

TITLE 20

MISCELLANEOUS

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CHAPTER 1

CONDUCT IN PUBLIC PARKS AND PLAYGROUNDS

SECTION

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20-101. Short title. This chapter shall be known and may be cited as the East Ridge chapter regulating conduct in public parks and playgrounds. (Ord. #678, March 1999)

20-102. Park property. (1) Buildings and other property. No person in a park shall:

(a) Wilfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal;

(b) Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition nor shall any person over the age of six years use the restrooms and washrooms designated for the opposite sex;

(c) Dig, or remove any soil, rock, stones, trees, shrubs, or plants, down timber or other wood or materials, or make any excavation by tools equipment, blasting, or other means or agency. It is not intended as a violation for removing rocks and stones from playing fields;

(d) Construct or erect any building or structure of whatever kind that is permanent in nature, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

(2) Trees, shrubbery, lawns. No person shall:

(a) Damage, cut, carve, transplant or remove any trees or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or any other way injure or impair the natural beauty or usefulness of any area unless permitted to by the city;

(b) Climb any tree, or walk, stand or sit upon monuments, vases, fountains, railing, fences or upon any other property not designated or customarily used for such purposes;

(3) Wild animals, birds, etc. No person shall:

(a) Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall he remove or have in his possession the young of any reptile or bird. Exception to the foregoing is made in that snakes known to be deadly poisonous may be killed on sight. This provision does not apply to fishing in designated areas.

(b) Give, offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances. (Ord. #678, March 1999)

20-103. Sanitation. (1) No person shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake or stream in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(2) No person shall have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash unless authorized by the city manager. No such refuse or trash shall be placed in any waters in, or contiguous to, any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere. (Ord. #678, March 1999)

20-104. Traffic. No person shall:

(1) Fail to comply with all applicable provisions of the motor vehicles traffic laws of the city in regard to equipment and operations of vehicles.

(2) Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the recreation director and approved by the council.

(3) Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking, and all others posted for proper control and to safeguard life and property.

(4) Ride or drive a vehicle at a rate of speed exceeding the posted speed limit.

(5) Drive any vehicles on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the city. Special exception is made to the above section for public service vehicles.

(6) Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions there at and with the instructions of any attendant who may be present.

(7) Ride any wheeled vehicle on other than a paved street or parking lot or leave any such vehicle unattended other than in designated racks or areas and shall not leave bicycles in any area where someone may trip over them and be injured. Bicyclists may wheel or push such vehicle by hand over any grassy area or on any paved area reserved for pedestrian or vehicle use. (Ord. #678, March 1999, as amended by Ord. #716, May 2001)

20-105. Recreational activities. (1) Hunting and firearms. No person shall hunt, trap or pursue wildlife at any time. No person shall use, carry, or possess firearms of any description, or air-rifles, spring-guns, bow and arrows, slings or any other forms of weapons potentially inimical to wild life and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device.

(2) Picnic areas and use. (a) Regulated. No person shall picnic or lunch in a place other than those designated for that purpose is prohibited. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for comfort and convenience of all.

(b) Availability. No person shall violate the regulation that use of the individual fireplaces together with tables and benches follows generally the rule of "first come first serve" except for city reserved events.

(c) Non-exclusive. No person shall use any portion of the picnic areas or any of the buildings or structures therein for the purpose of

holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities except for city reserved events.

(d) Duty of picnicker. No person shall leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the person to be properly disposed of elsewhere.

(3) Games. No person shall take part in or play any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The areas immediately surrounding the games of play may be used for players to warm up as long as they are sufficiently away from any spectators so as to avoid injury. Roller skating or roller blading shall be allowed on any paved areas away from automobiles and pedestrians. Such play is allowed in only designated areas. (Ord. #678, March 1999, as amended by Ord. #716, May 2001)

20-106. Behavior. (1) Intoxicating beverages. Intoxicating beverages are not allowed in any park or building of the city except by approval of the city council. It is a violation of this chapter and state law for any person to be intoxicated in public.

(2) Fireworks. No person shall bring, or have in their possession, or set off or otherwise cause to explode or discharge or burn, any firecracker, torpedo, rocket, or other fireworks or explosives of flammable material, or discharge or throw any such item into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with other substance or compound would be dangerous from any of the foregoing standpoints except as permitted and supervised by the city.

(3) Fires. No person shall build or attempt to build a fire except in such area and under such regulations as may be designated by the city manager. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable material, within any park area or on any highway, road or street abutting or contiguous thereto.

(5) Games of chance. No person shall gamble, or participate in any game of chance.

(6) Boisterousness. No person shall sleep or lounge on the seats, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to breach the public peace. (Ord. #678, March 1999)

20-107. Merchandising, advertising and signs. (1) Vending and peddling. No person in a park shall expose or offer for sale any particle or thing,

nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is hereby made as to any regularly licensed concessionaire acting by and under the authority and regulation of the rules of the recreation director, the city, or a leaseholder of the city, or any sales to promote the organized activities at the park.

(2) Advertising. No person in a park shall announce, advertise, or call the public attention in any way to any article or service or hire unless specifically permitted by the city or rules promulgated by the recreation director and adopted by the city council.

(3) Signs. Notwithstanding the provisions of § 20-107(2) titled "advertising" exception to that section is hereby made wherein signs advertising sponsors of various baseball and softball teams and other sponsors of baseball and softball operating in Camp Jordan Park, shall be allowed, subject to restrictions by the East Ridge City Council, and control and placement of the signs shall be approved by the executive board of baseball-softball. All signs shall be limited to placement on the outfield portion of the baseball and softball fields. Signs shall not be allowed on any side or backstop fences. All signs shall be constructed of a uniform canvas type material, uniform size and contain no sharp edges. Such size and material shall be determined by the executive board. All signs shall be removed within one week of the end of each season of play. No person, other than mentioned above shall be allowed to place or construct any sign or placard on any other portion of Camp Jordan Park or any roadways or right of ways within the park except by permission of the East Ridge City Council. (Ord. #678, March 1999, as amended by Ord. #716, May 2001)

20-108. Park operating policy. (1) Hours. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during designated hours. The opening and closing hours for each individual park shall be posted therein for public information.

(2) Closed areas. Any section or part of any park or building may be declared closed to the public by the city manager or his designee at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the city manager shall find reasonably necessary.

(3) Permit. A permit shall be obtained from the city manager or his designee before participating in any non city sponsored organized group activity.

(a) Application. A person seeking issuance of a permit hereunder must file an application with the city manager or his designee. The application must state:

- (i) The name and address of the applicant;
- (ii) The name and address of the person, persons, corporation or association sponsoring the activity, if any;
- (iii) The day and hours for which the permit is desired;

- (iv) The park or portion thereof for which such permit is desired;
 - (v) An estimate of the anticipated attendance;
 - (vi) Any other information which the city manager or his designee shall find reasonably necessary for a fair determination as to whether a permit should be issued hereunder.
- (b) Standards for issuance. The city manager or his designee shall issue a permit hereunder when he finds:
- (i) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
 - (ii) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
 - (iii) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;
 - (iv) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city;
 - (v) That the facilities desired have not been reserved for other use at the day and hour required in the application.
 - (vi) Fees charge shall be pursuant to policies set out and adopted by the city council.
 - (vii) All security arrangements/personnel must have final approval of the East Ridge Police Chief and all fire/rescue/medical personnel arrangements must have final approval of the East Ridge Fire Chief.
 - (viii) Lessee shall not discriminate against any person or class by reason of age, sex, handicap, color, race, creed, religion or national origin and will in all ways comply with the provisions of the Americans with Disabilities Act.
- (c) Effect of permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in said permits.
- (d) Liability of permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall be issued.
- (e) Revocation. The city manager or his designee shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause shown. (Ord. #678, March 1999)

20-109. Enforcement. (1) Officials. The city manager or his designees shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(2) Ejectment. The city manager or his designee or any park attendant shall have the authority to eject from the park any person acting in violation of this chapter. (Ord. #678, March 1999)

CHAPTER 2
AIR POLLUTION CONTROL¹

¹The Air Pollution Control Policy for the City of East Ridge, with all revisions through Ord. #703, May 2000, is included as part of the East Ridge Municipal Code as Appendix 2.

CHAPTER 3**PANHANDLING****SECTION****20-301. Panhandling**

20-301. Panhandling. (1) Definitions. (a) "Panhandling" means any solicitation made in person requesting an immediate donation of money or other thing of value for oneself or another person or entity. Purchase of an item for an amount far exceeding its value, under circumstances in which a reasonable person would understand that the purchase is, in substance, a donation for the purpose of this section. Panhandling shall not include the act of passively standing or sitting while performing music, or singing with a sign or other indication that a donation is being sought but without any vocal request other than a response to an inquiry by another person nor shall panhandling include fund raising efforts by not-for-profit groups such as churches, athletic teams, civic groups and other such similar groups or organizations with a sign or other indication that a donation is being sought without any vocal request other than a response to an inquiry by another person.

(b) "Prohibited zone" means any of the following designated areas of rights-of-way (including sidewalks):

(i) Within a five hundred foot (500') radius of the intersection of Ringgold Road with I-75 as determined by the chief building official for the city;

(ii) Anywhere within Camp Jordan;

(iii) Within five hundred feet (500') of East Ridge City Hall as determined by the chief building official for the city;

(iv) Within five hundred feet (500') of East Ridge Youth Foundation Pool located at 4150 Monroe Street, East Ridge, Tennessee as determined by the chief building official for the city;

(v) Within a five hundred foot (500') radius of the end of the Missionary Ridge Tunnel on Ringgold Road as determined by the chief building official for the city;

(vi) Within a five hundred foot (500') radius of the center of any intersection on Ringgold Road which has a traffic light as determined by the chief building official of the city;

(vii) Anywhere along Monroe Road;

(viii) Within five hundred feet (500') of South Terrace Road as determined by the chief building official of the city.

(c) "Aggressive panhandling" means:

- (i) To approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with:
 - (A) Imminent bodily injury; or
 - (B) The commission of a criminal act upon the person or another person, or upon property in the person's immediate possession.
 - (ii) To persist in panhandling after the person solicited has given a negative response;
 - (iii) To block, either individually or as a part of a group of persons, the passage of a solicited person;
 - (iv) To touch a solicited person without the person's consent;
 - (v) To render any service to a motor vehicle, including but not limited to any cleaning, washing, protecting, guarding or repairing of said vehicle or any portion thereof, without the prior consent of the owner, operator or occupant of such vehicle, and thereafter asking, begging or soliciting alms or payment for the performance of such service, regardless of whether such vehicle is stopped, standing or parked on a public street or upon other public or private property; or
 - (vi) To engage in conduct that would reasonably be construed as intended to intimidate, compel or force a solicited person to make a donation.
- (2) It shall be unlawful for any person to engage in an act of panhandling when either the panhandler or the person being solicited is located in, on, or at any of the following locations:
- (a) Any right-of-way, sidewalk or other location within the prohibited zone;
 - (b) Any bus stop;
 - (c) Any sidewalk café;
 - (d) Any area within twenty-five feet (25') (in any direction) of an automatic teller machine or entrance to a bank; or
 - (e) Any public or private school.
- (3) It shall be unlawful to engage in an act of panhandling on any day after sunset or before sunrise.
- (4) It shall be unlawful for any person to engage in an act of aggressive panhandling. (as added by Ord. #859, March 2009)

CHAPTER 4

POLITICAL SIGNS

SECTION

20-401. Scope of chapter--definition of political sign.

20-402. Political signs regulated on city property.

20-403. Political signs regulated on private property.

20-401. Scope of chapter--definition of political sign.

Notwithstanding anything in the East Ridge City Code to the contrary, the provisions of this chapter shall govern the use and placement of political signs. "Political signs" shall mean any sign which supports or opposes the candidacy of any candidate for public office or urges action on any other issue on the ballot of a primary, general or special election. (as added by Ord. #867, Sept. 2009, and replaced by Ord. #1016, Sept. 2016)

20-402. Political signs regulated on city property. No political signs shall be placed on City property, subject to the following exceptions and restrictions:

(1) Political signs may be placed on city property designated as official poll locations for a primary, general or special election, but no more than twenty-four (24) hours in advance of the election date.

(2) Political signs must be removed promptly following a primary, general or special election, but in no instance may political signs remain placed at a designated poll location more than twenty-four (24) hours following the election date.

(3) A lottery shall be conducted to determine the locations of candidates' tents on city property designated as official poll location(s). The rules and regulations of such lottery are to be determined and approved by the city council. (as added by Ord. #867, Sept. 2009, and replaced by Ord. #1016, Sept. 2016)

20-403. Political signs regulated on private property. Political signs with a sign area of more than thirty-two (32) square feet shall be subject to the provisions of the East Ridge City Code governing off-premise signs, provided that any political signs at a campaign headquarters shall be governed as on-premise signs. Political signs with a sign area of thirty-two (32) square feet or less shall be subject to the following restrictions:

(1) No political sign less than ten (10) square feet may be placed closer than five feet (5') to the closest edge of the pavement or curb of any public or private street.

(2) No such political sign between ten (10) square feet and thirty-two (32) square feet may be placed closer than ten feet (10') to the closest edge of the pavement or curb of any public or private street.

(3) No such political sign may be placed closer than twenty-five feet (25') to the closest edge of the pavement or curb of two (2) public or private streets.

(4) No person shall paste, paint, rope, bill, nail or pin any sign or any advertisement or notice of any kind whatsoever or cause the same to be done, or any curbstone, or in any portion of part of any sidewalk or street, tree, lamppost, telephone or telegraph pole, awning, porch or balcony or upon any other structure in the limits of any street or public right-of-way in the city including but not limited to any divided roadway median, traffic island and/or traffic circle/roundabout, except such as may be required by this code or other city ordinance.

(5) No such political sign may be placed upon or attached in any way to any tree, utility pole, light pole or rock; provided that no such sign shall be placed on any fence or fence post which presents any safety or line of sight issues for drivers as determined by the chief building official for the city.

(6) No political sign shall be posted more than sixty (60) days in advance of the date voting begins in the election to which it refers.

(7) All such political signs shall be removed within fifteen (15) days after the election to which they refer has been held. Such signs erected for a primary election may remain only if they continue to be valid for the next general election.

(8) The office of the building official or the traffic engineer may order the removal or relocation of any such sign which may constitute a hazard to the public traveling on public streets.

(9) No such sign may be placed upon a public sidewalk.

(10) Any person or organization planning to erect any political signs shall first file with the office of the building official the name, address and telephone number of the person or persons who shall be responsible for the proper erection and timely removal of such signs. (as added by Ord. #1016, Sept. 2016)

CHAPTER 5

ADMINISTRATIVE HEARING OFFICER

SECTION

- 20-501. Municipal administrative hearing officer.
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- 20-504. Pre-hearing conference and orders.
- 20-505. Appointment of administrative hearing officer/administrative law judge.
- 20-506. Training and continuing education.
- 20-507. Citations for violations--written notice.
- 20-508. Review of citation--levy of fines.
- 20-509. Party in default.
- 20-510. Petitions for interventions.
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- 20-512. Evidence and affidavits.
- 20-513. Rendering of final order.
- 20-514. Final order effective date.
- 20-515. Collection of fines, judgments and debts.
- 20-516. Judicial review of final order.
- 20-517. Appeal to court of appeals.

20-501. Municipal administrative hearing officer. (1) In accordance with Tennessee Code Annotated, title 6, chapter 54, section 1001, et seq., there is hereby created the East Ridge Municipal Office of Administrative Hearing Officer to hear violations of any of the provisions codified in the East Ridge Municipal Code relating to building and property maintenance including:

- (a) Building codes adopted by the City of East Ridge;
- (b) All residential codes adopted by the City of East Ridge;
- (c) All plumbing codes adopted by the City of East Ridge;
- (d) All electrical codes adopted by the City of East Ridge;
- (e) All gas codes adopted by the City of East Ridge;
- (f) All mechanical codes adopted by the City of East Ridge;
- (g) All energy codes adopted by the City of East Ridge;
- (h) All property maintenance codes adopted by the City of East Ridge; and
- (i) All ordinances regulating any subject matter commonly found in the above-described codes.

The administrative hearing officer is not authorized to hear violation of codes adopted by the state fire marshal pursuant to Tennessee Code Annotated, § 69-120-101(a) enforced by deputy building inspector pursuant to Tennessee Code Annotated, § 68-120-101(f).

The utilization of the administrative hearing officer shall be at the discretion of the city manager and/or the city manager's designee, the chief building official of the City of East Ridge, and shall be an alternative to the enforcement included in the East Ridge Municipal Code.

(2) There is hereby created one (1) administrative hearing officer position to be appointed by the city council pursuant to § 20-505 below.

(3) The amount of compensation for the administrative hearing officer shall be approved by the city council.

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

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in Tennessee Code Annotated, title 6, chapter 54, section 1001, et seq. (as added by Ord. #891, June 2011)

20-502. Communication by administrative hearing officer and parties. (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with an person without notice and opportunity for all parties to participate in the communication.

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

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

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

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

parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (as added by Ord. #891, June 2011)

20-503. Appearance by parties and/or counsel. (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by any provision of law, or other representative. (as added by Ord. #891, June 2011)

20-504. Pre-hearing conference and orders. (1)(a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:

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

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

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

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

(4) If a pre-hearing conference is not held the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (as added by Ord. #891, June 2011)

20-505. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall be appointed by the city council for a four (4) year term and serve at the pleasure of the city council. Such administrative hearing officer may be reappointed.

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

(3) The city may also contract with the administrative procedures division, office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the requirements of subsections 6-54-1007 (a) and (b). (as added by Ord. #891, June 2011)

20-506. Training and continuing education. (1) Each person appointed to serve as an administrative hearing officer shall, within the six-month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Service, referred to in this part as MTAS. MTAS shall issue a certificate of participation to each person whose attendance is satisfactory. The curricula for the initial training shall be developed by MTAS with input from the administrative procedures division, office of the Tennessee Secretary of State. MTAS shall offer this program of training no less than twice per calendar year.

(2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. MTAS develops the continuing education curricula and offer that curricula for credit no less than twice per calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the individuals licensed under this subsection. No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year.

(3) MTAS has the authority to set and enact appropriate fees for the requirements of this section. The city shall bear the cost of the fees for administrative hearing officer serving the city.

(4) Costs pursuant to this section shall be offset by fees enacted. (as added by Ord. #891, June 2011)

20-507. Citations for violations--written notice. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the city's administrative hearing ordinance, the issuing officer shall provide written notice of:

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

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

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

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

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

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

(4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (as added by Ord. #891, June 2011)

20-508. Review of citation--levy of fines. (1) Upon receipt of a citation issued pursuant to § 20-507, an administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.

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

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

(2) If a fine is levied pursuant to subsection (1), the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) nor greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation is less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.

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

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

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

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

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

(5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing date has not yet occurred, shall be cancelled. (as added by Ord. #891, June 2011)

20-509. Party in default. (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default. (as added by Ord. #891, June 2011)

20-510. Petitions for intervention. (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

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

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

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

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

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

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

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

(3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (as added by Ord. #891, June 2011)

20-511. Regulating course proceedings--hearing open to public.

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

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

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

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

be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (as added by Ord. #891, June 2011)

20-512. Evidence and affidavits. (1) In administrative hearings.

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

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

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

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

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

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

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

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

(ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material notice, of the specific facts or material noticed and the

source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

(2) The notice referred to in subsection (1)(b) shall contain the following information and be substantially in the following form:

The accompanying affidavit of _____ (here insert name of affiant) will be introduced as evidence at the hearing in _____ (here insert title of proceeding). _____ (here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify _____ (here insert name of the proponent or the proponent's attorney) at _____ (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to _____ (here insert name of proponent or the proponent's attorney) on or before (here insert a date seven (7) business days after the date of mailing or delivering the affidavit to the opposing party). (as added by Ord. #891, June 2011)

20-513. Rendering of final order. (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.

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

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

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

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

(6) A final order rendered pursuant to subsection (1) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.

(7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party. (as added by Ord. #891, June 2011)

20-514. Final order effective date. (1) All final orders shall state when the order is entered and effective.

(2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (as added by Ord. #891, June 2011)

20-515. Collection of fines, judgments and debts. The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (as added by Ord. #891, June 2011)

20-516. Judicial review of final order. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter, which shall be the only available method of judicial review.

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

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

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

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

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

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

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

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

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the administrative hearing officer;
- (c) Made upon unlawful procedure;
- (d) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (e) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

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

(10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (as added by Ord. #891, June 2011)

20-517. Appeal to court of appeals. (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the Court of Appeals of Tennessee.

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

(3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (as added by Ord. #891, June 2011)

CHAPTER 6

USE OF ELECTRONIC CIGARETTES PROHIBITED

SECTION

20-601. Electronic cigarettes prohibited.

20-601. Electronic cigarettes prohibited. The use of electronic cigarettes, also known as e-cigarettes, nicotine vaporizers, or similar products, shall be prohibited in all buildings or facilities owned, or leased by, the city. Any individual found to be in violation of this chapter shall first be asked to immediately terminate the use of such products, and, if such individual refuses to immediately comply, shall be escorted from the premises. (as added by Ord. #972, June 2014)