

TITLE 12

BUILDING, UTILITY, ETC. CODES¹

CHAPTER

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CHAPTER 1

BUILDING CODE

SECTION

- 12-101. Building code adopted.
- 12-102. Accessibility code adopted.
- 12-103. Appendices to code adopted.
- 12-104. Amendments to code adopted.
- 12-105. Responsibility of general contractor's for removal of construction debris.
- 12-106. Reinspection and correction of defects.
- 12-107. Violations and penalties.
- 12-108. Stop work orders.

12-101. Building code adopted. The International Building Code, 2018 edition, and the International Residential Code, 2018 edition, and the International Existing Building Code, 2018 edition, one (1) copy of each which are, and have been, on file in the office of the town recorder for more than fifteen (15) days, are hereby adopted as the official building codes of the town. (Ord. #88-2, May 1988, as amended by Ord. #99-17, July 1999, and replaced by Ord. #2005-6, Sept. 2005, Ord. #2010-20, Nov. 2010, and Ord. #2020-11, Sept. 2020 ***Ch20_06-28-21***)

¹See title 7, Fire Protection and Fireworks, for fire code; title 19, Electricity and Gas, for gas and electric codes.

12-102. Accessibility code adopted. The American National Standard entitled Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1-2017) and 2010 ADA Standards for Accessible Design, one (1) copy of which is, and has been on file for more than fifteen (15) days, with the town recorder of the town council, are hereby adopted as the official accessibility code of the town. (1985 Code, § 4-102, as amended by Ord. #94-11, Nov. 1994, and Ord. #98-3, Feb. 1998; and replaced by Ord. #2005-6, Sept. 2005, Ord. #2010-20, Nov. 2010, and Ord. #2020-11, Sept. 2020 **Ch20_06-28-21**)

12-103. Appendices to code adopted. The following appendices to the International Building Code, 2018 edition, and the International Residential Code, 2018 edition, and as further amended in this chapter, are hereby adopted as part of the official building codes of the town:

(1) International Building Code.

Appendix A - Employee Qualifications, as amended.

Appendix C - Agricultural Buildings.

Appendix D - Fire District.

Appendix F - Rodent Proofing.

Appendix G - Flood-Resistant Construction.

Appendix I - Patio Covers.

Appendix J - Grading.

(2) International Residential Code.

Appendix A - Sizing and Capacities of Gas Piping.

Appendix B - Sizing of Venting Systems.

Appendix C - Exit Terminals of Mechanical Draft.

Appendix D - Recommended Installation of Existing Appliances.

Appendix H - Patio Covers.

Appendix N - Venting Methods.

Appendix Q - Tiny Houses.

(1985 Code, § 4-102, as amended by Ord. #94-11, Nov. 1994, and Ord. #98-3, Feb. 1998; and replaced by Ord. #2005-6, Sept. 2005, and Ord. #2010-20, Nov. 2010, and Ord. #2020-11, Sept. 2020 **Ch20_06-28-21**)

12-104. Amendments to code adopted. (1) The following sections and appendices of the International Building Code, 2018 edition, are hereby amended, as hereinafter provided:

(a) Section 105.1.1, 105.1.2, and 105.2 are deleted in their entirety.

(b) Section 105.1 add Construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space.

(c) Section 109.2 Fees. The Building Fee Schedule has been moved to Title 5, Chapter 5, Section 5-508.

(2) The following amended sections of the International Residential Code, 2018 edition, as hereinafter provided:

(a) Section R108.2 Fees. The Building Fee Schedule has been moved to Title 5, Chapter 5, Section 5-508.

(b) Section R112 is amended by deleting such section in its entirety and substituting in lieu thereof the following language:

Section R112. Construction Board of Appeals. The Construction Board for the Town of Signal Mountain shall hear Building, Residential, Electrical, Fire, Fuel Gas, Life Safety, Mechanical and Plumbing appeals of the Signal Mountain Town Code as established by Section 12-601, et seq., and shall act as the Board of Appeals for appeals from any decision of the Building Official or any designee and to consider variances of the technical codes as provided in this Code.

(c) Figure R301.2(2) Seismic Design Categories is deleted and replaced with Figure R301.2(2) Seismic Design Categories Site Class D from 2015 IRC. (as per Tennessee Code Annotated, § 68-120-101(a), (b) and (d)).

(d) Section R313. Automatic Fire Sprinkler Systems.

Section R313.2. One and Two-Family Dwelling Automatic Fire Sprinkler Systems is deleted in its entirety.

(e) Section R314.6 Power Source relating to Smoke Alarms is amended to create Exception 3 that shall read:

Exception 3. Interconnection and hardwiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishes exposing the structure. (as per Tennessee Code Annotated, § 68-120-101(a), (b) and (d)).

(f) Section R403. Footings. Table R403.1(1), Table R403.1(2) and Table R403.1(3) entitled Minimum Width of Concrete or Masonry Footings is amended to reflect a minimum of 16 inches wide for all concrete footing.

(g) Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirement by Component and Table N1102.1.4 (R402.1.4) Equivalent U-Factors from 2018 IRC are replaced with Table N1102.1 Insulation and Fenestration Requirements by Component and Table N1102.1.2 Equivalent U-Factor from 2009 IRC. (as per Tennessee Code Annotated, § 68-120-101(a), (b) and (d)).

(h) Section N1102.4.4 (R402.4.4) Rooms Containing Fuel-Burning Appliances is deleted in its entirety. (as per Tennessee Code Annotated, § 68-120-101(a), (b) and (d)).

(i) 9. Table N 1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and amended by adding the

following as footnote "I": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used." (as per Tennessee Code Annotated, § 68-120-101(a), (b) and (d)).

(j) 10. Table N1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and amended by adding the following as footnote "m": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 4 when a Fenestration U-Factor of .35 or lower is used, a Skylight U-Factor of .60 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used." (as per Tennessee Code Annotated, § 68-120-101(a), (b) and (d)). (1985 Code, § 4-103, as replaced by Ord. #2005-6, Sept. 2005, amended by Ord. #2006-11, June 2006, replaced by Ord. #2010-20, Nov. 2010, and Ord. #2020-11, Sept. 2020 **Ch20_06-28-21**)

12-105. Responsibility of general contractor's for the removal of construction debris. General contractors shall at all time keep the premises upon which they or their employees are working; free from accumulations of waste material or rubbish caused by their employees or work, and at the completion of work, they shall remove all rubbish from and about the building or structure and all their tools, scaffolding and surplus materials and shall leave their work "broom clean" or its equivalent. (1985 Code, § 4-104, as replaced by Ord. #2020-11, Sept. 2020 **Ch20_06-28-21**)

12-106. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (Ord. # 85-8, as replaced by Ord. #2020-11, Sept. 2020 **Ch20_06-28-21**)

12-107. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. 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 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. Any fine levied by a hearing

officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-106, as replaced by Ord. #2020-11, Sept. 2020 *Ch20_06-28-21*)

12-108. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-11, Sept. 2020 *Ch20_06-28-21*)

CHAPTER 2

PLUMBING CODE

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Appendices to the code adopted.
- 12-203. Amendments to code adopted.
- 12-204. Reinspection and correction of defects.
- 12-205. Violations and penalties.
- 12-206. Stop work order.

12-201. Plumbing code adopted. The International Plumbing Code, 2018 edition, one (1) copy of which is, and has been, on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official plumbing code of the town. (Ord. # 88-9, May 1988, as replaced by Ord. #2005-10, Oct. 2005, Ord. #2010-23, Nov. 2010, and Ord. #2020-12, Sept. 2020 ***Ch20_06-28-21***)

12-202. Appendices to the code adopted. The following appendices to the International Plumbing Code, 2018 edition, and as further amended in this chapter, are hereby adopted as part of the official plumbing code of the town.

Appendix B - Rates of Rainfall.

Appendix C - Structural Safety.

Appendix D - Degree Day Temperature.

Appendix E - Sizing of Water Piping.

(1985 Code, § 4-202, as replaced by Ord. #2005-10, Oct. 2005, Ord. #2010-23, Nov. 2010, and Ord. #2020-12, Sept. 2020 ***Ch20_06-28-21***)

12-203. Amendments to code adopted. The following sections and appendices of the International Plumbing Code, 2018 edition, are hereby amended, as hereinafter provided:

(1) Section 101.1 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 101.1 Title. These regulations shall be known as the International Plumbing Code of the Town of Signal Mountain hereinafter referred to as "this code."

(2) Section 106.1 is deleted in its entirety and the following language is substituted in lieu thereof:

106.1 When required. Any properly licensed contractor who desires to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first

make application to the code official and obtain the required permit for the work.

(3) Section 106.5.3 and 106.5.4 are deleted in their entirety and the following new sections are substituted in lieu thereof:

Section 106.5.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained. (delete the rest)

Section 106.5.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to commence within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. (delete the rest)

(4) Section 106.6.2 is deleted in its entirety and the following language and the following new sections are substituted in lieu thereof:

Section 106.6.2 Fee Schedule. The Plumbing Fee Schedule has been deleted from this section and moved to Title 5, Chapter 5.

(5) Sections 108.4 and 108.5 are deleted in their entirety.

(6) Section 109. Means of Appeal, is amended by deleting said section in its entirety, and substituting in lieu thereof the following:

Section 109. Board of Adjustments & Appeals. The Construction Board of Adjustments and Appeals for the Town of Signal Mountain as established by § 12-605, Signal Mountain Town Code, shall act as the Construction Board of Adjustments and Appeals for appeals from any decision of the Building Official or his designee and consider variances of the technical codes as provided in this Code.

(7) Section 305.4.1. is amended by deleting said section in its entirety and substituting in lieu thereof the following:

Section 305.4.1. Sewer Depth, is amended by substituting the words "Twelve (12) inches" for the phrase "[NUMBER] inches (mm)" wherever such phrase appears within the subsection.

(8) Section 310 is amended as follows:

Section 310. Washroom and toilet room requirements is amended by adding a new Section 310.4 which states as follows:

310.4 Urinal privacy. Each urinal utilized by the public or employees shall occupy a separate area with walls or partitions to provide privacy. The construction of such walls or partitions shall incorporate waterproof, smooth, readily cleanable and nonabsorbent finish surfaces. The walls or partitions shall begin

at a height not more than 12 inches (304.8 mm) from and extend not less than 60 inches (1524 mm) above the finished floor surface. The walls or partitions shall extend from the wall surface at each side of the urinal a minimum of 18 inches (457 mm) or to a point not less than 6 inches (152 mm) beyond the outermost front lip of the urinal measured from the finished back wall surface, whichever is greater.

(9) Section 903.1 is deleted in its entirety and substituting in lieu thereof the following:

Section 903.1. Roof Extension, is amended by substituting the words "Six (6) inches" for the phrase "[NUMBER] inches (mm)" wherever such phrase appears within this subsection.

(10) Section 918 is amended as follows:

Section 918. Air Admittance Valves for Venting Plumbing Fixtures and Fixture Branches, is amended by adding a new Section 918.9 which shall read as follows:

918.9. Any use of air admittance valves on fixture branches is subject to the discretion and approval of the "Building Official." (1985 Code, § 4-203, as replaced by Ord. #2005-10, Oct. 2005, Ord. #2010-23, Nov. 2010, and Ord. #2020-12, Sept. 2020 ***Ch20_06-28-21***)

12-204. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, 507(c). (1985 Code, § 4-204, as replaced by Ord. #2020-12, Sept. 2020 ***Ch20_06-28-21***)

12-205. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. 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 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. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-205, as replaced by Ord. #2020-12, Sept. 2020 ***Ch20_06-28-21***)

12-206. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the

person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-12, Sept. 2020 *Ch20_06-28-21*)

CHAPTER 3

MECHANICAL CODE

SECTION

- 12-301. Mechanical code adopted.
- 12-302. Appendices to the code adopted.
- 12-303. Amendments to code adopted.
- 12-304. Reinspection and correction of defects.
- 12-305. Violations and penalties.
- 12-306. Stop work orders.

12-301. Mechanical code adopted. The International Mechanical Code, 2018 edition, one (1) copy of which is, and has been, on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official mechanical code of the town. (1985 Code, § 4-501), as replaced by Ord. #2020-13, Sept. 2020 ***Ch20_06-28-21***)

12-302. Appendices to the code adopted. The following appendices to the International Mechanical Code, 2018 edition, and as further amended in this chapter, are hereby adopted as part of the official mechanical code of the town.

Appendix A - Chimney Connection Pass-Through. (1985 Code, § 4-502, as replaced by Ord. #2020-13, Sept. 2020 ***Ch20_06-28-21***)

12-303. Amendments to code adopted. The following sections and appendices of the International Mechanical Code, 2018 edition, are hereby amended, as hereinafter provided:

- (1) Section 101.1 is amended as follows:
Section 101.1 Title. These regulations shall be known as the International Mechanical Code of the Town of Signal Mountain hereinafter referred to as "this code."
- (2) Section 106.1 is amended as follows:
106.1 When required. Any licensed contractor who desires to erect, install, enlarge, alter, repair, remove, convert or replace a mechanical system, the installation of which is regulated by this code, or to cause such work to be done, shall first make application to the code official and obtain the required permit for the work.
- (3) Section 106.3 is amended as follows:
Section 106.3 Application for permit. Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the licensed contractor. The application shall indicate the proposed occupancy of all parts of the building and of that

portion of the site or lot, if any, not covered by the building or structure and shall contain such other information required by the code official.

- (4) Section 106.5.2 is amended as follows:

Section 106.5.2 Fee Schedule. The fees for all mechanical work shall be as indicated in the following schedule:

- (5) Section 106.4.3 and 106.4.4 are deleted in their entirety and the following language is substituted in lieu thereof:

Fee Schedule has been deleted from this section and moved to Title 5, Chapter 5

Section 106.4.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained. (delete the rest)

Section 106.4.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to commence within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once. (delete the rest)

- (6) Section 106.5.3 is deleted in its entirety.

- (7) Sections 108.4 and 108.5 are deleted in their entirety.

- (8) Section 109. Means of Appeal, is amended by deleting said section in its entirety, and substituting in lieu thereof the following:

Section 109. Board of Adjustments & Appeals. The Signal Mountain Construction Board of Adjustments & Appeals set forth at Title 12, Chapter 10, §§ 12-1001 through 12-1006, shall be the appeals board for the Building, Electrical, Fire, Fuel Gas, Life Safety, Mechanical and Plumbing Codes of the Town of Signal Mountain and shall act as the Board of Adjustments and Appeals for appeals from any decision of the Building Official or his designee and consider variances of the technical codes as provided in this Code. (1985 Code, § 4-503, as amended by Ord. #93-7, § 1, May 1993, and replaced by Ord. #2020-13, Sept. 2020 *Ch20_06-28-21*)

12-304. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with

reinspection per title 5, chapter 5, 507(c). (1985 Code, § 4-504, as replaced by Ord. #2020-13, Sept. 2020 **Ch20_06-28-21**)

12-305. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. 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 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. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-505, as replaced by Ord. #2020-13, Sept. 2020 **Ch20_06-28-21**)

12-306. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (1985 Code, § 4-506, as replaced by Ord. #2020-13, Sept. 2020 **Ch20_06-28-21**)

CHAPTER 4

GAS CODE

SECTION

- 12-401. Gas code adopted.
- 12-402. Appendices to the code adopted.
- 12-403. Amendments to code adopted.
- 12-404. Reinspection and correction of defects.
- 12-405. Violations and penalties.
- 12-406. Stop work orders.
- 12-407. Fee schedules.

12-401. Gas code adopted. The International Fuel Gas Code, 2018 Edition, one (1) copy of which is, and has been, on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official gas code of the town. (as added by ord. No. 91-6, and replaced by Ord. #2020-14, Sept. 2020 **Ch20_06-28-21**)

12-402. Appendices to the code adopted. The following appendices to the International Fuel Gas Code, 2018 Edition, and as further amended in this chapter, are hereby adopted as part of the official gas code of the town.

Appendix A - Sizing and capacities of gas piping.

Appendix B - Sizing of venting systems.

Appendix C - Exit terminals, et al. (1985 Code, § 4-402, as replaced by Ord. #2005-11, Oct. 2005, Ord. #2010-22, Nov. 2010, and Ord. #2020-14, Sept. 2020 **Ch20_06-28-21**)

12-403. Amendments to code adopted. The following sections and appendices of the International Fuel Gas Code, 2018 edition, are hereby amended, as hereinafter provided:

(1) Section 101.1 and 101.2 are deleted in their entirety and the following language is substituted in lieu thereof:

Section 101.1 Title. These regulations shall be known as the International Fuel Gas Code of the Town of Signal Mountain, hereinafter referred to as "this code."

(2) Section 106.3 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 106.3 Application for permit. Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the licensed contractor. The application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not

covered by the building or structure and shall contain such other information required by the code official.

(3) Sections 106.5.3 and 106.5.4 are deleted in their entirety and the following is substituted in lieu thereof:

Section 106.5.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained. (delete the rest)

Section 106.5.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to commence within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once. (delete the rest)

(4) Sections 108.4 and 108.5 are amended by deleting said sections in their entirety.

(5) Section 109. Means of Appeal, is amended by deleting said section in its entirety, and substituting in lieu thereof the following:

Section 109.1 Board of Adjustments & Appeals. The Construction Board of Appeals for the Building, Electrical, Fire, Fuel Gas, Life Safety, Mechanical and Plumbing Codes of Section 12-605 of the Signal Mountain Town Code, shall act as the Construction Board of Adjustments and Appeals for appeals from any decision of the Building Official or his designee and consider variances of the technical codes as provided in this Code. (1985 Code, § 4-602, and replaced by Ord. #2020-14, Sept. 2020 **Ch20_06-28-21**)

12-404. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, 507(c). (1985 Code, § 4-603, as replaced by Ord. #2020-14, Sept. 2020 **Ch20_06-28-21**)

12-405. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. 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 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. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-604, as replaced by Ord. #2020-14, Sept. 2020 ***Ch20_06-28-21***)

12-406. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (1985 Code, § 4-506, as replaced by Ord. #2020-14, Sept. 2020 ***Ch20_06-28-21***)

12-407. Fee schedules. Gas fee schedule has been deleted from this section and moved to title 5, chapter 5. (as added by Ord. #2020-14, Sept. 2020 ***Ch20_06-28-21***)

CHAPTER 5

ENERGY CONSERVATION CODE

SECTION

- 12-501. Energy conservation code adopted.
- 12-502. Appendices to the code adopted.
- 12-503. Amendments to 2009 code adopted.
- 12-504. Amendments to 2012 code adopted.
- 12-505. Reinspection and correction of defects.
- 12-506. Violations and penalties.
- 12-507. Stop work orders.

12-501. Energy conservation code adopted. The International Energy Conservation Code, 2009 edition for one (1) and two (2) family dwellings and townhomes and 2012 edition for commercial buildings, one (1) copy of which is, and has been, on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official energy conservation code of the Town of Signal Mountain. (Ord. # 88-4, May 1988, as replaced by Ord. #2005-9, Oct. 2005, Ord. #2010-24, Nov. 2010, and Ord. #2020-15, Sept. 2020 **Ch20_06-28-21**)

12-502. Appendices to the code adopted. There are no appendices to the international energy conservation codes currently as amended in this chapter. (Ord. # 88-4, May 1988, as replaced by Ord. #2005-9, Oct. 2005, Ord. #2010-24, Nov. 2010, and Ord. #2020-15, Sept. 2020 **Ch20_06-28-21**)

12-503. Amendments to code 2009 adopted. The following sections and appendices of the International Energy Conservation Code, 2009 edition are hereby amended, as hereinafter provided:

(1) International Energy Conservation Code (IECC), 2009 edition, published by the International Code Council, Inc., (ICC), except for:

- (a) Section 402.4.2.1, Testing option; and
- (b) Section 403.2.2, Sealing Mandatory.

(2) IECC, Table N1102.1, Insulation and Fenestration Requirements by Component, is amended by adding the following as footnote "l": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.

(3) IECC, Table N1102.1, Insulation and Fenestration Requirements by Component, is amended by adding the following as footnote "m": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 4 when a Fenestration U-Factor of .35 or

lower is used, a Skylight U-Factor of .60 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used. (Ord. # 88-4, May 1988, as replaced by Ord. #2005-9, Oct. 2005, Ord. #2010-24, Nov. 2010, and Ord. #2020-15, Sept. 2020 Ch20_06-28-21)

12-504. Amendments to code 2012 adopted. The following sections and appendices of the International Energy Conservation Code, 2012 edition, are hereby amended, as hereinafter provided:

The International Energy Conservation Code (IECC), 2012 edition, published by the International Code Council (ICC), except that the provisions of the International Energy Conservation Code, 2006 edition, shall apply to the following occupancy classifications as defined by the International Building Code (IBC), 2012 edition:

- (1) Moderate-hazard factory industrial, Group F-1;
- (2) Low-hazard factory industrial, Group F-2;
- (3) Moderate-hazard storage, Group S-1; and
- (4) Low-hazard storage, Group S-2. (as added by Ord. #2020-15, Sept. 2020 **Ch20_06-28-21**)

12-505. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (as added by Ord. #2020-15, Sept. 2020 **Ch20_06-28-21**)

12-506. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. 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 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. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (as added by Ord. #2020-15, Sept. 2020 **Ch20_06-28-21**)

12-507. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not

be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-15, Sept. 2020 *Ch20_06-28-21*)

CHAPTER 6

ELECTRICAL CODE

SECTION

- 12-601. Code adopted.
- 12-602. Amendments to the code adopted.
- 12-603. Electrical permits.
- 12-604. Temporary permission to use current.
- 12-605. Reinspection and correction of defects.
- 12-606. Violations and penalties.
- 12-607. Stop work orders.
- 12-608. Fee schedule.

12-601. Code adopted. The National Electrical Code, 2017 edition (NFPA 70: National Electrical Code, International Electrical Code Series) is hereby adopted as the official electrical code of the town. Such code is adopted by reference pursuant to the provisions of Tennessee Code Annotated, § 6-54-501 through § 6-54-506. All tables and examples included in the National Electrical Code, 2017 edition, are adopted by the Town of Signal Mountain except as amended by § 12-602. The provisions of such National Electrical Code shall be in full force and effect to the same extent as if such provisions were copied verbatim herein. (1985 Code, § 4-701, as replaced by Ord. #2005-7, Sept. 2005, and Ord. #2020-16, Sept. 2020 **Ch20_06-28-21**)

12-602. Amendments to the code adopted. The following sections of the National Electrical Code, 2017 edition, are hereby amended, as hereinafter approved:

- (1) Sections 110.24 Available Fault Current shall be optional.
- (2) Arc Fault Circuit Interrupters (AFCIs) shall be optional for bathrooms, laundry areas, garages, unfinished basements, which are portions or areas of the basement not intended as habitable rooms and limited to storage, work or similar area, and for the branch circuits dedicated to supplying refrigeration equipment.
- (3) Sections 210.52C(2) and (3) are deleted in their entirety and Section 210.52C(5), all reference to the paragraph entitled "Exception" is deleted in its entirety.
- (4) "Electric fences" consisting of an above ground electrically charged conductor or other above ground electrically charged device intended to enclose or restrict persons or animals by electric shock shall not be installed or used regardless of its source of supply within the Town. (1985 Code, § 4-702, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 **Ch20_06-28-21**)

12-603. Electrical permits. (1) Required. No alteration or change shall be made in the wiring of any building or premises, nor shall any building or premises be wired for the placing of electric lights, motors, signs or devices, without first securing from the electrical inspector or building official, a permit therefor. No change shall be made in the electric installation after inspection without notifying the electrical inspector and securing a permit therefor.

(2) Application. A permit required by this chapter shall be issued only upon written application therefor to the town. All applications for permits shall be made by and in the name of the licensed electrical contractor undertaking to do the work proposed and also in the name of the person with whom or by whom the contractor is associated or employed. (1985 Code, § 4-703, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 **Ch20_06-28-21**)

12-604. Temporary permission to use current. The electrical inspector may, in his discretion, give temporary permission for a reasonable time, to supply and use current in part of an electrical installation before such installation has been fully completed and the certificate issued. (1985 Code, § 4-704, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 **Ch20_06-28-21**)

12-605. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (1985 Code, § 4-705, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 **Ch20_06-28-21**)

12-606. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. 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 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. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-706, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 **Ch20_06-28-21**)

12-607. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the

person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-16, Sept. 2020 ***Ch20_06-28-21***)

12-608. Fee schedule. Fee schedule is located in title 5, chapter 5, § 5-512. (as added by Ord. #2020-16, Sept. 2020 ***Ch20_06-28-21***)

CHAPTER 7

SWIMMING POOL CODE

SECTION

- 12-701. Swimming pool code adopted.
- 12-702. Definitions.
- 12-703. Building permit required.
- 12-704. Electrical permit required.
- 12-705. Final inspection; enclosure.
- 12-706. Reinspection and correction of defects.
- 12-707. Violations and penalty.
- 12-708. Stop work orders.
- 12-709. Fee schedule.

12-701. Swimming pool code adopted. The International Swimming Pool and Spa Code, 2018 edition, one (1) copy of which is, and has been on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official swimming pool code of the Town of Signal Mountain. (Ord. # 87-4, as replaced by Ord. #2020-17, Sept. 2020 **Ch20_06-28-21**)

12-702. Definitions. The term "swimming pool" is hereby defined as a receptacle for water or an artificial pool of water having a depth at any point of more than two feet (2') intended for the purpose of immersion or partial immersion therein. (Ord. # 87-4, as replaced by Ord. #2020-17, Sept. 2020 **Ch20_06-28-21**)

12-703. Building permit required. No public or private swimming pool installations, alterations, or repair work shall be commenced until a building permit shall first have been obtained from the Town of Signal Mountain. (Ord. # 87-4, as replaced by Ord. #2020-17, Sept. 2020 **Ch20_06-28-21**)

12-704. Electrical permit required. No public or private swimming pool installations, alterations, or repair work shall be commenced until an electrical permit shall first have been obtained from the Town of Signal Mountain. (1985 Code, § 4-603, as replaced by Ord. #2020-17, Sept. 2020 **Ch20_06-28-21**)

12-705. Final inspection; enclosure. (1) Swimming pools shall not be filled with water until a temporary fence or permanent fence and gates have been approved by the building inspector.

(2) For the safety of others, before final inspection, the pool shall be completely enclosed with a wall, permanent fence or other substantial structure not less than four feet (4') in height above ground level or otherwise constructed as to be difficult to climb. All gates shall be equipped with self-closing,

self-latching devices. Self-closing and self-latching devices must be kept in good working order.

(3) Private swimming pool installations must be complete, completely filled with water and in operation before final inspection. (as added by Ord. #2020-17, Sept. 2020 ***Ch20_06-28-21***)

12-706. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (as added by Ord. #2020-17, Sept. 2020 ***Ch20_06-28-21***)

12-707. Violations and penalty. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. 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 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. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (as added by Ord. #2020-17, Sept. 2020 ***Ch20_06-28-21***)

12-708. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-17, Sept. 2020 ***Ch20_06-28-21***)

12-709. Fee schedule. The swimming pool fee schedule is located in title 5, chapter 5. (as added by Ord. #2020-17, Sept. 2020 ***Ch20_06-28-21***)

CHAPTER 8

UNSAFE BUILDING CODE

SECTION

- 12-801. Declared to be a nuisance.
- 12-802. Condemnation board created; composition; qualifications of members.
- 12-803. Notice to take remedial action.
- 12-804. Unlawful rental or occupancy of premises.
- 12-805. Hearings on order of condemnation board.
- 12-806. Action by the town upon failure of owner to comply with order.
- 12-807. Reinspection and correction of defects.
- 12-808. Violations and penalties.
- 12-809. Stop work orders.
- 12-810–12-817. Deleted.

12-801. Declared to be a nuisance. Any building or structure in the town which, because of its disrepair or dangerous condition is a menace to the health, safety and the convenience of the public, is declared to be a nuisance. (as added by Ord. #2013-03, Jan. 2013, amended by Ord. #2019-07, June 2019 *Ch19_8-26-19*, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

12-802. Condemnation board created; composition; qualifications of members. A board is hereby created to be known as the condemnation board and which shall consist of the chief of the fire department and two (2) residents and taxpayers of the town, one (1) of which members shall be in the real estate business and one (1) of which members shall be in the insurance business. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

12-803. Notice to take remedial action. (1) When the condemnation board is notified that any building or structure in the town is, on account of its condition, a menace to health, safety or the public convenience, the board may enter the premises and shall make an immediate investigation and if such building or structure is in a dangerous condition, the board shall serve an order on the owner thereof to repair the building or structure in conformity with the building, plumbing, electrical, gas, housing and other similar codes of the town relating to buildings, or to demolish it.

(2) If the owner of any building or structure ordered to be repaired or demolished is a non-resident of the town, the notice required by subsection (1) may be served upon his agent and, if he has no agent in the town, the notice may be served by registered mail and sent the owner at his last known post office address. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

12-804. Unlawful rental or occupancy of premises. It shall be unlawful for any owner of any building or structure to rent the building or structure, after issuance of an order of condemnation by the condemnation board pursuant to this chapter. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

12-805. Hearing on order of condemnation board. (1) If, within ten (10) days after the service of a notice to take remedial action given pursuant to this chapter, the building or structure has not been repaired or demolished in compliance with the notice, the condemnation board shall serve a notice upon the owner to appear before the mayor and the town council at a certain time, not less than ten (10) nor more than fifteen (15) days from the date of service of the notice for hearing.

(2) At the time fixed in the notice served by the condemnation board pursuant to subsection (1), the owner so notified shall appear before the mayor and town council. At the hearing, the condemnation board shall present the facts concerning the condition of the building or structure and the owner may present evidence and shall be entitled to be represented by counsel if he so desires.

(3) If, after hearing all the facts, the mayor and town council is of the opinion that a building or structure is a menace to health and safety, it shall order the building or structure repaired if its condition will permit and the owner so desires, or demolished. The mayor and town council shall give the owner not less than ten (10) days to comply with the order and it shall be unlawful for the owner to fail to comply therewith. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

12-806. Action by the town upon failure of owner to comply with order. (1) If, at the expiration of the time given an owner for the repair or demolition of a dangerous building or structure by order of the mayor and town council, the owner has failed to comply with the order of the town council, the condemnation board shall have the necessary repairs made or have the building or structure demolished and charge the expense thereof to the owner of the building or structure.

(2) When any nuisance has been abated as provided in subsection (1), the condemnation board shall certify the amount of expense incurred in abating the nuisance to the town council, direct the town attorney to bring suit by attachment or otherwise, to collect the costs and the town shall have a lien on the property to secure the amount expended by it in abating the nuisance, which lien shall be superior to all other contractual liens. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

12-807. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 **Ch20_06-28-21**)

12-808. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. 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 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. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 **Ch20_06-28-21**)

12-809. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 **Ch20_06-28-21**)

12-810–12-817. [Deleted]. (as deleted by Ord. #2020-18, Sept. 2020 **Ch20_06-28-21**)

CHAPTER 9

SITE PREPARATION, EXCAVATION AND GRADING CODE

SECTION

- 12-901. Creation.
- 12-902. Land disturbance permit required.
- 12-903. Hazards.
- 12-904. Application.
- 12-905. Reinspection and correction of defects.
- 12-906. Violations and penalties.
- 12-907. Stop work orders.
- 12-908. Fee schedule.

12-901. Creation. There is hereby created and established a site preparation, excavation and grading code for the Town of Signal Mountain. (as added by Ord. #2020-19, Sept. 2020 *Ch20_06-28-21*)

12-902. Land disturbance permit required. No person shall do any site preparation, stump removal, filling, excavation or grading without obtaining a land disturbance permit for said work. This shall also include site preparation for footings, foundation work and any ground work being performed in conjunction with construction authorized by a building permit and set out in the building permit so obtained. (as added by Ord. #2020-19, Sept. 2020 *Ch20_06-28-21*)

12-903. Hazards. Whenever the building official determines that any existing excavation, embankment or fill on private property has become a hazard to life or property, or adversely affects the safety, use, or stability of a public way of drainage channel, the owner of the property upon which the excavation or fill is located or such other person or agent in control of said property, upon receipt of notice in writing from the building official, shall within the time period specified thereon repair or eliminate such hazard and to otherwise conform with the specifications and requirements of this code. (as added by Ord. #2020-19, Sept. 2020 *Ch20_06-28-21*)

12-904. Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the Town of Signal Mountain for that purpose. Every application shall:

- (1) Identify and describe the work to be covered by the permit for which application is made.
- (2) Describe the location of the land where the proposed work is to be done including parcel number, subdivision and lot number.
- (3) State the estimated quantities of work to be performed.

(4) Give such other information as reasonably may be required by the building official and or stormwater manager. (as added by Ord. #2020-19, Sept. 2020 **Ch20_06-28-21**)

12-905. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (as added by Ord. #2020-19, Sept. 2020 **Ch20_06-28-21**)

12-906. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. 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 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. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (as added by Ord. #2020-19, Sept. 2020 **Ch20_06-28-21**)

12-907. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-19, Sept. 2020 **Ch20_06-28-21**)

12-908. Fee schedule. Fee schedule is located in title 5, chapter 5. (as added by Ord. #2020-19, Sept. 2020 **Ch20_06-28-21**)

CHAPTER 10

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

SECTION

12-1001. Created.

12-1002. Composition; qualification of members.

12-1003. Appointment and terms of members.

12-1004. Chairman and secretary.

12-1005. Powers and duties generally.

12-1006. Appeals from determinations of the construction board.

12-1001. Created. There is hereby created a construction board of adjustments and appeals for the town. (as added by Ord. #2020-20, Sept. 2020 **Ch20_06-28-21**)

12-1002. Composition; qualifications of members. The construction board shall consist of seven (7) members, who shall be residents of the town, shall be active in the field of construction and shall serve without compensation. One (1) member of the board shall be a building contractor; one (1) member of the board shall be a plumbing contractor; one (1) member shall be an electrical contractor; one (1) member shall be a realtor; one (1) member shall be an architect; one (1) member shall be an engineer; and one (1) member shall be a homeowner. (as added by Ord. #2020-20, Sept. 2020 **Ch20_06-28-21**)

12-1003. Appointment and terms of members. The members of the construction board shall be appointed by the town council for terms of three (3) years each. (as added by Ord. #2020-20, Sept. 2020 **Ch20_06-28-21**)

12-1004. Chairman and secretary. The construction board shall organize by electing one of its members as a chairman and one as a secretary. (as added by Ord. #2020-20, Sept. 2020 **Ch20_06-28-21**)

12-1005. Powers and duties generally. The construction board shall meet on call by its chairman to consider appeals from the decisions of the various enforcement officers of the various mechanical codes of the town adopted in this code or other ordinances of the town and to consider adjustments in building, fire, fuel gas, life safety, mechanical and plumbing codes adopted by the town. The board shall have the power to determine questions of administrative interpretations of the various mechanical codes of the town code, questions of the use of materials and types of construction, to hear proof of performance of new materials or materials not specifically covered in the codes and to determine the usability of such materials and safety and permanence of various types of construction. The construction board shall also have power to make

recommendations for revisions or modifications of existing building, fire, fuel gas, life safety, mechanical and plumbing codes to the town council. (as added by Ord. #2020-20, Sept. 2020 **Ch20_06-28-21**)

12-1006. Appeals from determinations of the construction board. Any person aggrieved by any action or decision of the construction board may appeal to the town council by requesting an appeal, in writing, within ten (10) days after the action or decision which is sought to be appealed. (as added by Ord. #2020-20, Sept. 2020 **Ch20_06-28-21**)

CHAPTER 11

OFFICE OF ADMINISTRATIVE HEARING OFFICER

SECTION

- 12-1101. Municipal administrative hearing officer.
- 12-1102. Communication by administrative hearing officer and parties.
- 12-1103. Appearance by parties and/or counsel.
- 12-1104. Pre-hearing conference and orders.
- 12-1105. Appointment of administrative hearing officer/administrative law judge.
- 12-1106. Training and continuing education.
- 12-1107. Citations for violations-written notice.
- 12-1108. Review of citation--levy of fines.
- 12-1109. Party in default.
- 12-1110. Petitions for intervention.
- 12-1111. Regulating course of proceedings--hearing open to public.
- 12-1112. Evidence and affidavits.
- 12-1113. Rendering of final order.
- 12-1114. Final order effective date.
- 12-1115. Collection of fines, judgments and debts.
- 12-1116. Judicial review of final order.
- 12-1117. Appeal to court of appeals.

12-1101. Municipal administrative hearing officer. (1) In accordance with title 6, chapter 54, section 1001, et seq., of the Tennessee Code Annotated, there is hereby created the Signal Mountain Municipal Office of Administrative Hearing Officer. The administrative hearing officer has jurisdiction to hear cases involving violations of municipal ordinances regulating zoning, building and property maintenance, including:

- (a) Locally adopted building codes;
- (b) Locally adopted residential codes;
- (c) Locally adopted plumbing codes;
- (d) Locally adopted electrical codes;
- (e) Locally adopted gas codes;
- (f) Locally adopted mechanical codes;
- (g) Locally adopted energy codes;
- (h) Locally adopted property maintenance codes;
- (i) Locally adopted zoning codes; and
- (j) Ordinances regulating any subject matter commonly found in the codes mentioned in subdivisions (1)(a)-(i).

The administrative hearing officer is not authorized to hear violations of codes adopted by the state fire marshal pursuant to Tennessee Code Annotated,

§ 68-120-101(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 town manager and/or the town manager's designee, and shall be an alternative to the enforcement included in the Signal Mountain Municipal Code.

(2) There is hereby created one (1) administrative hearing officer position to be appointed by the town council pursuant to § 12-1105 below.

(3) The amount of compensation for the administrative hearing officer shall be approved annually by the town council and included in the town budget.

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

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in title 6, chapter 54, section 1001, et seq., of the Tennessee Code Annotated. (as added by Ord. #2021-04, Aril 2021 ***Ch20_06-28-21***)

12-1102. 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 any 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 town 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. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1103. 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 counselor, unless prohibited by any provision of law, or other representative. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1104. 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, on 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. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1105. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall be appointed by the town council for a four (4) year term and serve at the pleasure of the town 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 town 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 Tennessee Code Annotated, § 6-54-1007(a) and (b). (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1106. Training and continuing education. (1) Each person appointed to serve as an administrative hearing officer shall, within the six (6) 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 will be developed by MTAS with input from the administrative procedures division, office of the Tennessee secretary of state. MTAS will 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 will develop 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 part. 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 town may bear some of the cost of the fees for an administrative hearing officer serving the town.

(4) Costs pursuant to this section shall be offset by fees enacted. (as added by Ord. #2020-21, Sept. 2020 **Ch20_06-28-21**)

12-1107. Citations for violations-written notice. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the town's administrative hearing ordinance, the issuing officer shall provide the alleged violator with 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, a more definite and detailed written statement shall be furnished ten (10) business days prior to the time set for the hearing by the administrative hearing officer to the alleged violator;

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

(c) Contact information for the town'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 town'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 an 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 town's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (as added by Ord. #2020-21, Sept. 2020 **Ch20_06-28-21**)

12-1108. Review of citation--levy of fines. (1) Upon receipt of a citation issued pursuant to § 12-1107, 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 subsection,

"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 subsection, "non-residential property" means all real property, structures, buildings and dwellings that are 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 in 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 has not yet occurred, shall be cancelled. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1109. 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 interest 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. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1110. 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 intervenor 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 intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

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

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

(c) Requiring two (2) or more intervenors 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. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1111. Regulating course of 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 prehearing 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 title 8, chapter 44 of the Tennessee Code Annotated, 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. #2020-21, Sept. 2020 **Ch20_06-28-21**)

12-1112. 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 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 affiant, the opposing party's right to cross examination of such affiant is waived and the 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 (1)(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.
- (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 affidavit) 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. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1113. 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 therefore, 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 accompanied 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. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1114. 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. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1115. Collection of fines, judgments and debts. The town 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. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1116. 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 errors that affect the merits of such decision are identified.

(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. #2020-21, Sept. 2020 **Ch20_06-28-21**)

12-1117. 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. #2020-21, Sept. 2020 **Ch20_06-28-21**)