

**THE  
BANEERRY  
MUNICIPAL  
CODE**

Prepared by the  
**MUNICIPAL TECHNICAL ADVISORY SERVICE  
INSTITUTE FOR PUBLIC SERVICE  
THE UNIVERSITY OF TENNESSEE**  
in cooperation with the  
**TENNESSEE MUNICIPAL LEAGUE**

November 1999

Change 2, November 3, 2005

**CITY OF BANEERRY, TENNESSEE**

**MAYOR**

Stan Veltkamp

**COMMISSIONERS**

Skip Carter  
Clint Hurley

**MANAGER**

Pat Lunsford

**RECORDER**

Pat Lunsford

## Preface

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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

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

Steve Lobertini  
Codification Consultant

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

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

ORDINANCE NO. 98-2**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF BANEERRY, TENNESSEE.**

WHEREAS some of the ordinances of the City of Baneberry are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the board of commissioners of the City of Baneberry, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same embodied in a code of ordinances known as the "Baneberry Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF BANEERRY, AS FOLLOWS:

**Section 1. Ordinances codified.** The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Baneberry Municipal Code," hereinafter referred to as the "Municipal Code."

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or

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<sup>1</sup>Charter reference

Tennessee Code Annotated, § 6-20-214.

providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

**Section 4. Continuation of existing provisions.** Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

When a civil penalty is imposed on any person for violation any

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

**Section 7. Reproduction and amendment of code.** The municipal code shall be reproduced in loose-leaf form. The board of commissioners, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.



**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

**Section 10. Date of effect.** This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading Oct 7, 1999

Passed 2nd reading Nov 4, 1999

J. Roger Bragdon  
Mayor

Judy Hodges  
Recorder

## **TITLE 1**

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

#### **CHAPTER**

#### **1. BOARD OF COMMISSIONERS.**

### **CHAPTER 1**

### **BOARD OF COMMISSIONERS<sup>2</sup>**

#### **SECTION**

#### **1-101. Meetings.**

**1-101. Meetings.** Regular meetings of the City Commission of Baneberry shall be held at 7:00 P.M. on the first Thursday of each month in the Baneberry City Hall; however, if this day falls on a holiday, or on a day observed

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<sup>1</sup>Charter reference

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

Municipal code references

Utilities: titles 18 and 19.

Zoning: title 14.

<sup>2</sup>Charter reference

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

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

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

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

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

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

Taxation

Power to levy taxes: § 6-22-108.

Change tax due dates: § 6-22-113.

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

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

as a holiday, the regular meeting shall be held at the same time and place on the following Thursday. Special meetings may be called by the mayor or by any commissioner. (Ord. #94-2, Jan. 1995, as replaced by Ord. #202-5, Oct. 2002)

**TITLE 2**

**BOARDS AND COMMISSIONS, ETC.**

**CHAPTER**

1. ROAD COMMISSION.
2. PARKS AND RECREATION COMMISSION.

**CHAPTER 1**

**ROAD COMMISSION**

**SECTION**

2-101. Road commission; establishment.

**2-101. Road commission; establishment.** The mayor is hereby authorized to establish a road commission consisting of no more than seven and no less than three members, for the purpose of establishing regulations, guidelines and policies, subject to the approval of the board of commissioners, pertaining to the construction of new roads and to the repair and maintenance of existing roads. (as added by Ord. #201-6, Sept. 2001)

## CHAPTER 2

### PARKS AND RECREATION COMMISSION

#### SECTION

2-201. Establishment.

2-202. Membership, terms of office.

**2-201. Establishment.** There shall be established a parks and recreation commission whose purpose is to seek governmental or private grants or funds to establish structures and/or outdoor areas to be used to provide park(s) and recreational uses, to seek available real property upon which to construct said structures and/or outdoor areas, and to make recommendations to the board of commissioners as to the expenditures of funds to complete the recreational projects. The commission shall also recommend recreational programs, recommend uses for recreational and community facilities, and stimulate interest in beautification of the city, which meet the needs of the city. The commission shall implement all programs upon which the city commissioners approve. (as added by Ord. #203-2, April 2003, and amended by Ord. #204-1, July 2003)

**2-202. Membership, terms of office.** The commission shall consist of five (5) members of which one member shall be a city commissioner. The four (4) non city commissioners shall be appointed by the mayor for four-year terms to be staggered annually and the city commissioner shall serve for the period in which he is elected. The initial non-commissioners shall be appointed by the mayor to serve terms of four, three, two and one respectively. (as added by Ord. #203-2, April 2003)

## TITLE 3

### MUNICIPAL COURT<sup>1</sup>

#### CHAPTER

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

#### CHAPTER 1

#### CITY COURT AND CITY JUDGE

#### SECTION

- 3-101. City court established.
- 3-102. City judge designated.
- 3-103. Vacancy of city judge.

**3-101. City court established.** There shall be established a city court presided over by a city judge who shall have jurisdiction over all cases arising from the laws and ordinances of the City of Baneberry, Tennessee. (Ord. #95-3, July 1995)

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

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

##### City judge:

Appointment and term: § 6-21-501.

Jurisdiction: § 6-21-501.

Qualifications: § 6-21-501.

##### City court operations:

Appeals from judgment: § 6-21-508.

Appearance bonds: § 6-21-505.

Arrest warrants: § 6-21-504.

Docket maintenance: § 6-21-503.

##### Fines and costs:

Amounts: §§ 6-21-502, 6-21-507.

Collection: § 6-21-507.

Disposition: § 6-21-506.

**3-102. City judge designated.** The officer designated in accordance with Tennessee Code Annotated, § 6-21-501(a) to handle judicial matters within the City of Baneberry and who shall preside over city court at the will of the board is the city recorder. (Ord. #95-3, July 1995)

**3-103. Vacancy of city judge.** In the event of incapacity, death, or other vacancy in the office of city judge, the city commission shall appoint a city judge at its next regular or special meeting. A two-thirds (2/3) vote of the commission shall be required to fill any such vacancy. (Ord. #95-3, July 1995)

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

3-201. Maintenance of docket.

3-202. Court session.

3-203. Fines and costs imposed.

**3-201. Maintenance of docket.** The city judge shall keep a complete docket of all cases coming before him in his judicial capacity. The docket shall include for each case the name of the defendant, the alleged offense or violation, citation/summons number, disposition, including any fines, costs, and any additional information which the city judge, in his discretion, deems relevant. (Ord. #95-3, July 1995)

**3-202. Court session.** City court shall be in session the second Thursday of each month at 6:00 P.M., beginning in the month of March 2005. (Ord. #96-4, April 1996, as replaced by Ord. #205-2, March 2005)

**3-203. Fines and costs imposed.** The city judge shall be empowered to impose fines and costs against an offender upon proper finding of a violation of an ordinance of the city. Said fines shall be paid into the treasury. The bill of costs shall be taxed in the same manner as allowed in the court of general sessions<sup>1</sup> for similar work in state cases. Said cost shall be forty-nine dollars and fifty cents (\$49.50) per violation and is itemized as follows:

State Litigation Fee .....	\$13.75
City Litigation Fee .....	\$ 5.25
Summons .....	\$25.00
Clerical Fee .....	\$ 5.50

The city judge is empowered to enforce collection of such fines and costs, imposed by him. No fine shall exceed five hundred dollars (\$500.00), except in moving traffic violations whereas the fine shall not exceed fifty dollars (\$50.00). (Ord. #96-1, Jan. 1996)

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<sup>1</sup>State law reference

Tennessee Code annotated, § 8-21-401.



## CHAPTER 3

### SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

**3-301. Issuance of summonses.** When a complaint is made to the city judge of alleged violation of an ordinance of the city, he shall issue a summons in lieu of an arrest warrant. The summons issued shall order the alleged offender to appear before the city court at a time specified therein to answer charges against him. The summons shall also set forth a description of the offense charged. (Ord. #95-3, July 1995)

**3-302. Issuance of subpoenas.** The city judge shall be empowered to issue subpoenas upon request of a party in interest of matters coming before the court. (Ord. #95-3, July 1995)

## CHAPTER 4

### APPEALS

#### SECTION

3-401. Appeals of city court judgement.

**3-401. Appeals of city court judgement.** Any judgment of the city judge may be appealed to the Circuit Court of the county in which the city sits. Appeal must be filed within ten (10) days<sup>1</sup> of the judgment, Sundays and holidays excluded, and there must be a bond approved by the city judge not to exceed \$250.00 for good and sufficient security of the offender's appearance or prosecution of appeal. Such bond may be made by cash deposit or by surety bond issued by an insurance company authorized to issue such bonds or by property bond signed by two (2) property owners within the county as sureties for such appeal. (Ord. #95-3, July 1995)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 27-5-101.

## **TITLE 4**

### **MUNICIPAL PERSONNEL**

#### **CHAPTER**

1. TRAVEL REIMBURSEMENT REGULATIONS.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

#### **CHAPTER 1**

### **TRAVEL REIMBURSEMENT REGULATIONS**

#### **SECTION**

- 4-101. Purpose.
- 4-102. Enforcement.
- 4-103. Travel policy.
- 4-104. Travel reimbursement rate schedule.
- 4-105. Administrative procedures.

**4-101. Purpose.** The purpose of this chapter and referenced regulations is to bring the city into compliance with Pub. Acts 1993, ch. 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (Ord. #93-5, Oct. 1993)

**4-102. Enforcement.** The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #93-5, Oct. 1993)

**4-103. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

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

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

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

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

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

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

(b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5.00 or more for travel expense reimbursement must be supported by the "original" paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

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

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #93-5, Oct. 1993)

**4-104. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the federal travel regulation rates. The city's travel reimbursement rates will automatically change when the federal rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #93-5, Oct. 1993)

**4-105. Administrative procedures.** The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State

of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #93-5, Oct. 1993)

## CHAPTER 2

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-201. Title.
- 4-202. Purpose.
- 4-203. Coverage.
- 4-204. Standards authorized.
- 4-205. Variances from standards authorized.
- 4-206. Administration.
- 4-207. Funding the program.

**4-201. Title.** This section shall provide authority for establishing and administering the occupational safety and health program plan for the employees of the City of Baneberry. (as added by Ord. #205-3, March 2003)

**4-202. Purpose.** The City of Baneberry, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

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

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;
- (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
- (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety the health standards, and provide for education and notification of all employees of the existence of this program. (as added by Ord. #205-3, March 2003, and amended Ord. #205-11, Oct. 2005)

**4-203. Coverage.** The provisions of the occupational safety and health program plan for the employees of the City of Baneberry shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Baneberry whether part-time or full-time, seasonal or permanent. (as added by Ord. #205-3, March 2003)

**4-204. Standards authorized.** The occupational safety and health standards adopted by the City of Baneberry are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (as added by Ord. #205-3, March 2003)

**4-205. Variances from standards authorized.** The City of Baneberry may, upon written application of the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Baneberry shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the City of Baneberry shall be deemed sufficient notice to employees. (as added by Ord. #205-3, March 2003)

**4-206. Administration.** For the purposes of this chapter, the health and safety inspector is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the City of Baneberry. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #205-3, March 2003)

**4-207. Funding the program.** Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Baneberry. (as added by Ord. #205-3, March 2003)



**TITLE 5****MUNICIPAL FINANCE AND TAXATION<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. PURCHASING PROCEDURES.
3. PRIVILEGE AND BUSINESS TAX.
4. PROPERTY TAX COLLECTION.

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

- 5-101. Official depository for city funds.  
5-102. Fiscal year of the city.

**5-101. Official depository for city funds.** Any bank insured by the FDIC and located in the general geographic area of the City of Baneberry is hereby designated as an official depository for funds of the City of Baneberry, Tennessee.<sup>2</sup> (Ord. #90-3, March 1991)

**5-102. Fiscal year of the city.** The fiscal year of the city is hereby fixed and determined to commence on the first day of July of each year.<sup>3</sup> (Ord. #87-2, Feb. 1987)

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<sup>1</sup>Charter reference

Finance and taxation: title 6, chapter 22.

<sup>2</sup>Charter reference

Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

<sup>3</sup>Charter reference

Tennessee Code Annotated, § 6-22-121 provides that the fiscal year of the city shall begin on July 1 unless otherwise provided by ordinance.

## CHAPTER 2

### **PURCHASING PROCEDURES**

#### **SECTION**

- 5-201. Purchasing agent.
- 5-202. General procedures.
- 5-203. Rejection of bids.
- 5-204. Conflict of interest.
- 5-205. Purchases from employees.
- 5-206. Sealed bid requirements - \$5,000.000 or greater.
- 5-207. Competitive bidding - \$500.00 - \$5,000.00.
- 5-208. Purchases and contract less then \$500.00.
- 5-209. Bid deposit.
- 5-210. Performance bond.
- 5-211. Record of bids.
- 5-212. Considerations in determining bid award.
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- 5-222. Items estimated to have monetary value.
- 5-223. Surplus property painted with city colors or with city emblems
- 5-224. Definitions.
- 5-225. Liability for excess purchases.
- 5-226. Additional forms and procedures.

**5-201. Purchasing agent.** The city manager shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment and services of any nature whatsoever shall be approved and acquired by the purchasing agent or his/her representative. (Ord. #93-4, July 1993)

**5-202. General procedures.** Competitive bids on all supplies, materials, equipment, services and contracts for public improvements, except those specified elsewhere in this policy, shall be obtained, whenever practicable, and the purchase or contract awarded to the lowest responsible bidder, provided that any or all bids may be rejected as prescribed by this policy. (Ord. #93-4, July 1993)

**5-203. Rejection of bids.** The purchasing agent shall have the authority to reject any and all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees, or other monies of whatever nature that may be due the city by said vendor or contractor. (Ord. #93-4, July 1993)

**5-204. Conflict of interest.** All employees who participate in any phase of the purchasing function are to be free of interests or relationships which are actually or potentially hostile or detrimental to the best interests of Baneberry, and shall not engage in or participate in any commercial transaction involving the city, in which they have a significant interest. (Ord. #93-4, July 1993)

**5-205. Purchasing from employee.** It shall be the policy of the city not to purchase any goods or service from any employee or close relative of any employee without prior approval of the city manager. (Ord. #93-4, July 1993)

**5-206. Sealed bid requirements - \$5,000.00 or greater.** On all purchases and contracts estimated to be in excess of five thousand dollars (\$5,000.00), except as otherwise provided for in this policy, formal sealed bids shall be required to be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit the bids for award by the city commission at the next regularly scheduled commission meeting or special-called commission meeting together with tie recommendation as to the lowest responsible bidder.

Notice inviting bids shall be published once in a newspaper of general circulation in Jefferson County, and at least five days preceding the last day of the bids. The newspaper notice shall contain a general description of the article(s) to be purchased, shall state where the written specifications may be secured, and the time and place for opening bids.

In addition to publication in a newspaper, the purchasing agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid. This may be accomplished by delivery, verbally, by mail, or posting in a public place. (Ord. #93-4, July 1993)

**5-207. Competitive bidding - \$500.00 - \$5,000.00.** All purchases of supplies, equipment, services and contracts estimated to be in excess of five hundred dollars (\$500.00) but less than five thousand dollars (\$5,000.00), shall be by competitive bidding and may be awarded to the lowest responsible bidder. A written record shall be required and available for inspection showing that competitive bids were obtained by: direct mail, telephone bids, or public notice. Such bids shall be received by the purchasing agent who shall award the bid to the lowest responsible bidder.

The city recorder shall verify account balances, prior to purchasing agent approval, for all purchases over one thousand dollars (\$1,000.00).

In the purchasing agent's absence, the city recorder shall approve the bid. (Ord. #93-4, July 1993)

**5-208. Purchases and contracts less than \$500.00.** The purchasing agent is expected to obtain the best prices and services available for purchases and contracts of less than \$500.00, but is exempted from formal bid requirement mentioned in the two previous sections. (Ord. #93-4, July 1993)

**5-209. Bid deposit.** When deemed necessary, bid deposits may be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the purchasing agent shall determine and unsuccessful bidders shall be entitled to return of the deposits where such has been required. A successful bidder shall forfeit any required deposit upon failure on his part to enter a contract within ten (10) days after the award. (Ord. #93-4, July 1993)

**5-210. Performance bond.** The purchasing agent may require a performance bond before entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the city and furnishers of labor and materials in the penalty of not less than the amount provided by Tennessee Code Annotated. (Ord. #93-4, July 1993)

**5-211. Record of bids.** The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection and maintained in the city recorder's office.

The bid file shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the advertisement.
- (3) A copy of the specifications.
- (4) A list of bidders and their responses.
- (5) A copy of the purchase order.
- (6) A copy of the invoice. (Ord. #93-4, July 1993)

**5-212. Considerations in determining bid award.** (1) The ability of the bidder to perform the contract or provide the material or service required.

(2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.

(3) The character, integrity, reputation, judgement, experience, and efficiency of the bidder.

(4) The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.

- (5) The quality of performance of previous contracts or services.
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- (7) The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.
- (8) Terms and conditions stated in the bid.
- (9) Compliance with specifications.
- (10) Total cost of the bid, including expected Life, maintenance costs, and performance.

AWARD SPLITTING - If total savings generated is less than \$200.00, do not split the bid award. (Ord. #93-4, July 1993)

**5-213. Statement when award not given to low bidder.** When the award for purchases and contracts in excess of \$500.00 is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere, shall be prepared by the purchasing agent or department head and filed with all the other papers relating to the transaction. (Ord. #93-4, July 1993)

**5-214. Award in case of tie bids.** (1) If all bids received are for the same amount, quality service being equal, the purchase contract shall be awarded to a local bidder.

(2) Where a local vendor has not bid or where his bid is not the lowest tie bid, the purchasing agent shall award the purchase or contract to one of the bidders by drawing lots in public. (Ord. #93-4, July 1993)

**5-215. Back orders.** All orders must be completed, whether through complete fulfillment of the purchase order or through closing the purchase order with items not received. The non-delivered items will be cancelled from the purchase order and the check will be issued to the equal amount of the purchase order. (Ord. #93-4, July 1993)

**5-216. Emergency purchases.** When in the judgement of the purchasing agent an emergency exists, the purchasing divisions of this policy may be waived, provided, however, the purchasing agent shall report the purchases/contracts to the city commission at the next regular commission meeting stating the item, the amount paid, from whom the purchase was made, and nature of the emergency.

POOR PLANNING AND MANAGEMENT DOES NOT CONSTITUTE AN EMERGENCY. (Ord. #93-4, July 1993)

**5-217. Waiver of competitive bidding.** Upon recommendation of the city manager, that it is clearly to the advantage of the city not to contract by

competitive bidding, the requirements of competitive bidding may be waived under the following circumstances:

(1) Single source of supply. The availability of only one vendor of a product or service within a reasonable distance of the city as determined after a complete search by the using department and the purchasing department. A written statement must be filed verifying single source supplier.

(2) State Department of General Services. These are purchases made through or in conjunction with the State Department of General Services (state contract). Municipalities may take advantage of the so-called "state prices" regardless of any charter or general law requirements.<sup>1</sup> These bids may be viewed on the file received from the state.

(3) Purchases from other governments. Any municipality may purchase from any federal, state or local government unit or agency, second-hand articles of equipment or other materials, supplies, commodities, and equipment. The purchasing agent, all department heads, and city staff will be authorized to sign for these purchases. These purchases may be made without competitive bidding and public advertising regardless of charter requirements.<sup>2</sup>

(4) Purchases from nonprofit corporations. Any municipality may purchase from any non-profit corporation whose sole purpose is to provide goods and services specifically to municipalities, such as Local Government Data Processing.<sup>3</sup>

(5) Purchases from Tennessee State Industries.

(6) Purchases from instrumentalities created by two or more cooperating governments.<sup>4</sup>

(7) Certain insurance. Municipalities may purchase tort liability insurance, without competitive bidding from the Tennessee Municipal League, or any other plan authorized and approved by any organization by governmental entities representing cities and counties.<sup>5</sup>

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 12-3-1001.

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 12-2-1003.

<sup>3</sup>State law reference  
Tennessee Code Annotated, § 6-56-302.

<sup>4</sup>State law reference  
Tennessee Code Annotated, § 12-9-101.

<sup>5</sup>State law reference  
Tennessee Code Annotated, § 29-20-407.

(8) Investments in or purchases from the pooled investment fund established pursuant to Tennessee Code Annotated, § 9-17-105.

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

(10) Professional Service Contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, and consultants required by the city, whose fee is \$500.00 or more, shall be evidenced by written contract. The contract will be awarded on the basis of recognized competence and integrity, rather than on competitive bids. Competitive bidding shall be prohibited for such services.<sup>1</sup>

(11) In those cases where city commission indicates by formal unanimous resolution of those present at the meeting, based upon recommendation of the city manager, that it is clearly to the advantage of the city not to contract with competitive bidding, it may authorize noncompetitive contracts. (Ord. #93-4, July 1993)

**5-218. Property control.** A physical inventory of the city's fixed assets must be taken annually. A system of fixed asset records provides a simple method of positive identification for each piece of equipment. It prevents the purchase of:

- (1) Unneeded and duplicate assets;
- (2) Provides a basis for insurance claims;
- (3) Theft and negligence are decreased;
- (4) Sets replacement schedules for equipment; and
- (5) Notes transfer or disposal of surplus property.

To be classified as a fixed asset, an item must:

- (a) Be tangible.
- (b) Have a life longer than the current year.
- (c) Have a value of over \$100.00.

Any property and equipment that meets these criteria shall be assigned an asset number (affixed with a property sticker), have a completed property card, and be inventoried annually. Such records shall be controlled and maintained by the city recorder. (Ord. #93-4, July 1993)

**5-219. Disposal of surplus property.** The purchasing agent shall be in charge of the disposal of surplus property and make a full report to the city commission after the items are disposed of. When a department determines there is surplus equipment or materials within the department, he/she will notify the purchasing agent in writing of any such equipment. The purchasing agent may transfer surplus equipment or materials from one department to another. (Ord. #93-4, July 1993)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 29-20-407.

**5-220. Employees participating in the disposal of surplus property.** No city employee above the rank of foreman shall be permitted to bid on surplus property. (Ord. #93-4, July 1993)

**5-221. Items consumed in the course of work thought to be worthless.** City property which may be consumed in the course of normal city business and items thought to be worthless shall be disposed of in a like manner as any other refuse. These items shall be simply charged off as a routine cost of doing business. (Ord. #93-4, July 1993)

**5-222. Items estimated to have monetary value.** When disposing of items estimated to have monetary value, the purchasing agent shall follow the following procedures:

(1) Obtain from city commission a resolution declaring said item(s) surplus property and fixing the date, time, and place for the purchasing agent to receive bids.

(2) A copy of the resolution shall be posted in three locations in the city.

(3) Such equipment or materials shall be sold to the highest bidder. In the event the highest bidder is unable to pay within twenty-four hours, the item shall be awarded to the second highest bidder.

(4) All pertinent information will be noted in the fixed asset records of the city as to the disposal of the items.

(5) The advertisement, bids, and property cards shall be retained for a minimum period of five years. (Ord. #93-4, July 1993)

**5-223. Surplus property painted with city colors or with city emblems.** No surplus city property painted with city colors and/or with a city emblem shall be disposed of unless it is repainted with colors other than those of the city and/or the emblem removed. (Ord. #93-4, July 1993)

**5-224. Definitions.** When used in the context of this manual and in the authorization of the purchase order, contractual agreements, invitations to bid, or other pertinent documents, the words, conditions and phrases below shall have the following meanings:

(1) "Accept." To receive with approval or satisfaction.

(2) "Acknowledgement." Written confirmation from the vendor to purchaser of an order implying obligation or incurring responsibility.

(3) "Agreement." A coming together in opinion or determination; understanding and agreement between two or more parties.

(4) "All or none." Baneberry reserves the right to award each item individually or to award all items on an "all or none basis."

(5) "Annual." Recurring, done or performed every year.



- (6) "Appropriations." Public funds set aside for a specific purpose.
- (7) "Approved." To be satisfied with; admit the propriety or excellence of; to be pleased with; to conform, to ratify.
- (8) "Approved equal." Alike; uniform; on the same plane or level with respect to efficiency, worth, value, amount or rights.
- (9) "Attest." To certify to the verity of a public document formally by signature; to affirm to be true or genuine.
- (10) "Award." The presentation of a contract to a vendor; to grant; to enter into with all required legal formalities.
- (11) "Awarded bidder." Any individual, company, firm, corporation, partnership, or other organization to whom an award is made by the city.
- (12) "Back order." The portion of a customer's order undelivered due to temporary unavailability of a particular product or material.
- (13) "Bid." A vendor's response to an Invitation for Bids; the information concerning the price or cost of materials or services offered by a vendor.
- (14) "Bidder." Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the purchasing agent and offering to enter into contracts with the city. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.
- (15) "Bid bond." An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.
- (16) "Bid file." A folder containing all of the documentation concerning a particular bid. This documentation includes: the names of all vendors to whom the invitation to bid was mailed, the responses of the vendors, the bid tabulations form and any other information as may be necessary.
- (17) "Bid opening." The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.
- (18) "Bid solicitation." Invitations for bids.
- (19) "Blanket bid (order)." A type of bid used by buyers to purchase repetitive products. The city establishes its need of a product for a specified time. The vendor is then informed of the city's expected usage duration of the contract. The city will order small quantities of these items from the vendor over the life of the contract.
- (20) "Business." Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or legal entity through which business is conducted.
- (21) "Cancel." To revoke a contract or bid.
- (22) "Capital items." Equipment which has an expected lifespan of one year or longer and value (usually) in excess of \$1,000.00.

(23) "Cash discount." A discount from the purchase price allowed to the purchaser if payment is made within a specified time.

(24) "Caveat emptor." Let the buyer beware; used in proposals or contracts to caution a buyer to avoid misrepresentation.

(25) "Certify." To testify in writing; to make known or establish as a fact.

(26) "City." Baneberry, Tennessee.

(27) "Competitive bidding." Bidding on the same undertaking or material items by more than one vendor.

(28) "Conspicuously." To be prominent or obvious; located, positioned, or designed to be noticed.

(29) "Construction." The building, alteration, demolition or repair (including, but not limited to, dredging, excavating and painting) of public buildings, structures and highways, and other improvements or additions to real property.

(30) "Contract." An agreement, grant or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property or any other item.

(31) "Date." Recorded information, regardless of form or characteristic.

(32) "Delivery schedule." The required or agreed upon rate of delivery of goods or services.

(33) "Discount for prompt payment." A predetermined discount offered by a vendor for prompt payment.

(34) "Encumber." Reserve funds against a budgeted line item; to charge against an account.

(35) "Evaluation of bid." The process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, other characteristics of the bid that determine the eventual selection of a winning bid.

(36) "Fiscal year." An accounting period of 12 months, July 1 through June 30.

(37) "F.O.B. destination." An abbreviation for "free on board" that refers to the point of delivery of goods. The seller absorbs transportation charges and retains title to and responsibility for the goods until Baneberry has received and signed for the goods.

(38) "Goods." All materials, equipment, supplies, printing.

(39) "Invitation for bid." All documents utilized for soliciting bids.

(40) "Invoice." A written account of merchandise and process, delivered to the purchaser; a bill.

(41) "Lead time." The period from date of ordering to date of delivery which the buyer must reasonably allow the vendor to prepare goods for shipment.

(42) "Life cycle costing." A procurement technique which considers the total cost of purchasing, maintaining, operating and disposal of a piece of equipment when determining low bid.

(43) "Material receiving report." A form used by the receiving function of an agency to inform others of the receipt of goods purchased.

(44) "Performance bond." A bond given to the purchaser by a vendor (or contractor) guaranteeing the performance of certain services or delivery of goods within a specified time. The purpose is to protect the purchaser against a cash loss which might result if the vendor did not deliver as promised.

(45) "Pre-bid conference." A meeting held with potential vendors a few days after a invitation for bids has gone out to promote uniform interpretation of work statements and specifications by all prospective contractors.

(46) "Procurement" or "purchasing." Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance or any other item. It also includes all functions that pertain to the acquisition of such supplies, services, construction, insurance and other items, including description of requirements, selection and solicitation of sources, preparation and award of contract, contract administration, and all phases of warehousing and disposal.

(47) "Public." Open to all.

(48) "Public purchasing unit." Means the State of Tennessee, any county, city, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

(49) "Purchasing order." A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should contain statements about the quantity, description, and price of goods or services ordered; agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

(50) "Reject." Refuse to accept, recognize, or make use of; repudiate, to refuse to consider or grant.

(51) "Responsive bidder." One who has submitted a bid which conforms in all material respects to the invitation for bids.

(52) "Sealed." Secured in any manner so as to be closed against inspection of contents.

(53) "Sealed bids." Written proposals or offers which are submitted by potential vendors before a certain date to a purchasing agent who has provided complete information regarding specifications and quantities required.

(54) "Sole source procurement." An award for a commodity which can only be purchased from one supplier, usually because of its technological, specialized, or unique character.

(55) "Specifications." Any description of the physical or functional characteristics of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(56) "Standardization." The making, causing, or adapting of items to conform to recognized qualifications.

(57) "Telephone bids." Contacting one or more vendors to obtain oral quotes for items of a value less than \$500.00.

(58) "Vendor." The person who transfers property, goods, or services by sale. (Ord. #93-4, July 1993)

**5-225. Liability for excess purchases.** This chapter shall authorize only the purchase of materials and supplies and the procurement of contracts for which funds have been appropriated and are within the limits of the funds estimated for each department in the annual budget or which have been authorized and lawfully funded by the city commission. The municipality shall have no liability for any purchase made in violation hereof. In the event any provision of this chapter shall be construed to be in conflict herewith, then the provisions of this section shall prevail. (Ord. #93-4, July 1993)

**5-226. Additional forms and procedures.** The purchasing agent is authorized to develop additional procedures and forms in furtherance of these policies. (Ord. #93-4, July 1993)

## CHAPTER 3

### PRIVILEGE AND BUSINESS TAX

#### SECTION

5-301. Tax levied.

5-302. License required.

**5-301. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed. (as added by Ord. #99-1, July 2000)

**5-302. License required.** No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (as added by Ord. #99-1, July 2000)

## CHAPTER 4

### PROPERTY TAX COLLECTION

#### SECTION

5-401. Trustee of Jefferson County to collect taxes.

5-402. Delinquent taxes.

5-403. Fee for service.

**5-401. Trustee of Jefferson County to collect taxes.** Commencing with the real property tax year of 2001, the Trustee of Jefferson County is hereby authorized to collect the ad valorem taxes assessed by the City of Baneberry on real property located within the city's corporate limits. (as added by Ord. #201-5, Sept. 2001)

**5-402. Delinquent taxes.** The Trustee of Jefferson County, Tennessee, is hereby authorized to collect all delinquent ad valorem taxes for the City of Baneberry for the year 2000. (as added by Ord. #201-5, Sept. 2001)

**5-403. Fee for service.** The city will pay to Jefferson County, through the county's trustee's office, the designated fee set by the Tennessee Legislature and the yearly computer conversion cost. (as added by Ord. #201-5, Sept. 2001)

**TITLE 6**

**LAW ENFORCEMENT**

**[RESERVED FOR FUTURE USE]**

## **TITLE 7**

### **FIRE PROTECTION AND FIREWORKS**

#### **CHAPTER**

1. OPEN BURNING.
2. FIRE CODE.

#### **CHAPTER 1**

#### **OPEN BURNING**

#### **SECTION**

- 7-101. Permit required.
- 7-102. Time of burning.
- 7-103. Notification of fire department.
- 7-104. Disallowable items for burning.
- 7-105. Attendance at burning.
- 7-106. Violations.

**7-101. Permit required.** Any party desiring to burn any item outside and away from any structure on their real property shall be required to obtain a burning permit from the city manager at least three (3) days before the burning is to commence and said permit shall state what items are to be burned. There shall be no cost for obtaining said burning permit. (as added by Ord. #200-2, Aug. 2000)

**7-102. Time of burning.** All open burning for residential shall be done on any Tuesday, Wednesday and Saturday that is not declared a federal, state or municipal holiday. All open burning for commercial burning shall be on any Tuesday or Wednesday not declared a federal, state or municipal holiday. All open burning shall commence at any time after dawn and shall be completely extinguished before the sun sets for that evening. (as added by Ord. #200-2, Aug. 2000, and amended by Ord. #200-6, July 2001)

**7-103. Notification of fire department.** Before commencing any burning, the permit holder must notify the White Pine Fire Department at least thirty (30) minutes before the burning is to begin. The City Manager or Fire Chief of the White Pine Fire Department, or any of his agents, shall be empowered to suspend the permit granted by the city manager in the event that high winds, drought conditions, or any other unsafe weather condition exists on the day for burning or after the burning has commenced. If a permit is suspended the holder of the permit shall notify the city manager who shall set a new date. If, after the burning has commenced, an unexpected wind develops or other weather or atmospheric condition arises which may cause the burning



to be unsafe for the adjoining property owners, the permit holder shall immediately take measures to extinguish the burning by themselves. If at any time a permit holder allows a burn to get out of control and it becomes necessary to have a fire department extinguish the fire, the permit holder shall be responsible for all costs incurred by the city as a result of the permit holder's action. (as added by Ord. #200-2, Aug. 2000)

**7-104. Disallowable items for burning.** No permit holder shall be allowed to burn any of the following items:

- (1) Tires of any kind;
- (2) Glass;
- (3) Plastics;
- (4) Containers containing butane or any other gas compounds;
- (5) Any item defined as hazardous or toxic pursuant to Tennessee Code Annotated, § 68-131-101, et seq.;
- (6) Any chemical or chemical compound;
- (7) Any compound which may cause a noxious odor or is deemed to be environmentally unsafe; and
- (8) Any other item, element or compound deemed non-burnable by any federal or state law or regulation. (as added by Ord. #200-2, Aug. 2000)

**7-105. Attendance at burning.** All permit holders shall be responsible for having an individual at the site tending the fire at all times the burning is taking place. (as added by Ord. #200-2, Aug. 2000)

**7-106. Violations.** Any individual who violates any provision of this chapter shall be summoned to the Baneberry City Court and shall be subjected to a fine of not more than \$500.00 plus any costs incurred by the city. (as added by Ord. #200-2, Aug. 2000)

## **CHAPTER 2**

### **FIRE CODE**

#### **SECTION**

7-201. Fire code adopted.

**7-201. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, § 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the NFPA-1 Uniform Fire Code, 2003 edition and all appendix thereto, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (as added by Ord. #204-8, Dec. 2004)

## TITLE 8

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

#### CHAPTER

##### 1. BEER.

#### CHAPTER 1

##### BEER<sup>2</sup>

#### SECTION

- 8-101. Beer board established.
- 8-102. Meetings of the beer board.
- 8-103. Record of beer board proceedings to be kept.
- 8-104. Requirements for beer board quorum and action.
- 8-105. Permit required for engaging in beer business.
- 8-106. Privilege tax.
- 8-107. Beer permits shall be restrictive.
- 8-108. Interference with public health, safety, and morals prohibited.
- 8-109. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-110. Prohibited conduct or activities by beer permit holders.
- 8-111. Suspension and revocation of beer permits.
- 8-112. Civil penalty in lieu of suspension.
- 8-113. Permits not transferable.
- 8-114. Inspections of beer business.

**8-101. Beer board established.** There is hereby established a beer board to be composed of the members of the Board of Commissioners of the City of Baneberry, whose duty it shall be to regulate, supervise, and control the issuance, suspension, and revocation of permits to sell, store, distribute, dispense, serve, and/or manufacture beer and other beverage of like alcoholic content not in excess of five (5) percentum by weight in the City of Baneberry. The mayor shall be the chairman and the city recorder shall be the secretary of said board. A majority of the board shall constitute a quorum for any purpose. (Ord. #96-2, Feb. 1996)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference

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

**8-102. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman, provided he gives adequate notice thereof to each member and to the public. The board may adjourn a meeting at any time to another time and place. (Ord. #96-2, Feb. 1996)

**8-103. Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #96-2, Feb. 1996)

**8-104. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transaction of business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #96-2, Feb. 1996)

**8-105. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a check (cashier's preferred) payable to the City of Baneberry. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #96-2, Feb. 1996)

**8-106. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Baneberry, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #96-2, Feb. 1996)

**8-107. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distribution, and manufacturing. Beer permits for the retail sale of beer shall be of the following type only:

(1) Off-sale. An "off-sale" permit to any person or legal organization engaged in the sale of beer where it is not to be consumed by the purchaser upon or near the premises of the seller.

(2) On-sale. An "on-sale" permit to any person or legal organization engaged in the sale of beer where it is to be consumed by the purchaser or his guests upon the premises of the seller, and in regularly incorporated clubs and lodges upon their obtaining the required permit.

The maximum number of permits permitted under this chapter shall be three until such time as the population of the city reaches one thousand six hundred (1600) at which time one additional permit may be granted. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (Ord. #96-2, Feb. 1996)

**8-108. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within three hundred (300) feet of any school, church or other such place of public gathering, measured in a straight line from the nearest point on the property line of said school, church or other place of public gathering to the nearest property line of the location where beer is stored, sold or manufactured. (Ord. #96-2, Feb. 1996)

**8-109. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (Ord. #96-2, Feb. 1996)

**8-110. Prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off-premises consumption only.)

(3) Make or allow any sale of beer between the hours of 1:00 A.M. and 6:00 A.M. on Monday through Saturday of the week and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.

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

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

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

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

(8) Allow drunk or disreputable persons to loiter about his premises.

(9) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #96-2, Feb. 1996)

**8-111. Suspension and revocation of beer permits.** (1) All permits subject to suspension, revocation. All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by the board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter or where the holder thereof is guilty of making false statements or misrepresentations in his application for a permit.

(2) Authority of board. The board by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

(3) Complaints. Complaints filed against any permit holder for the purpose of suspending or revoking beer permits shall be made in writing and filed with the board.

(4) Notice to appear; contents, service. When the board has reason to believe that any permit holder has violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of the violations and to cite the permittee by written notice to appear and show cause why his permit should not be suspended or revoked for the violations. The notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the police department of the city. The notice shall be served upon the permittee at least five (5) days before the date of the hearing.

(5) Hearing. At the hearing, the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After the hearing,

if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke the permit.

(6) Effect of board action. The action of the board in all such hearings shall be final, subject only to judicial review. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location until the expiration of one (1) year from the date of revocation becomes final.

(7) A beer permit shall be automatically revoked when a business for which the permit was issued fails to begin the sale of beer within sixty (60) calendar days after the granting of such permit or where a business for which a permit has been granted ceases to operate for a period of thirty (30) consecutive calendar days. (Ord. #96-2, Feb. 1996)

**8-112. Civil penalty in lieu of suspension.** The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1500.00 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000.00 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (Ord. #96-2, Feb. 1996)

**8-113. Permits not transferable.** Permits issued under the provisions of this chapter are not transferable, either as to location or to successor by purchase or otherwise, of the business for which the permit is required in the manner provided herein. (Ord. #96-2, Feb. 1996)

**8-114. Inspection of beer business.** The police officers and/or the beer board member(s) of the City of Baneberry shall have the right to inspect at any and all times the entire premises and property where or upon or in which the beverages regulated by this chapter are sold, stored, transported or otherwise dispensed or distributed or handled, whether at retail or wholesale, in the City of Baneberry. (Ord. #96-2, Feb. 1996)

**TITLE 9**

**BUSINESS, PEDDLERS, SOLICITORS, ETC.**

**CHAPTER**

**1. CABLE TELEVISION.**

**CHAPTER 1**

**CABLE TELEVISION**

**SECTION**

9-101. To be furnished under franchise.

**9-101. To be furnished under franchise.** Cable television shall be furnished to the City of Baneberry and its inhabitants under franchise granted to Charter Communications by the board of commissioners of the City of Baneberry, Tennessee. The rights, powers, duties and obligations of the City of Baneberry and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #203-3, dated April 3, 2003 in the office of the city recorder.



**TITLE 10**

**ANIMAL CONTROL**

**CHAPTER**

**1. DOGS.**

**CHAPTER 1**

**DOGS**

**SECTION**

10-101. Dogs to be under control of owner.

**10-101. Dogs to be under control of owner.** All dogs in the City of Baneberry outside the owners domicile must be fully under control by a leash or confined in a city planning commission approved enclosure. (Ord. #87-6, May 1987)

## **TITLE 11**

### **MUNICIPAL OFFENSES<sup>1</sup>**

#### **CHAPTER**

#### **1. FIREARMS, WEAPONS AND MISSILES.**

#### **CHAPTER 1**

#### **FIREARMS, WEAPONS AND MISSILES**

#### **SECTION**

11-101. Air rifles, etc.

11-102. Missiles.

11-103. Firearms.

**11-101. Air rifles, etc.** It shall be unlawful for any person in the City of Baneberry to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force producing means or method, toward or upon any vehicle, structure, or person. (Ord. #88-4, Sept. 1988, as replaced by Ord. #205-1, Feb. 2005)

**11-102. Missiles.** It shall be unlawful for any person to maliciously throw any stone, bottle, snowball or any other missile upon or at any vehicle, structure or person. (as added by Ord. #205-1, Feb. 2005)

**11-103. Firearms.** It shall be unlawful for any unauthorized person to discharge a firearm within the city's corporate limits; provided, however, the prohibition herein against discharging firearms shall not apply to organized and supervised firing ranges within permitted areas within the city or for special firings for special events which the mayor authorizes a law enforcement officer to conduct and supervise. (as added by Ord. #205-1, Feb. 2005)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Traffic offenses: title 15.

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

## **TITLE 12**

### **BUILDING, UTILITY, ETC. CODES**

#### **CHAPTER**

1. MODEL ENERGY CODE.
2. RESIDENTIAL AND BUILDING CODES.
3. CONSTRUCTION OF PORCHES AND DECKS.

#### **CHAPTER 1**

#### **MODEL ENERGY CODE<sup>1</sup>**

#### **SECTION**

- 12-101. Model energy code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations and penalty.

**12-101. Model energy code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Model Energy Code<sup>2</sup> 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from The Council of American Building Officials, 5203 Leesburg, Pike Falls Church, Virginia 22041.

**12-102. Modifications.** Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of Baneberry. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the energy code.

**12-103. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-104. Violations and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

**CHAPTER 2****RESIDENTIAL AND BUILDING CODES****SECTION**

- 12-201. Codes adopted.  
 12-202. Modifications.  
 12-203. Fees.

**12-201. Codes adopted.** Two certain documents, of which copies are on file in the office of the Building Official of the City of Baneberry with one being marked as the 2000 International Residential Code for one- and two-family dwellings, excluding Appendix 7 and one being marked as the 2000 International Building Code as published by the International Code Council be and is hereby adopted as the building code for the City of Baneberry in the State of Tennessee; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said building code are hereby referred to, adopted, and made part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 12-202 of this chapter. (as added by Ord. #203-6, July 2003)

**12-202. Modifications.** The following sections are hereby revised:

Section 101.1. Insert: City of Baneberry

Section 1612.3. Insert City of Baneberry

Section 1612.3. Insert July 3, 2003

Section 3409.2. Insert: July 3, 2003

(as added by Ord. #203-6, July 2003)

**12-203. Fees.** SCHEDULE OF BUILDING PERMIT FEES

Total Evaluation	Fee
\$1000.00 and less	\$50.00
\$1,001.00 to \$50,000.00	\$50.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00

\$50,001.00 to \$100,000.00	\$295.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,001.00 to \$500,000.00	\$495.00 for the first \$100,000 plus \$3.00 for each additional thousand or fraction thereof, to and including 500,000.00.
\$500,001.00 and up	\$1695.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

#### MOVING FEE

For the moving of any building or structure, the fee shall be \$100.00

#### DEMOLITION FEE

For the demolition of any building or structures, the fee shall be \$75.00

#### PLAN CHECKING FEE

When the valuation of the proposed construction exceeds \$1,000.00 and a plan is required to be submitted, a plan-checking fee shall be paid to the building official at the time of submitting plans and specifications for checking. Said plan-checking fee shall be equal to one-half of the building permit fee as set forth herein. Such plan-checking fee is in addition to the building permit fee.

Note: The building official may waive the plan-checking fee if a plan check is not required.

The building official shall determine the value of construction. (as added by Ord. #203-7, July 2003)

## CHAPTER 3

### CONSTRUCTION OF PORCHES AND DECKS

#### SECTION

- 12-301. Permit required.
- 12-302. Addition must be attached to existing house.
- 12-303. Addition shall not encroach into setback areas.
- 12-304. Exceptions.
- 12-305. Application for permit.
- 12-306. Inspection required.
- 12-307. Walls and roofs to match existing house.
- 12-308. Permit may be waived.

**12-301. Permit required.** It shall be unlawful to erect any type of porch, deck, replace existing decks or any other addition without first obtaining a permit from the City of Baneberry. (as added by Ord. #202-6, Nov. 2002)

**12-302. Addition must be attached to existing house.** All new decks, porches or other addition must be attached to the existing house except in special circumstances, which must be approved by the planning commission. (as added by Ord. #202-6, Nov. 2002)

**12-303. Addition shall not encroach into setback areas.** The addition shall not encroach into setback areas unless it is detached from the existing house and allowed under special circumstances in § 12-302. (as added by Ord. #202-6, Nov. 2002)

**12-304. Exceptions.** Concrete slabs, without a roof or enclosure, do not require a permit. (as added by Ord. #202-6, Nov. 2002)

**12-305. Application for permit.** Applicant must submit an application for permit to the city manager. The application shall be filled out completely and all of the requirements stated on the application must be met. If there are no "special circumstances" attached to the project, the city manager may, at his/her discretion, issue a permit without the planning commission's approval. (as added by Ord. #202-6, Nov. 2002)

**12-306. Inspection required.** A minimum of one inspection shall be required. Foundations, footings and all other structural connections must be exposed at the request of the inspector. The construction must meet all requirements of the in-place building codes. A permit fee shall be charged for one inspection, at the rate at the time of application. (as added by Ord. #202-6, Nov. 2002)

**12-307. Walls and roofs to match existing house.** Walls and roofs must be constructed to match the existing house unless approved otherwise by the planning commission. (as added by Ord. #202-6, Nov. 2002)

**12-308. Permit may be waived.** The permit may be waived for repairing existing porches if the existing foundation and all other structural aspects satisfactorily meet or exceed current in place codes and regulations and the structural integrity is not disturbed. (as added by Ord. #202-6, Nov. 2002)



## **TITLE 13**

### **PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>**

#### **CHAPTER**

1. MISCELLANEOUS.
2. JUNKYARDS.
3. JUNKED MOTOR VEHICLES.

#### **CHAPTER 1**

#### **MISCELLANEOUS**

#### **SECTION**

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds and brush.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Sewage systems.
- 13-108. Materials for filling of real property.
- 13-109. Penalties.
- 13-110. Littering.
- 13-111. Use of the mail center.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the city commission shall appoint or designate to administer and enforce health and sanitation regulations within the city. (as added by Ord. #201-2, Aug. 2001, and amended by Ord. #205-10, Oct. 2005)

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (as added by Ord. #201-2, Aug. 2001)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Toilet facilities in beer places: § 8-110(9).

**13-103. Stagnant water.** It shall be unlawful for any person knowingly to allow any pond or pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (as added by Ord. #201-2, Aug. 2001, and amended by Ord. #205-10, Oct. 2005)

**13-104. Weeds and brush.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds or tree sprouts on his property and maintain such vegetation at a height of twelve (12) inches or less. Furthermore, every owner or tenant of property shall keep brush, dead trees, fallen trees, stumps, etc., free from property that is normally mowed. It shall be unlawful for any person to allow grass clippings, leaves and/or brush to be discharged and/or accumulate in city streets or in drainage ditches located on city easements or right of ways. It shall be unlawful for any person to fail to comply with a request by the health officer to maintain their property as described in this section (13-104) of the property maintenance chapter. (as added by Ord. #201-2, Aug. 2001, and amended by Ord. #205-10, Oct. 2005)

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (as added by Ord. #201-2, Aug. 2001)

**13-106. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (as added by Ord. #201-2, Aug. 2001)

**13-107. Sewage systems.** It shall be unlawful for any property owner to allow the escape of sewage waste (solid or liquid) from treatment systems, tanks, lines, etc. on their property. Also any alternative sewage systems must be maintained according to the manufacturer's specifications and state regulations. The health officer shall notify the appropriate State of Tennessee official whenever a violation of this chapter is noted. (as added by Ord. #205-10, Oct. 2005)

**13-108. Materials for filling of real property.** It shall be unlawful for any person to fill or dump or to permit anyone to fill or dump any material on their property other than dirt, rock, or stone without obtaining approval, in

writing, from the city's health officer. (as added by Ord. #201-2, Aug. 2001, and renumbered by Ord. #205-10, Oct. 2005)

**13-109. Penalties.** Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and shall be fined in accordance with the general penalty clause for this code. Each day in which such violation shall continue shall be deemed a separate offense. (as added by Ord. #201-2, Aug. 2001, and renumbered by Ord. #205-10, Oct. 2005)

**13-110. Littering.** (1) It shall be unlawful for any person to litter, place, throw, track, obstruct or allow to fall on any street, alley, sidewalk, drainage ditch, or any other public place, any refuse, glass, tacks, nails, mud, limbs, trees, or other objects or materials which are unsightly, unsanitary, or which obstruct or tend to limit or interfere with the use of such public ways and/or places for their intended purposes or which tend to detract from the aesthetic beauty of the public ways and/or places.

(2) Any violation of this section shall subject the violator to a fifty dollar (\$50.00) fine for each and every day said violation occurs. (as added by Ord. #204-5, July 2004)

**13-111. Use of the mail center.** (1) It shall be unlawful for anyone to use the mail center or the mail center access road except for mail delivery or mail retrieval or as otherwise directed by the proper authorities.

(2) It shall be unlawful to use the mail center access road as a "short cut" or an alternate route to the dedicated city streets or to otherwise violate the posted signs such as driving the "wrong way" in the one-way sections.

(3) It shall be unlawful to use the mail center access road for recreational purposes, such as skate boarding, bicycle riding, horseback riding or other uses that could be determined to be recreational.

(4) It shall be unlawful for anyone to mutilate, deface or in any way, maltreat any and all properties located within the described boundaries herein, including the mail center, mail center access road, signs and the entire landscape of the property.

(5) Any law enforcement officer, the mayor, city commissioners and the city codes enforcement officer may issue citations for violation of this section.

(6) Any violation of this section shall be subjected to a fine of \$50.00 if adjudged guilty of the violation. (as added by Ord. #204-6, July 2004)

## **CHAPTER 2**

### **JUNKYARDS**

#### **SECTION**

#### **13-201. Junkyards.**

**13-201. Junkyards.** All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(7) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(8) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(9) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (as added by Ord. #201-2, Aug. 2001)

## CHAPTER 3

### JUNKED MOTOR VEHICLES

#### SECTION

- 13-301. Definitions.
- 13-302. Declared public nuisance.
- 13-303. Order to remove.
- 13-304. Removal by city.
- 13-305. Exemptions.
- 13-306. Penalties.

**13-301. Definitions.** For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein:

(1) "Junked motor vehicles." A junked motor vehicle is any motor vehicle the condition of which is one or more of the following:

- (a) Wrecked,
- (b) Dismantled,
- (c) Inoperative,
- (d) Abandoned, or
- (e) Discarded.

(2) "Motor vehicle." A motor vehicle is any vehicle which is self-propelled and any device in, upon, or by which any person or property is or may be transported or drawn from one location to another, except devices moved only by human power or used exclusively upon stationary rails or tracks. (as added by Ord. #201-2, Aug. 2001)

**13-302. Declared public nuisance.** The location or presence of any junked motor vehicle on any lot, tract, or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the city, shall be deemed a public nuisance and it shall be unlawful for any person to cause, maintain, or permit such public nuisance by wrecking, dismantling, rendering inoperable, abandoning, or discarding a motor vehicle on the property of another, or to suffer, permit, or allow the same to be placed, located, maintained, or to exist upon his own real property. This section shall not apply to:

- (1) Any junked motor vehicle in an enclosed building.
- (2) Any junked motor vehicle in an appropriate storage place of depository maintained in an officially designated place and manner by the city. (as added by Ord. #201-2, Aug. 2001, and amended by Ord. #205-10, Oct. 2005)

**13-303. Order to remove.** Whenever any junked motor vehicle is found in the city in violation of this chapter, the recorder shall cause the owner or occupant of the premises on which such vehicle is located to be served with an

order to remove such vehicle within ten (10) days after service of such order. It shall be unlawful for the owner or occupant of the premises to fail, neglect, or refuse to obey such order within ten (10) days after service of the same. (as added by Ord. #201-2, Aug. 2001, and amended by Ord. #205-10, Oct. 2005)

**13-304. Removal by city.** If the premises on which a junked motor vehicle is located contrary to this chapter are unoccupied and the owner or agent thereof cannot be found, or if he has permission of the owner of the premises, the recorder shall abate such public nuisance by entering upon the property and impounding and taking into custody the motor vehicle and disposing of same in accordance with Tennessee Code Annotated, title 55, chapter 16. Such impoundment and disposition shall not relieve any person from liability for penalty upon conviction for violating other provisions of this chapter, but is in addition to any other penalty. (as added by Ord. #201-2, Aug. 2001)

**13-305. Exemptions.** The provisions of this chapter shall not apply to:

(1) Vehicles in operable condition specifically adapted or constructed for racing or operation on privately owned drag strips or raceways.

(2) Vehicles stored by a member of the armed forces of the United States who is on active duty assignment, and stored with the permission of the property owner. (as added by Ord. #201-2, Aug. 2001)

**13-306. Penalties.** Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and shall be fined in accordance with the general penalty clause for this code. Each day in which such violation shall continue shall be deemed a separate offense. (as added by Ord. #201-2, Aug. 2001)

**TITLE 14**

**ZONING AND LAND USE CONTROL**

**CHAPTER**

1. ZONING ORDINANCE.
2. MUNICIPAL PLANNING COMMISSION.
3. SIGN REGULATIONS.

**CHAPTER 1**

**ZONING ORDINANCE**<sup>1</sup>

**SECTION**

14-101. Land use to be governed by zoning ordinance.

**14-101. Land use to be governed by zoning ordinance.** Land use within the City of Baneberry shall be governed by Ordinance #204-9, titled "Zoning Ordinance, Baneberry, Tennessee," and any amendments thereto.<sup>2</sup>

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<sup>1</sup>Ordinance #200-5, an ordinance governing the construction of additions to private residences, is of record in the office of the city recorder.

<sup>2</sup>Ordinance #204-9, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## CHAPTER 2

### MUNICIPAL PLANNING COMMISSION

#### SECTION

14-201. Creation and membership.

14-202. Organization, powers, duties, etc.

**14-201. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of mayor and alderman selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (as added by Ord. #204-2, July 2003)

**14-202. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (as added by Ord. #204-2, July 2003)



## CHAPTER 3

### SIGN REGULATIONS

#### SECTION

- 14-301. Definitions.
- 14-302. Permit required.
- 14-303. Placement.
- 14-304. Fee for permit.
- 14-305. Prohibited signs.
- 14-306. Regulations.
- 14-307. Maintenance.
- 14-308. Violation.

**14-301. Definitions.** (1) "Business sign." A sign that directs attention to a business conducted on the premises.

(2) "Construction sign." A sign that directs attention to the general contractor for a new structure being erected or remodeling of an older structure on the premises.

(3) "Garage and yard sale sign." A sign that directs attention to a one family or multiple family sale of used household goods or clothing on the premises.

(4) "Professional sign." A sign that directs attention to a profession conducted on the premises.

(5) "Land and subdivision development sign." A temporary sign that directs attention to a newly developed subdivision on the premises.

(6) "Monument sign." A permanent sign that directs attention to a named subdivision or a place of historical significance.

(7) "Real estate sales sign." A sign that directs attention to the sale or lease of a permanent structure on the premises.

(8) "Short term signs." A sign that directs attention to a special event, charitable event, or public event. (as added by Ord. #202-4, Oct. 2002)

**14-302. Permit required.** Any individual or business enterprise who desires to erect a sign upon their property within the city's corporate limits must obtain a permit. Permits for real estate signs, garage and yard sale signs, and short term signs may be obtained from the city manager and all other sign permits must be obtained from the city's planning commission chairman after said commission has approved same. The individual or business enterprise desiring a sign permit required to appear before the planning commission shall bring a graphic drawing showing the wording to be placed on the sign, the size of the sign, type of support for the sign, color, and placement location on the property. (as added by Ord. #202-4, Oct. 2002)

**14-303. Placement.** No sign shall be placed on any governmental right of way, ingress or egress way, on any property which might obstruct the view of motorist, bicycle or pedestrian traffic, or on any utility pole. (as added by Ord. #202-4, Oct. 2002)

**14-304. Fee for permit.** No fees shall be charged for obtaining a sign permit. (as added by Ord. #202-4, Oct. 2002)

**14-305. Prohibited signs.** There shall be no portable signs, billboard signs, directional or information signs (except churches), banners, political signs, or flashing or intermittent signs allowed within the corporate limits. (as added by Ord. #202-4, Oct. 2002)

**14-306. Regulations.** The following signs shall be allowed, provided the individual or business enterprise obtains a proper permit in accordance with the guidelines set below for a specific type sign and with the placement hereinabove set forth.

(1) **Business.** Business signs shall be no taller than five (5) feet from the ground to the top of the sign and shall be no larger than twenty-five (25) square feet.

(2) **Professional.** Professional signs shall be placed on the wall of the structure where the professional will conduct his business with the sign not extending more than one and one-half (1-1/2) inch from the wall; the size to be no larger than 6" x 18"; and the coloring shall be black background with gold lettering.

(3) **Construction.** Construction signs shall be limited to one per structure; the size to be no larger than five (5) square feet; and the time limitation set in the building permit.

(4) **Land and subdivision developments.** Land and subdivision development signs shall be placed at the entrance of the subdivision; shall be no more than six (6) feet in height from the ground to the top of the sign; the size to be no larger than twenty-five (25) square feet; and the time limitation shall be one year, unless additional time is granted by the planning commission.

(5) **Monument.** Monument signs shall be placed at the entrance of the subdivision; shall be no more than six (6) feet in height from the ground to the top of the sign; the size to be no larger than twenty-five (25) square feet.

(6) **Real estate sales.** Real estate sale signs shall be limited to one per residence or vacant lot unless the property abuts Douglas Lake or Baneberry Golf Course for which one sign may be placed on the front of the property and one sign placed on the rear of the property facing the lake and the size to be no larger than 18" x 24".

(7) **Short term.** Short term signs may be no larger than 18" x 24" and may be erected two weeks before the special event is to occur and removed within seventy-two (72) hours after the event has occurred.

(8) Garage and yard sales. Garage and yard sale signs may be erected forty-eight (48) hours prior to advertised day of the sale and removed within twenty-four (24) hours after the advertised last day of the sale; the size shall be no larger than two square feet; and shall have no ornamentations (balloons, streamers, etc.) focusing attention to the sign. (as added by Ord. #202-4, Oct. 2002)

**14-307. Maintenance.** All signs shall be maintained in a readable condition and all vegetation under sign shall be neatly trimmed or landscaped. (as added by Ord. #202-4, Oct. 2002)

**14-308. Violation.** Any individual or business enterprise who violates this section shall be given prompt notice by hand delivery or certified mail. Violators will be given seventy-two (72) hours to correct said violation from the time of receipt of the notice. Failure to correct said violation within the prescribed time limit may result in the issuance of an ordinance violation citation and subject the violator to a fifty-dollar (\$50.00) fine for each day the violation continues. (as added by Ord. #202-4, Oct. 2002)

## **TITLE 15**

### **MOTOR VEHICLES, TRAFFIC AND PARKING**

#### **CHAPTER**

1. MISCELLANEOUS.
2. PEDESTRIANS.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

#### **CHAPTER 1**

#### **MISCELLANEOUS**

#### **SECTION**

- 15-101. Motor vehicle requirements.
- 15-102. Valid license and registration required.
- 15-103. Obedience to police officers.
- 15-104. Obedience to any required traffic control device.
- 15-105. Driving on right side of roadway.
- 15-106. Passing vehicles proceeding in opposite directions.
- 15-107. Overtaking a vehicle on the left.
- 15-108. When overtaking a vehicle on the right is permitted.
- 15-109. No passing zones.
- 15-110. Driving on roadways laned for traffic.
- 15-111. Following too closely.
- 15-112. Operation of vehicles on approach of authorized emergency vehicles.
- 15-113. Drivers to exercise due care.
- 15-114. Limitations on backing.
- 15-115. Riding on motorcycles.
- 15-116. Obstruction to driver's view of driving mechanism.
- 15-117. Following fire apparatus prohibited.
- 15-118. Crossing fire hose.
- 15-119. Putting glass, nails and other substances on roadway prohibited.
- 15-120. Traffic laws apply to persons riding bicycles.
- 15-121. Riding on bicycles - playing and use of play vehicles.
- 15-122. Clinging to vehicles.
- 15-123. Riding on roadways and bicycle paths.
- 15-124. Bicycle lamps and brakes.
- 15-125. Rights and duties of motorcycle operator.
- 15-126. Operation of motorcycles on laned roadways.

- 15-127. Use of off-roadway motor vehicles on highways.
- 15-128. Transporting child in truck bed.
- 15-129. Excessive noise from motor vehicles.
- 15-130. Use of safety belts in passenger vehicles.
- 15-131. Child passenger restraints.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate a motor vehicle within the City's corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment required by Tennessee Code Annotated, title 55, chapter 9. (Ord. #92-2, July 1992, as replaced by Ord. #205-6, July 2005)

**15-102. Valid license and registration required.** No person shall drive any motor vehicle upon a roadway within the city's corporate limits unless such person has and possesses a valid driver's license for the type or class of vehicle being driven and the vehicle a person is driving is properly registered under the laws of the State of Tennessee. (as added by Ord. #205-6, July 2005)

**15-103. Obedience to police officers.** No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic. (as added by Ord. #205-6, July 2005)

**15-104. Obedience to any required traffic-control device.** (1) The driver of any vehicle and the operator of any streetcar shall obey the instructions of any official traffic-control device unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(2) No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (as added by Ord. #205-6, July 2005)

**15-105. Driving on right side of roadway.** (1) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

- (a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- (b) When the right half of a roadway is closed to traffic while under construction or repair;
- (c) Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; or

(d) Upon a roadway designated and signposted for one-way traffic.

(2) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. (as added by Ord. #205-6, July 2005)

**15-106. Passing vehicles proceeding in opposite directions.**

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one (1) line of traffic in each direction, each driver shall give to the other at least one half (1/2) of the main-traveled portion of the roadway as nearly as possible. (as added by Ord. #205-6, July 2005)

**15-107. Overtaking a vehicle on the left.** The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle. (as added by Ord. #205-6, July 2005)

**15-108. When overtaking on the right is permitted.** (1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction; and

(c) Upon a one-way street, or upon any roadway on which traffic is restricted to one (1) direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event

shall such movement be made by driving off the pavement or main-traveled portion of the roadway. (as added by Ord. #205-6, July 2005)

**15-109. No-passing zones.** The board of commissioners is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof. (as added by Ord. #205-6, July 2005)

**15-110. Driving on roadways laned for traffic.** Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation;

(3) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such sign; and

(4) (a) Where passing is unsafe because of traffic in the opposite direction or other conditions, a slow-moving vehicle, including a passenger vehicle, behind which five (5) or more vehicles are formed in line, shall turn or pull off the roadway wherever sufficient area exists to do so safely, in order to permit vehicles following it to proceed. As used in this subdivision (4), a slow-moving vehicle is one which is proceeding at a rate of speed which is ten (10) miles per hour or more below the lawful maximum speed for that particular roadway at that time.

(b) Any person failing to conform with the provisions of subdivision (4)(A) shall receive a warning citation on first offense and be liable for a fine of twenty dollars (\$20.00) on second offense, and fifty dollars (\$50.00) on third and subsequent offenses.

(c) Subdivision (4)(a) shall not apply to funeral processions nor to school buses. (as added by Ord. #205-6, July 2005)

**15-111. Following too closely.** (1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(2) The driver of any motor truck or motor vehicle towing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle towing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle towing another vehicle from overtaking and passing any like vehicle or other vehicle.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.

(4) No motor truck of more than one and one-half (1-1/2) ton rated capacity shall approach any other motor truck of like or greater capacity proceeding in the same direction on any of the highways of this state without the corporate limits of any municipality at a distance nearer than three hundred feet (300'), except in overtaking and passing such other trucks, or unless one (1) or both of such trucks shall have come to a stop or except in rendering assistance to a disabled or partly disabled truck. (as added by Ord. #205-6, July 2005)

**15-112. Operation of vehicles on approach of authorized emergency vehicles.** (1) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the applicable laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only:

(a) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer; and

(b) Upon the approach of an authorized emergency vehicle, as above stated, the operator of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(2) Upon approaching a stationary authorized emergency vehicle, when such vehicle is giving a signal by use of flashing lights, a person who drives an approaching vehicle shall:



(a) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(b) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(3) Upon approaching a stationary recovery vehicle or a highway maintenance vehicle, when such vehicle is giving a signal by use of authorized flashing lights, a person who drives an approaching vehicle shall:

(a) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to the stationary recovery vehicle or the highway maintenance vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(b) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(4) For the purpose of this section unless the context otherwise requires:

(a) "Highway maintenance vehicle" means a vehicle used for the maintenance of highways and roadways in this state and is:

(i) Owned or operated by the department of transportation, a county, a municipality or other political subdivision of this state; or,

(ii) Owned or operated by a contractor under contract with the department of transportation, a county, a municipality or other political subdivision of this state;

(b) "Recovery vehicle" means a truck that is specifically designed for towing a disabled vehicle or a combination of vehicles.

(5) This section shall not operate to relieve the driver of an authorized emergency vehicle, a recovery vehicle or a highway maintenance vehicle from the duty to operate such vehicle with due regard for the safety of all persons using the highway. (as added by Ord. #205-6, July 2005)

**15-113. Drivers to exercise due care.** Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (as added by Ord. #205-6, July 2005)

**15-114. Limitations on backing.** The driver of a vehicle shall not back such vehicle unless such movements can be made with reasonable safety and without interfering with other traffic. (as added by Ord. #205-6, July 2005)

**15-115. Riding on motorcycles.** (1) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person, nor shall any other person ride on a motorcycle, unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.

(2) A person shall ride upon a motorcycle only while sitting astride the seat, headlamp illuminated, facing forward, with one (1) leg on each side of the motorcycle.

(3) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents such person from keeping both hands on the handlebars.

(4) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator. (as added by Ord. #205-6, July 2005)

**15-116. Obstruction to driver's view of driving mechanism.** (1) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding four (4), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(2) No passenger in a vehicle shall ride in such position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with the driver's or operator's control over the driving mechanism of the vehicle or streetcar. (as added by Ord. #205-6, July 2005)

**15-117. Following fire apparatus prohibited.** The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet (500') or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (as added by Ord. #205-6, July 2005)

**15-118. Crossing fire hose.** No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command. (as added by Ord. #205-6, July 2005)

**15-119. Putting glass, nails and other substances on roadway prohibited.** (1) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway.

(2) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. (as added by Ord. #205-6, July 2005)

**15-120. Traffic laws apply to persons riding bicycles.** Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle. (as added by Ord. #205-6, July 2005)

**15-121. Riding on bicycles - playing and use of play vehicles.**

(1) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto, except for a certified police cyclist who is performing duties that require riding in a side dismounting position.

(2) No bicycle shall be used to carry more persons at one (1) time than the number for which it is designed or equipped.

(3) No person shall play on a highway other than upon the sidewalk thereof, within a city or town, or in any part of a highway outside the limits of a city or town, or use thereon roller skates, coasters or any similar vehicle or toy or article on wheels or a runner, except in such areas as may be specifically designated for that purpose by local authorities. (as added by Ord. #205-6, July 2005)

**15-122. Clinging to vehicles.** (1) No person riding upon any bicycle, roller skates, sled or toy vehicle shall attach such bicycle, roller skates, sled or toy vehicle, or such person's own body, to any vehicle upon a roadway.

(2) The provisions of this section shall not be construed to prohibit the attachment of a bicycle trailer or bicycle semitrailer to a bicycle if such trailer or semitrailer is designed specifically for such purpose. (as added by Ord. #205-6, July 2005)

**15-123. Riding on roadways and bicycle paths.** (1)(a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway, except under any of the following situations:

(i) When overtaking and passing another vehicle proceeding in the same direction;

(ii) When preparing for a left turn at an intersection or into a private road or driveway; or

(iii) When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, "substandard width lane" means a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(b) This subsection (1) does not apply to a certified police cyclist engaged in the lawful performance of duty relating to traffic control.

(2)(a) Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts off roadways set aside for the exclusive use of bicycles. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(b) This subsection (2) does not apply to a certified police cyclist engaged in the lawful performance of duty relating to traffic control or in pursuit of an actual or suspected violator of the law. (as added by Ord. #205-6, July 2005)

**15-124. Bicycle lamps and brakes.** (1) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet (500') to the front and with a red reflector on the rear of a type approved by the department of safety which shall be visible from all distances from fifty feet (50') to three hundred feet (300') to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet (500') to the rear may be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle within twenty-five feet (25') from a speed of ten miles per hour (10 mph) on dry, level, clean pavement. (as added by Ord. #205-6, July 2005)

**15-125. Rights and duties of motorcycle operator.** Every person operating a motorcycle is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle under this chapter. (as added by Ord. #205-6, July 2005)

**15-126. Operation of motorcycles on laned roadways.** (1) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This

subsection (1) shall not apply to motorcycles operated two (2) abreast in a single lane.

(2) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(3) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(4) Motorcycles shall not be operated more than two (2) abreast in a single lane.

(5) Subsections (2) and (3) shall not apply to police officers in the performance of their official duties. (as added by Ord. #205-6, July 2005)

**15-127. Use of off-road motor vehicles on highways.** (1) Off-highway motor vehicles may be operated or driven upon a roadway but only as follows:

(a) On a two-lane roadway, only to cross such roadway at an angle of approximately ninety (90) degrees to the direction of the roadway and at a place where a quick and safe crossing may be made;

(b) With respect to the crossing of a roadway having more than two (2) lanes, or a roadway having limited access, such off-road motor vehicles may cross such roadways, but only at a place designated by the city with respect to roadways within their respective corporate limits as a place where such motor vehicles, or specified types of such motor vehicles, may cross the roadways, and such vehicles shall cross such roadways only at such designated places and only in a quick and safe manner; and

(c) The city with respect to roadways within their respective corporate limits may designate, by the erection of appropriate signs of a type approved by the department, places where such motor vehicles, or specified types of such motor vehicles, may cross any roadway having more than two (2) lanes or having limited access.

(d) Off-road motor-driven cycles may be moved, by non-mechanical means only, adjacent to a roadway, in such a manner so as to not interfere with traffic upon the roadway only for the purpose of gaining access to, or returning from, areas designed for the operation of off-road vehicles, when no other route is available. The city may designate access routes leading to off-road parks as suitable for the operation of off-road vehicles, if such access routes are available to the general public only for pedestrian and off-road motor vehicle travel. (as added by Ord. #205-6, July 2005)

**15-128. Transporting child in truck bed.** (1) A person commits an offense who, on the streets of any municipality, roads of any county, or the highways of this state, transports a child under six (6) years of age in the bed of

a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style.

(2) (a) A person commits an offense who, on any interstate defense highway or state highway, transports a child between six (6) years of age and under twelve (12) years of age in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style.

(b) A city or county may prohibit, by ordinance or resolution, a person from transporting a child between six (6) years of age and under twelve (12) years of age in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style on city or county roads or highways.

(3) The provisions of this section do not apply to a person transporting such child in the bed of such vehicle when such vehicle is being used as part of an organized parade, processions, or other ceremonial event, and when such vehicle is not exceeding the speed of twenty miles per hour (20 mph).

(4) The provisions of this section do not apply when the child being transported is involved in agricultural activities. (as added by Ord. #205-6, July 2005)

**15-129. Excessive noise from motor vehicles.** (1) No person operating or occupying a motor vehicle on any public street, highway, alley, parking lot, or driveway shall operate or permit the operation of any sound amplification system including, but not limited to, any radio, tape player, compact disc player, loud speaker, or any other electrical device used for the amplification of sound from within the motor vehicle so that the sound is plainly audible at a distance of fifty (50) or more feet from the vehicle. For the purpose of this section, "plainly audible" means any sound that clearly can be heard, by unimpaired auditory senses based on a direct line of sight of fifty feet (50') or more; however, words or phrases need not be discernible and such sound shall include bass reverberation.

(2) This section shall not be applicable to emergency or public safety vehicles, vehicles owned and operated by a municipal or county government or any utility company, for sound emitted unavoidably during a job-related operation, school or community sponsored activities, auctioneers or auctioning activities, boats or other watercrafts operated on waters or any motor vehicle used in an authorized public activity for which a permit has been granted by the appropriate agency of a municipal or county government. (as added by Ord. #205-6, July 2005)

**15-130. Use of safety belts in passenger vehicles.** (1) (a) No person shall operate a passenger motor vehicle on any roadway in the city unless such person and all passengers four (4) years of age or older are restrained by a safety belt at all times the vehicle is in forward motion.

(b) No person four (4) years of age or older shall be a passenger in a passenger motor vehicle on any roadway unless such person is restrained by a safety belt at all times the vehicle is in forward motion.

(2)(a) The provisions of this section shall apply only to the operator and all passengers occupying the front seat of a passenger motor vehicle.

(b) If the vehicle is equipped with a rear seat which is capable of folding, the provisions of this section shall only apply to front seat passengers and the operator if the back seat is in the fold down position.

(3) A person charged with a violation of this section may, in lieu of appearance in court, submit a fine of ten dollars (\$10.00) for a first violation, and twenty dollars (\$20.00) on second and subsequent violations to the clerk of the court of the city. (as added by Ord. #205-6, July 2005)

**15-131. Child passenger restraints.** (1) (a) Any person transporting any child, under one (1) year of age, or any child weighing twenty pounds (20 lbs.) or less, in a motor vehicle upon a road is responsible for the protection of the child and properly using a child passenger restraint system in a rear facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(b) Any person transporting any child, one (1) through three (3) years of age weighing greater than twenty pounds (20 lbs.), in a motor vehicle upon a roadway is responsible for the protection of the child and properly using a child passenger restraint system in a forward facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(c) Any person transporting any child, four (4) through eight (8) years of age and measuring less than five feet (5') in height, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a belt positioning booster seat system, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions. (as added by Ord. #205-6, July 2005)

## CHAPTER 2

### PEDESTRIANS

#### SECTION

15-201. Walking on side of road.

15-202. Pedestrians soliciting rides or business.

15-203. Pedestrians led by guard dog or carrying identifying cane given right of way.

**15-201. Walking on side of road.** Any pedestrian walking on a roadway which does not have a sidewalk on either side shall walk on the side of the paved or graveled roadway facing oncoming traffic. (Ord. #97-2, Nov. 1997, as amended by Ord. #97-3, Dec. 1997, and Ord. #97-4, Jan. 1998; and replaced by Ord. #205-6, July 2005)

**15-202. Pedestrians soliciting rides or business.** (1) No person shall stand in a roadway for the purpose of soliciting a ride or employment from the occupant of any vehicle.

(2) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. (as added by Ord. #205-6, July 2005)

**15-203. Pedestrians led by guide dog or carrying identifying cane given right of way.** Whenever any pedestrian guided by a guide dog or dog on a blaze orange leash, or carrying in any raised or extended position a cane or similar stick white in color or white tipped with red, shall undertake to cross any public street or thoroughfare in this state, the driver of each and every vehicle approaching such pedestrian carrying such cane or stick or conducted by such dog shall bring such vehicle to a complete stop and before proceeding shall take all precautions necessary to avoid injuring such pedestrian; provided, that nothing herein shall be construed as making any person totally or partially blind or otherwise incapacitated guilty of contributory negligence in undertaking to cross any street or thoroughfare without being guided by a trained dog or carrying a cane or stick of the type above mentioned. (as added by Ord. #205-6, July 2005)



## **CHAPTER 3**

### **SPEED LIMITS**

#### **SECTION**

#### **15-301. General.**

**15-301. General.** It shall be unlawful for any person to drive or operate a motor vehicle upon any roadway within the city's corporate limits at a rate of speed in excess of twenty-five (25) miles per hour except upon Harrison Ferry Road where the speed limit shall be thirty-five (35) miles per hour or where an official sign has been posted indicating another speed limit. (as added by Ord. #205-6, July 2005)

## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Turning movements.

15-402. Signals by hand and arm or signal device.

15-403. Signals for turns.

15-404. Required position and method of turning at intersections.

15-405. Vehicle turning left at intersection.

**15-401. Turning movements.** (1) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course of move right or left upon a roadway, unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner provided in §§ 15-401 and 15-402 in the event any other traffic may be affected by such movement.

(2) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal. (as added by Ord. #205-6, July 2005)

**15-402. Signals by hand and arm or signal device.** Any tun signal shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device. (as added by Ord. #205-6, July 2005)

**15-403. Signals for turns.** (1) Every driver who intends to start, stop or turn, or partly turn from a direct line, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in this section, plainly visible to the driver of such other vehicle of the intention to make such movement.

(2) The signal herein required shall be given by means of the hand and arm, or by some mechanical or electrical device approved by the department of safety, in the manner herein specified. Whenever the signal is given by means of the hand and arm, the driver shall indicate the intention to start, stop, or turn, or partly turn, by extending the hand and arm from and beyond the left side of the vehicle, in the following manner:

(a) For left turn, or to pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder;

(b) For right turn, or pull to the right, the arm shall be extended upward; and

(c) For slowing down or to stop, the arm shall be extended downward.

(3) Such signals shall be given continuously for a distance of at least fifty feet (50') before stopping, turning, partly turning, or materially altering the course of the vehicle.

(4) Drivers having once given a hand, electrical or mechanical device signal, must continue the course thus indicated, unless they alter the original signal and take care that drivers of vehicles and pedestrians have seen and are aware of the change.

(5) Drivers receiving a signal from another driver shall keep their vehicles under complete control and shall be able to avoid an accident resulting from a his understanding of such signal.

(6) Drivers of vehicles, standing or stopped at the curb or edge before moving such vehicles, shall give signals of their intention to move into traffic, as hereinbefore provided, before turning in the direction the vehicle shall proceed from the curb. (as added by Ord. #205-6, July 2005)

**15-404. Required position and method of turning at intersections.**

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;

(2) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection;

(3) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme lefthand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered;

(4) Local instructions. The city may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be-traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed, no

drive of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs; and

(5) Two-way left turn lanes. Where a special lane for making left turns by drivers proceeding in opposite directions has been established:

(a) A left turn shall not be made from any other lane unless a vehicle cannot safely enter the turn lane;

(b) A vehicle shall not be driven in the left turn lane except when preparing for or making a left turn from or into the roadway;

(c) A vehicle shall not use the left turn lane solely for the purpose of passing another vehicle;

(d) A vehicle shall not enter a left turn lane more than a safe distance from the point of the intended turn;

(e) When any vehicle enters the turn lane, no other vehicle proceeding in an opposite direction shall enter that turn lane if such entrance would prohibit the vehicle already in the lane from making the intended turn; and

(f) When vehicles enter the turn lane proceeding in opposite directions, the first vehicle to enter the lane shall have the right-of-way. (as added by Ord. #205-6, July 2005)

**15-405. Vehicle turning left at intersection.** The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but the driver, having so yielded and having given a signal when and as required by this chapter, may make such left turn, and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn. (as added by Ord. #205-6, July 2005)

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

15-501. Vehicles must stop at stop signs.

15-502. Vehicles approaching or entering intersection.

15-503. Vehicles entering through roadway or stop intersections.

15-504. Vehicles entering public roadway from private road or drive.

15-505. Emerging from alley, driveway or building.

**15-501. Vehicles must stop at stop signs.** Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic control signal. (as added by Ord. #205-6, July 2005)

**15-502. Vehicles approaching or entering intersection.** (1) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

(2) When two (2) vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. (as added by Ord. #205-6, July 2005)

**15-503. Vehicles entering through roadway or stop intersection.**

(1) The driver of a vehicle shall stop at the entrance to a through roadway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway or which are approaching so closely on the through roadway as to constitute an immediate hazard, but the driver having so yielded may proceed, and the drivers of all other vehicles approaching the intersection on the through roadway shall yield the right-of-way to the vehicle so proceeding into or across the through roadway.

(2) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one (1) or more entrances thereto although not a part of a through highway and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

(3) (a) The driver of a vehicle who is faced with a yield sign at the entrance to a through roadway is not necessarily required to stop, but is required to exercise caution in entering the roadway and to yield the

right-of-way to other vehicles which have entered the intersection from the roadway, or which are approaching so closely on the roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(b) Where there is provided more than one (1) lane for vehicular traffic entering a through roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this subsection (3) shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls. (as added by Ord. #205-6, July 2005)

**15-504. Vehicles entering public roadway from private road or driveway.** The driver of a vehicle about to enter or cross a roadway from a private road or driveway shall yield the right-of-way to all vehicles approaching on the roadway. (as added by Ord. #205-6, July 2005)

**15-505. Emerging from alley, driveway or building.** The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway. (as added by Ord. #205-6, July 2005)

## CHAPTER 6

### PARKING

#### SECTION

15-601. Illegal parking zones.

15-602. Stopping, standing or parking outside of business or residential districts.

15-603. Officers authorized to remove illegally stopped vehicles.

**15-601. Illegal parking zones.** (1) It shall be unlawful for any vehicle to be parked within the city in any restricted zone or space to include, but not limited to:

- (a) An unauthorized parking space designated for the handicapped;
- (b) No parking zones; or
- (c) Fire lanes. (as added by Ord. #205-6, July 2005)

**15-602. Stopping, standing or parking outside of business or residential districts.** (1) Upon any highway outside of a business or residential district, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of the highway, but in every event an unobstructed width of the highway opposite a standing vehicle of not less than eighteen feet (18') shall be left for the free passage of other vehicles, and a clear view of such stopped vehicles shall be available from a distance of two hundred feet (200') in each direction upon such highway.

(2) (a) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

(b) The provisions of this section shall not apply to the driver of any vehicle operating as a carrier of passengers for hire and holding a certificate of convenience and necessity, or interstate permit issued by the department of safety or any local regulatory transit authority of Tennessee authorizing the operation of such vehicle upon the roads, streets or highways in Tennessee, while taking passengers on such vehicle, or discharging passengers therefrom; provided, that in every event an unobstructed lane of travel of the highway opposite such standing vehicle shall be left for free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet (200') in either direction upon the highway.

(c) The provisions of this section do not apply to a solid waste vehicle while on the paved or improved main traveled portion of a road, street or highway in such manner and to such extent as is necessary for the sole purpose of collecting municipal solid waste, provided, that such vehicle shall maintain flashing hazard lights at all times while it is stopping or standing; and provided further, that the vehicle is stopped so that a clear view of such stopped vehicle is available from a distance of two hundred feet (200') in either direction upon the highway. In addition to flashing hazard lights, such vehicles shall be required to maintain special lights visible from both the front and the rear indicating that the truck is stopped. The department of safety is authorized to promulgate rules and regulations regarding special lighting required by this subdivision (2)(c). The provisions of this subdivision (2)(c) do not preclude any claimant from pursuing such claimant's common law claim for recovery pursuant to common law negligence. (as added by Ord. #205-6, July 2005)

**15-603. Officers authorized to remove illegally stopped vehicles.**

(1) Whenever any police officer finds a vehicle standing upon a roadway in violation of any of the provisions of this chapter, such officer is hereby authorized to move such vehicle, or to require the driver or other person in charge of the vehicle to move it, to a position off the paved or main-traveled part of such roadway.

(2) Whenever any police officer finds a vehicle unattended upon any bridge or roadway, where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety, at the expense of the owner. (as added by Ord. #205-6, July 2005)



## CHAPTER 7

### ENFORCEMENT

#### SECTION

15-701. Issuance of traffic citations.

15-702. Failure to obey citation.

15-703. Disposal of abandoned motor vehicles.

15-704. Violation and penalty.

**15-701. Issuance of traffic citations.** When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (as added by Ord. #205-6, July 2005)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (as added by Ord. #205-6, July 2005)

**15-703. Disposal of abandoned motor vehicles.** "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-1 6-103, shall be impounded and disposed of by the chief of police in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (as added by Ord. #205-6, July 2005)

**15-704. Violation and penalty.** Any violation of this title shall be a civil offense punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense, plus court costs of \$69.00, with the exception of illegally parking in a handicapped parking area which fine is \$100.00 in accordance with T.C.S. Section 55-21-108. (as added by Ord. #205-6, July 2005)

**TITLE 16****STREETS AND SIDEWALKS, ETC.****CHAPTER**

1. EXCAVATIONS AND CUTS.
2. MISCELLANEOUS.

**CHAPTER 1****EXCAVATIONS AND CUTS<sup>1</sup>****SECTION**

- 16-101. Permit required.
- 16-102. Applications.
- 16-103. Fees.
- 16-104. Deposit or bond.
- 16-105. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-106. Restoration of streets, etc.
- 16-107. Insurance.
- 16-108. Time limits.
- 16-109. Supervision.
- 16-110. Driveway curb cuts.

**16-101. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, public space, or public right of way, or to tunnel under any street, alley, public place or public right of way, without having first obtained a permit as herein required, without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the recorder is working, and said permit shall be retroactive to the date when the work was begun. (Ord. #97-7, May 1999)

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

**16-102. Applications.** Applications for such permits shall be made to the city manager, or such person as the mayor may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (Ord. #97-7, May 1999)

**16-103. Fees.** The fee for such permits shall be ten dollars (\$10.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and one dollar (\$1.00) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (Ord. #97-7, May 1999)

**16-104. Deposit or bond.** Any work done by a company, construction crew, or utility shall have a bond in place prior to any construction being undertaken in the street, adjacent to the street, or under the street. The bond shall be set by the city manager. (Ord. #97-7, May 1999)

**16-105. Manner of excavating--barricades and lights--temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Any utility or other construction which requires a cut across a public street or a paved driveway shall be required to bore under the street unless the contractors can prove that said boring would be an impossibility or would cause a safety or health hazard. (On unpaved streets the planning commission may give a waiver to cut the street and repair it to the original condition.) Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (Ord. #97-7, May 1999)

**16-106. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place or public right of way in the City of Baneberry shall restore said street, alley, or public place right of way to its original condition which shall be done by the contractor performing said excavation. In case of unreasonable delay in restoring the street, alley, or public place, the city manager shall give notice to the person, firm, corporation, association, or others

that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (Ord. #97-7, May 1999)

**16-107. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (Ord. #97-7, May 1999)

**16-108. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city council. (Ord. #97-7, May 1999)

**16-109. Supervision.** The city manager shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to the city manager at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (Ord. #97-7, May 1999)

**16-110. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining approval from the planning commission and a permit from the city manager. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic or impede the health, safety and welfare of the street or right of way. All

driveways shall require a tile/culvert installed at the connection between the street and highway unless the tile/culvert requirement is waived by the planning board, said tile/culvert to be at least fifteen (15) inches in diameter. When two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. There shall be no fee obtaining a driveway cut or excavation permit. (Ord. #97-7, May 1999)

## CHAPTER 2

### MISCELLANEOUS

#### SECTION

16-201. Signs for separately developed or subdivided area of real property prohibited.

**16-201. Signs for separately developed or subdivided area of real property prohibited.** It shall be unlawful for any person, organization, or business to place or have placed a permanent sign, monument, or other display within the City of Baneberry which purports to designate, describe or name a separately developed or subdivided area of real property within said city. (Ord. #97-5, Sept. 1998)

**TITLE 17**

**REFUSE AND TRASH DISPOSAL**

**[RESERVED FOR FUTURE USE]**

**TITLE 18**

**WATER AND SEWERS**<sup>1</sup>

**[RESERVED FOR FUTURE USE]**

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<sup>1</sup>The Baneberry Utility Policy (Ord. #204-7, dated Sept. 2, 2004) is of record in the recorder's office.



**TITLE 19**

**ELECTRICITY AND GAS**

**[RESERVED FOR FUTURE USE]**

**TITLE 20**

**MISCELLANEOUS**

**[RESERVED FOR FUTURE USE]**