The records of the treasurer shall be made available according to law. (as added by Ord. #08-06-05A.1, June 2008)

**20-406. Duties of the board.** The board shall be responsible for and coordinate the operation, maintenance, and up keep of the cemetery. As an expression of legislative intent, town council anticipates that the operation of the cemetery shall require no part time or full time employees compensated in any shape, form, or fashion by the town. On the contrary, it is contemplated that the mowing and trimming of the grass and any maintenance or repair may be performed by any voluntary or "in-kind" donations of funds, labor, equipment, supplies, and materials, in order that the cemetery may be kept in a good and reasonable condition. Provided however, that if there are not enough voluntary or "in-kind" contributions of labor, funds, equipment, supplies, and materials for the mowing and trimming of the grass and for any maintenance or repair, this aforesaid work and maintenance may be contracted and paid out of the cemetery budget. Provided further however, the mayor, with a view toward fiscal responsibility, may authorize and appropriate a reasonable amount of work, equipment, or supplies, to be provided on behalf of the cemetery to maintain it in a reasonable condition and state.

It shall be the responsibility of the board, in co-operation with any funeral homes in the area, and with input from the citizens, to establish cemetery policy.

It shall be the responsibility of the board to authorize payment for any expense not specifically provided for in the budget. All authorized disbursements shall be made by check issued against the account of the cemetery and signed by the town administrator or an officer appointed by him. The board shall submit a proposed detailed annual budget to town council prior to the town council adopting the annual town budget, and it shall be considered along with the regular town budget, and shall be in accord with the sections of the municipal code, except that unused funds, donations, or other income not designated for a specific purpose by the donor shall be held in the cemetery account to reduce the amount needed as an appropriation for operations for the ensuing year, or for needed repair, replacement, maintenance, or capital improvements.

The board shall also establish the sale price for any cemetery lot(s). The sale price shall be based upon what is fair and reasonable, under the then prevailing circumstances, taking into consideration the need for all citizens to

have access to cemetery plots as compared to the need for the current and future maintenance, operation, and up keep of the cemetery. It is contemplated that the cemetery operated and managed under this section of the municipal code shall be operated as a public service to the community, not only for burial spaces, but also for memorial services, historical purposes, and other community activities and purposes, but not necessarily operated in such a way as to make a great profit.

The board shall solicit and accept volunteer labor and contributions of all types of property and funds from individuals, organizations, corporations, clubs, and may solicit grant funding from various private and governmental organizations, for various cemetery and cemetery related programs. (as added by Ord. #08-06-05A.1, June 2008)

**20-407. Power, duties, and qualifications for cemetery director.**

The chairperson of the board shall serve as the cemetery director. The cemetery director shall serve as a volunteer and shall not be entitled to any compensation from the town.

The cemetery director shall be the chief administrative officer in charge of the management of the cemetery. He shall administer the policies of the cemetery as promulgated by the board and the town council. He shall keep as accurate a record as is possible under the circumstances, of the books, records, and maps of the cemetery, showing the occupied and unoccupied burial spaces; the unoccupied burial spaces available for sale; and the unoccupied burial spaces that have been sold to individuals in anticipation of future need.

The cemetery director shall also take responsibility for the execution of any cemetery plot contracts and deeds, and collect any purchase proceeds therefrom, and deposit same with the treasurer, who shall then deposit same with the town treasurer for appropriate credit to the cemetery account.

The cemetery director shall work with the board treasurer, the town treasurer, and other officials of the town, and the other officers and directors of the cemetery in order that the bills and expenses of the cemetery may be paid and in order the cemetery may be best operated and managed. (as added by Ord. #08-06-05A.1, June 2008)

**20-408. Enhancement of cemetery.** In the event that town council should decide, after due deliberation, that the purposes and goals of the cemetery may be better accomplished and served by an appropriate non-profit corporation or agency of some suitable nature and intention, town council may vote to convey and transfer the assets of the cemetery to said appropriate non-profit corporation or agency. (as added by Ord. #08-06-05A.1, June 2008)

**20-409. Effective date.** This chapter shall become effective on this the 19th day of June, 2008, the public welfare requiring it. (as added by Ord. #08-06-05A.1, June 2008)

## CHAPTER 5

### SKATE PARK REGULATIONS

#### SECTION

20-501. Definitions.

20-502. Regulations.

20-503. City manager to post regulations.

**20-401. Definitions.** For purposes of this section certain words or phrases are defined as follows:

(1) "Skate park" shall mean the portion of Arrowhead Park which has been set aside and dedicated for use by persons using rollerblades, skateboards, bicycles and similar devices as defined hereinafter.

(2) "Skateboard and rollerblade" shall mean skateboard, rollerblade, in-line skate, roller skate any other similar device approved by the town council for use in Arrowhead Park. (as added by Ord. #08-08-07, Aug. 2008)

**20-402. Regulations.** It shall be unlawful for any person within the skateboard park to:

(1) Ride, operate, or use any device other than skateboards, rollerblades or bicycles;

(2) Ride, operate, use skateboards; rollerblades or bicycles unless that person is wearing a helmet designed for use with skateboards, rollerblades or bicycles and is in good repair at all times during use;

(3) Place or utilize additional obstacles or other materials (including, but not limited to ramps or jumps);

(4) Ride, operate, or use skateboards, rollerblades or bicycles before or after the posted hours of operation;

(5) Use or consume alcohol, tobacco products, or illegal drugs;

(6) Use or possess glass containers, bottles, or other breakable glass products;

(7) Fail to obey any other rule or regulation posted on or near the facility. (as added by Ord. #08-08-07, Aug. 2008)

**20-403. City manager to post regulations.** The town council shall establish and post the times of day and dates when the skateboard park may be used. The skateboard park may be closed at the discretion of the city manager for any reason including but not limited to: weather, vandalism or equipment damage. Entry upon or use of the skateboard park by any unauthorized person when closed is prohibited. The city manager shall post on or near all entrances to the Oliver Springs Skate Park a sign or signs that clearly summarize the regulations set forth herein, and any other rules or regulations that the city

manager deems reasonably necessary for the safe operation of the facility. The sign or signs to be posted shall include the following language:

**SKATE PARK RULES**

- **HELMENTS MUST BE WORN AT ALL TIMES**
- **NO FOUL LANGUAGE**
  - **NO LITTERING**
  - **NO SMOKING**
- **NO SKATING AFTER PARK HOURS**

• **NO OUTSIDE RAMPS OR STUNT EQUIPMENT ALLOWED**

**VIOLATION OF RULES WILL RESULT IN LOSS OF PRIVILEGE**

**THE TOWN OF OLIVER SPRINGS ASSUMES NO LIABILITY**

(as added by Ord. #08-08-07, Aug. 2008)



## CHAPTER 6

### PUBLIC RECORDS POLICY

#### SECTION

20-601. Definitions.

20-602. Requesting access to public records.

20-603. Responding to public records requests.

20-604. Inspection of records.

20-605. Copies of records.

20-606. Fees, charges and procedure for billing and payment.

**20-601. Definitions.** (1) "Records custodian." The office, official or employee lawfully responsible for the direct custody and care of a public record. See Tennessee Code Annotated, § 10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.

(2) "Public records." All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of the physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency. See Tennessee Code Annotated, § 10-7-503(a)(1)(A).

(3) "Public records request coordinator." The individual designated in § 20-603(1)(c) of this policy who has the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the TPRA. See Tennessee Code Annotated, § 10-7-503(a)(1)(8). The public records request coordinator may also be a records custodian.

(4) "Requestor." A person seeking access to a public record, whether for inspection or duplication. (as added by Ord. #2017-04-06, April 2017 *Ch3 2-7-19*)

**20-602. Requesting access to public records.** (1) Public record requests shall be made to the Public Records Request Coordinator ("PRRC") or his/her designee in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner.

(2) Requests for inspection only cannot be required to be made in writing. The PRRC should request a mailing or email address from the requestor for providing any written communication required under the TPRA.

(3) Requests for inspection may be made orally or in writing (using the attached PRR-1 Form)<sup>1</sup> at Town Hall - 717 Main Street Oliver Springs, TN or by phone at 865-435-7722.

(4) Requests for copies, or requests for inspection and copies, shall be made in writing using the attached PRR-1 Form at Town Hall- 717 Main Street Oliver Springs, TN.

(5) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license or alternative acceptable form of ID is required as a condition to inspect or receive copies of public records. (as added by Ord. #2017-04-06, April 2017 *Ch3\_2-7-19*)

**20-603. Responding to public records requests.** (1) Public record request coordinator . (a) The PRRC shall review public record requests and make an initial determination of the following:

(i) If the requestor provided evidence of Tennessee citizenship;

(ii) If the records requested are described with sufficient specificity to identify them; and

(iii) If the governmental entity is the custodian of the records.

(b) The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):

(i) Advise the requestor of this policy and the elections made regarding:

(A) Proof of Tennessee citizenship;

(B) Form(s) required for copies;

(C) Fees (and labor threshold and waivers, if applicable); and

(D) Aggregation of multiple or frequent requests.

(ii) If appropriate, deny the request in writing, providing the appropriate ground such as one of the following:

(A) The requestor is not, or has not presented evidence of being, a Tennessee citizen.

(B) The request lacks specificity. (Offer to assist in clarification.)

(C) An exemption makes the record not subject to disclosure under the TPRA. (Provide the exemption in written denial.)

(D) The Governmental entity is not the custodian of the requested records.

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<sup>1</sup>The Public Records Request Form (PRR-1) may be found in the recorder's office.

(E) The records do not exist.

(iii) If appropriate, contact the requestor to see if the request can be narrowed.

(iv) If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity if known.

(c) The designated PRRC is:

(i) Town of Oliver Springs Administrative Assistant.

(ii) Contact information: 717 Main Street Oliver Springs, TN 37840 865-435-7722.

(d) The PRRC shall report to the governing authority on an annual basis about the governmental entity's compliance with the TPRA pursuant to this policy and shall make recommendations, if any, for improvement or changes to this policy.

(2) Records custodian. (a) Upon receiving a public records request, a records custodian shall promptly make requested public records available in accordance with Tennessee Code Annotated, § 10-7-503. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, counsel, or the OORC.

(b) If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then a records custodian shall, within seven (7) business days from the records custodian's receipt of the request, send the requestor a completed public records request response form which is attached as PRR-1,<sup>1</sup> based on the form developed by the OORC.

(c) If a records custodian denies a public record request, he or she shall deny the request in writing as provided in 20-603(1)(c)(ii) using the public records request response form.

(d) If a records custodian reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall use the public records request response form to notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requestor to see if the request can be narrowed.

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<sup>1</sup>The Public Records Response Form (PRRC-2) may be found in the recorder's office.

(e) If a records custodian discovers records responsive to a records request were omitted, the records custodian should contact the requestor concerning the omission and produce the records as quickly as practicable.

(3) **Redaction.** (a) If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the records custodian should coordinate with counsel or other appropriate parties regarding review and redaction of records. The records custodian and the PRRC may also consult with the OORC with the office of attorney general and reporter.

(b) Whenever a redacted record is provided, a records custodian should provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information. (as added by Ord. #2017-04-06, April 2017 **Ch3\_2-7-19**)

**20-604. Inspection of records.** (1) There shall be no charge for inspection of open public records.

(2) The location for inspection of records within the offices of the TOWN OF OLIVER SPRINGS should be determined by either the PRRC or the records custodian.

(3) Under reasonable circumstances, the PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location. (as added by Ord. #2017-04-06, April 2017 **Ch3\_2-7-19**)

**20-605. Copies of records.** (1) A records custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.

(2) Copies will be available for pickup at a location specified by the records custodian.

(3) Upon payment for postage and copies, copies will be delivered to the requestor's home address by the United States Postal Service.

(4) A requester will not be allowed to make copies of records with personal equipment. (as added by Ord. #2017-04-06, April 2017 **Ch3\_2-7-19**)

**20-606. Fees and charges and procedures for billing and payment.**

(1) Fees and charges for copies of public records should not be used to hinder access to public records.

(2) Records custodians shall provide requesters with an itemized estimate of the charges using PPR-1 Form prior to producing copies of records and will require pre-payment of such charges before producing requested records.

(3) When fees for copies and labor do not exceed ten dollars (\$10.00), the fees may be waived. Requests for waivers for fees above ten dollars (\$10.00)

must be presented to the city manager, who is authorized to determine if such waiver is in the best interest of the Town of Oliver Springs and for the public good. Fees associated with aggregated records requests will not be waived.

(4) Fees and charges for copies are as follows:

(a) Fifteen cents (\$0.15) per page for letter- and legal-size black and white copies.

(b) Fifty cents (\$0.50) per page for letter- and legal-size color copies.

(c) Labor when time exceeds one (1) hour at fifteen dollars (\$15.00) per hour.

(d) If an outside vendor is used, the actual costs assessed by the vendor.

(5) No duplication costs will be charged for requests for less than ten dollars (\$10.00).

(6) Payment is to be made in cash or by personal check payable to Town of Oliver Springs presented to the PRRC.

(7) Payment in advance will be required when costs are estimated to exceed ten dollars (\$10.00).

(8) Aggregation of frequent and multiple requests. (a) The Town of Oliver Springs will not aggregate record requests in accordance with the frequent and multiple request policy promulgated by the OORC when more than (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.

(b) If aggregating:

(i) The level at which records requests will be aggregated is for the town as a complete entity.

(ii) The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the records custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.

(iii) Routinely released and readily accessible records excluded from aggregation. (as added by Ord. #2017-04-06, April 2017 *Ch3\_2-7-19*)

ORDINANCE NO. 00-06-15**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF OLIVER SPRINGS TENNESSEE.**

WHEREAS some of the ordinances of the Town of Oliver Springs are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Town Council of the Town of Oliver Springs, 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 "Oliver Springs Municipal Code," now, therefore:

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF OLIVER SPRINGS, TENNESSEE, THAT:

**Section 1. Ordinances codified.** The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Oliver Springs Municipal Code," hereinafter referred to as the "municipal code."

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

**Section 4. Continuation of existing provisions.** Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than 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."<sup>1</sup>

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 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

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

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 town council, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.



**Section 10. Date of effect.** This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, June 15, <sup>2000</sup>~~19~~.

  
Mayor

  
Recorder