

**THE
GADSDEN
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service
In cooperation with the Tennessee Municipal League

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TOWN OF GADSDEN, TENNESSEE

MAYOR

Linda Milam

VICE MAYOR

Tommy Patterson

ALDERMEN

F. Scott Cole
Lynn Reasons
Tracy Rinks Reasons

PREFACE

The Gadsden Municipal Code contains the codification and revision of the ordinances of the Town of Gadsden, 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 § 2-106.

By utilizing the table of contents, code index 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 7 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 the codes team: Kelley Myers, Linda Winstead, Sandy Selvedge and Nancy Gibson, is gratefully acknowledged.

Legal Consultants

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

That the Board of Mayor and Aldermen shall, in passing of all ordinances, observe the following:

Said ordinance shall be submitted and passed on two separate reading at regular or specially called meeting of the Board, the second reading to be not less than twenty-four (24) hours and not more than two (2) weeks from and after its first reading or introduction; and on each of said readings the ordinance or ordinances so submitted shall receive the affirmative vote of the majority of the Board and be signed by the Mayor before the same shall become effective; and the Mayor shall sign all ordinances which have received the affirmative vote of a majority of the Board, within twenty-four (24) hours from the time of the passage of the ordinance, and in the case of the inability of the Mayor to sign such said ordinances it shall become the duty of the Aldermen to designate someone to sign for him. When an ordinance is introduced it shall be the duty of the Recorder to note on said ordinance the name of the person introducing the same, the date of its first passage and the date of its final passage, and the date approved by the Mayor. Said ordinance shall be divided into appropriate sections, shall be in brief but intelligible form, and shall after passage, be recorded in a well-bound book, or printed upon durable paper, and a printed copy if ordered by the Board, and certified to by the Recorder shall be received in evidence of the provisions of such ordinance. (Gadsden Charter, sec. 7)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 6:00 P.M. on the third Monday of each month at the Gadsden City Hall. If the regular meeting falls on a holiday, or on a day observed as a holiday, the regular meeting shall be held at the same time and place on the Monday immediately following.

1-102. Order of business. At each meeting of the board of mayor and aldermen, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Approval of minutes of the previous meeting.
- (4) Citizens input.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the board of mayor and aldermen, and other officers.

¹Municipal code references

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

Fire department: title 7.

Zoning: title 14.

²Charter reference

Board of mayor and aldermen: Sec. 4.

- (7) Old business.
- (8) New business.
- (9) Adjournment.

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code.

CHAPTER 2**MAYOR¹****SECTION**

1-201. Duties of mayor.

1-202. Executes town's contracts.

1-201. Duties of mayor. The mayor shall perform such duties as provided by the charter and any ordinances duly enacted by the board of mayor and aldermen consistent with the charter.

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen.

¹Charter references

Mayor: Sec. 5, 6, and 9.

CHAPTER 3**RECORDER¹****SECTION**

1-301. To be bonded.

1-302. To keep minutes, etc.

1-303. To perform general administrative duties, etc.

1-301. To be bonded. The recorder shall be bonded in the amount of five thousand dollars (\$5,000.00).

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book.

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. The recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers.

¹Charter reference
Recorder, duties of: Sec. 9.

CHAPTER 4**CODE OF ETHICS**¹**SECTION**

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in non-voting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.

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

Campaign finance: Tennessee Code Annotated, title 2, ch. 10.

Conflict of interests: Tennessee Code Annotated §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements: Tennessee Code Annotated § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: Tennessee Code Annotated §§ 2-10-122, 124.

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

Crimes of official misconduct, official oppression, misuse of official information: Tennessee Code Annotated § 39-16-401 and the following sections.

Ouster law: Tennessee Code Annotated § 8-47-101 and the following sections.

A brief synopsis of each of these laws appears in Appendix B of this municipal code.

1-410. Ethics complaints.

1-411. Violations.

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities.

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

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

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

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure.

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the

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

interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

1-405. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.

1-407. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

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

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality.

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy.

1-410. Ethics complaints. (1) The town attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town attorney

may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the town attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The town attorney may request the governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3
MUNICIPAL COURT

CHAPTER

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

CHAPTER 1

TOWN JUDGE

SECTION

- 3-101. Town judge.
3-102. Jurisdiction.

3-101. Town judge. (1) Appointment. The town judge designated by the charter to handle judicial matters within the town shall be appointed by the board of mayor and aldermen and shall serve at the pleasure of the governing body. Vacancies in the office of the town judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner as prescribed for the appointment of the town judge.

(2) Qualifications. The town judge shall be a minimum of thirty (30) years of age, be licensed by the State of Tennessee to practice law, and be a resident of the State of Tennessee.

3-102. Jurisdiction. The town judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

3-202. Imposition of penalties and costs.

3-203. Disposition and report of penalties and costs.

3-204. Contempt of court.

3-201. Maintenance of docket. The town judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant.

3-202. Imposition of penalties and costs. All penalties and costs shall be imposed and recorded by the town judge on the town court docket in open court.

In all cases heard and determined by him, the town judge shall impose court costs in the amount of seventy dollars (\$70.00). One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

3-203. Disposition and report of penalties and costs. All funds coming into the hands of the town judge in the form of penalties, costs, and forfeitures shall be recorded by him and paid over daily to the town. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all penalties and costs imposed by his court during the current month and to date for the current fiscal year.

3-204. Contempt of court. Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

3-301. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal.

3-302. Issuance of subpoenas. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith.

CHAPTER 4**BONDS AND APPEALS****SECTION**

3-401. Appeals.

3-402. Bond amounts, conditions, and forms.

3-401. Appeals. Any person dissatisfied with any judgment of the town court against him may, within ten (10) days¹ thereafter, Sundays exclusive, appeal to the circuit court of the county upon giving bond.

"Person" as used in this section includes, but is not limited to, a natural person, corporation, business entity or the municipality.

3-402. Bond amounts, conditions, and forms. (1) Appeal bond. An appeal bond in any case shall be two hundred fifty dollars (\$250.00) for such person's appearance and the faithful prosecution of the appeal.

(2) Form of bond. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county.

¹State law reference

Tennessee Code Annotated § 16-18-307.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

SOCIAL SECURITY

SECTION

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

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

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

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations.

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be

required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations.

4-105. Records and reports. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

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

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

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 chapter shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the Town of Gadsden.

4-202. Purpose. The Town of Gadsden, 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.

¹The Occupational Safety and Health Program for the Town of Gadsden, including Appendices I through V is included in the Appendix to this municipal code.

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program.

4-203. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Gadsden shall apply to all employees of each administrative department, commission, board, division, or other agency of the Town of Gadsden whether part-time or full-time, seasonal or permanent.

4-204. Standards authorized. The occupational safety and health standards adopted by the Town of Gadsden are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹

4-205. Variances from standards authorized. The Town of Gadsden may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the Town of Gadsden 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 town shall be deemed sufficient notice to employees.

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

4-206. Administration. For the purposes of this chapter, the mayor 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 town's occupational safety and health program. 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.

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 Town of Gadsden.

CHAPTER 3

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-301. Enforcement.
- 4-302. Travel policy.
- 4-303. Travel reimbursement rate schedules.
- 4-304. Administrative procedures.

4-301. Enforcement. The Chief Administrative Officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these regulations.

4-302. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" 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 town 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 town. 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 town 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 town. 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 town 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 five dollars (\$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 town or misuse town travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement.

4-303. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the state travel regulation rates. The town's travel reimbursement rates will automatically change when the state 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.

4-304. Administrative procedures. The town 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 town recorder.¹

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.

¹State law reference

Tennessee Code Annotated § 6-54-904 requires a town to notify the comptroller in writing that it has adopted the MTAS policy including the date of such adoption.

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. REAL AND PERSONAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.

CHAPTER 1**REAL AND PERSONAL PROPERTY TAXES****SECTION**

- 5-101. When due and payable.
5-102. When delinquent; penalty and interest.

5-101. When due and payable.² Taxes levied by the town against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied.

¹Charter references

For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated § 6-4-402.

²State law references

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

5-102. When delinquent; penalty and interest.¹ All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.²

¹State law reference

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

²Charter and state law references

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

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

CHAPTER 2**PRIVILEGE TAXES****SECTION**

5-201. Tax levied.

5-202. License required.

5-201. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the act.

5-202. 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. Violations of this section shall be punished under the general penalty provisions of this code of ordinances.

CHAPTER 3**WHOLESALE BEER TAX****SECTION**

5-301. To be collected.

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

¹State law reference

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

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-208.

TITLE 6

LAW ENFORCEMENT¹

CHAPTER

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.
3. CITATIONS, WARRANTS, AND SUMMONSES.

CHAPTER 1

POLICE DEPARTMENT

SECTION

- 6-101. Policemen subject to chief's orders.
6-102. Policemen to preserve law and order, etc.
6-103. Police department records.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue.

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the town court during the trial of cases. Policemen shall also promptly serve any legal process issued by the town court.

6-103. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing at a minimum:

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by policemen.
- (3) All police investigations made, funerals, convoys, fire calls answered, and other miscellaneous activities of the police department.

¹Municipal code references

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

(4) Any other records required to be kept by the board of mayor and aldermen or by law.

The police chief shall be responsible for insuring that the police department complies with the section.

CHAPTER 2**ARREST PROCEDURES****SECTION**

6-201. When policemen to make arrests.

6-201. When policemen to make arrests.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has probable cause to believe the person has committed it.

¹Municipal code reference

Issuance of citation in lieu of arrest in traffic cases: title 15, chapter 7.

CHAPTER 3

CITATIONS, WARRANTS, AND SUMMONSES

SECTION

6-301. Citations in lieu of arrest in non-traffic cases.

6-302. Summonses in lieu of arrest.

6-301. Citations in lieu of arrest in non-traffic cases.¹ Pursuant to Tennessee Code Annotated § 7-63-101, et seq., the board of mayor and aldermen appoints the fire chief in the fire department and the chief of police in the building department special police officers having the authority to issue citations in lieu of arrest. The fire chief in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The chief of police in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with Tennessee Code Annotated § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

6-302. Summonses in lieu of arrest. Pursuant to Tennessee Code Annotated § 7-63-201, et seq., which authorizes the board of mayor and aldermen to designate certain town enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the fire chief in the fire department and the chief of police in the building department to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or

¹Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:

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

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-301 above.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE CODE.
2. VOLUNTEER FIRE DEPARTMENT.
3. FIRE SERVICE OUTSIDE TOWN LIMITS.

CHAPTER 1

FIRE CODE

SECTION

- 7-101. Fire code adopted.
- 7-102. Enforcement.
- 7-103. Gasoline trucks.
- 7-104. Variances.
- 7-105. Violations and penalty.

7-101. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,² 2012 edition, as recommended by the International Code Council, 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 code has been filed with the town recorder and is available for public use and inspection. Said fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits.

7-102. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal.

¹Municipal code reference

Building, utility and residential codes: title 12.

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

7-1034. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline.

7-104. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen.

7-105. Violation and penalty. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions.

CHAPTER 2

VOLUNTEER FIRE DEPARTMENT¹

SECTION

- 7-201. Establishment, equipment, and membership.
- 7-202. Objectives.
- 7-203. Organization, rules, and regulations.
- 7-204. Records and reports.
- 7-205. Tenure and compensation of members.
- 7-206. Chief responsible for training and maintenance.
- 7-207. Chief to be assistant to state officer.

7-201. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations of the board of mayor and aldermen. Any funds raised by the volunteer fire department as a whole, or by any individual or group of volunteer firemen in the name of the volunteer fire department, and any gifts to the volunteer fire department shall be turned over to and become the property of, the town and the town shall use such funds in the equipping of the volunteer fire department. All other apparatus, equipment, and supplies of the volunteer fire department shall be purchased by or through the town and shall be and remain the property of the town. The volunteer fire department shall be composed of a chief appointed by the board of mayor and aldermen, and such number of subordinate officers and firemen as the fire chief shall appoint. Subject to approval by the board of mayor and aldermen.

7-202. Objectives. The volunteer fire department shall have as its objectives:

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

7-203. Organization, rules, and regulations. The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and formulate and enforce such rules and

¹Municipal code reference

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

regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department under such rules and regulations as the board of mayor and aldermen may prescribe.

7-204. Records and reports. The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those matters to the mayor or to the board of mayor and aldermen as they may require.

7-205. Tenure and compensation of members. The fire chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The fire chief may be suspended for up to thirty (30) days by the mayor, but may be dismissed only by the board of mayor and aldermen.

All personnel of the volunteer fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe.

7-206. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the board of mayor and aldermen.

7-207. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated § 68-102-108, the fire chief is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof.

CHAPTER 3

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-301. Fire service outside town limits.

7-301. Fire service outside town limits. The board shall have full power and authority to authorize the use of the town's fire-fighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

(1) Tennessee Code Annotated § 58-8-101, et seq., the Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, which authorizes municipalities to respond to requests from other governmental entities affected by situations in which its resources are inadequate to handle. The act provides procedures and requirements for providing assistance. No separate mutual aid agreement is required unless assistance is provided to entities in other states, but a municipality may, by resolution, continue existing agreements or establish separate agreements to provide assistance. Assistance to entities in other states is still provided pursuant to Tennessee Code Annotated § 12-9-101, et seq. "Assistance" is defined in the act as "the provision of personnel, equipment, facilities, services, supplies, and other resources to assist in firefighting, law enforcement, the provision of public works services, the provision of emergency medical care, the provision of civil defense services, or any other emergency assistance one governmental entity is able to provide to another in response to a request for assistance in a municipal, county, state, or federal state of emergency."

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

(3) Tennessee Code Annotated § 6-54-601, which authorizes municipalities to:

(a) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance.

(b) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance.

(c) Provide fire protection outside their town limits to either citizens on an individual contractual basis, or to citizens in an area

without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this town. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight.

¹Municipal code reference

Minors in beer places, etc.: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated § 39-17-701, et seq.

CHAPTER 2

BEER

SECTION

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

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board.

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town 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 a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; 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.

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote.

8-205. Powers and duties of the beer board.¹ The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter.

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101(a)(20); provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.

8-207. Permit required for engaging in beer business.² 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 § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Gadsden. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Privilege tax.³ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town

¹State law reference
Tennessee Code Annotated § 57-5-106.

²State law reference
Tennessee Code Annotated § 57-5-103.

³State law reference
Tennessee Code Annotated § 57-5-104(b).

of Gadsden, 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.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer shall be restricted so as to authorize sales for off-premises consumption only. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.¹

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to two (2). Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the town at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church or other place of public

¹State law reference

Tennessee Code Annotated § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten years. Under Tennessee Code Annotated § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated § 16-18-302, town courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. Town courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated § 57-5-301(a) a local offense.

gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period.

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(2) Make or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday.

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

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

(5) Allow drunk persons to loiter about his premises.

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

(7) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

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

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to Tennessee Code Annotated § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a

certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-214. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the town may impose.

8-215. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

8-216. Violations. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

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 Town of Gadsden and its inhabitants under franchise granted to Charter Cable Television by the board of mayor and aldermen of the Town of Gadsden, Tennessee. The rights, powers, duties and obligations of the Town of Gadsden and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹Complete details relating to the cable television franchise agreement are available in the office of the recorder.

TITLE 10**ANIMAL CONTROL****CHAPTER**

1. IN GENERAL.
2. DOGS AND CATS.

CHAPTER 1**IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Violation and penalty.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line.

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition.

10-104. Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason.

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance.

10-107. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.
- 10-209. Violation and penalty.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated §§ 68-8-101 through 68-8-113) or other applicable law.

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section.

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.

¹State law reference

Tennessee Code Annotated §§ 68-8-107.

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood.

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar.

Any new owner adopting a dog that has not been spayed or neutered must pay a twenty-five dollar (\$25.00) deposit before a dog may be released, as required by the Tennessee Spay/Neuter Law.¹

¹State law reference

Tennessee Code Annotated § 44-17-501, et seq., "The Tennessee Spay/Neuter Law," prohibits persons from adopting a dog or cat from an agency (pound, animal shelter, etc.) operated by a municipality unless the dog or cat was already spayed or neutered, was spayed or neutered while in the custody of the agency, or the new owner signs a written agreement to have the animal spayed or neutered within thirty (30) days of the adoption if the animal is sexually mature, or within thirty (30) days after the animal reaches six (6) months of age if it is not sexually mature.

Before an agency may release an animal which has not been spayed or neutered it must collect a twenty-five dollar (\$25.00) deposit from the new owner to ensure compliance with the law. If the new owner does not comply with the law, the deposit is forfeited and the agency may file a petition in court to force the new owner to either comply with the law or return the animal.

(continued...)

10-208. Destruction of vicious or infected dogs running at large.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.

10-209. Violation and penalty.

Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹(...continued)

An agency may not spay or neuter a dog or cat that is returned to its original owner within seven (7) days of its being taken into custody by the agency.

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
4. MISCELLANEOUS.
5. LITTERING.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Minors in beer places.
 11-102. Violations and penalty.

11-101. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption.

11-102. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

¹Municipal code references

Animal control: title 10.

Building and utilities: title 12.

Fireworks and explosives: title 7.

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

Traffic offenses: title 15.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated, § 33-10-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-203. Violation and penalty.

11-201. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

11-202. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns. The sounding of any horn or other device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper town authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(1) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Town vehicles. Any vehicle of the town while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the town, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit.

11-203. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 3**TRESPASSING AND INTERFERENCE WITH TRAFFIC****SECTION**

11-301. Trespassing.

11-302. Interference with traffic.

11-303. Violation and penalty.

11-301. Trespassing. (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

11-302. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

11-303. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 4**MISCELLANEOUS****SECTION**

11-401. Caves, wells, cisterns, etc.

11-402. Posting notices, etc.

11-401. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.

11-402. Posting notices, etc. No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. Each posting of such unauthorized notice shall constitute a separate offense.

CHAPTER 5

LITTERING

SECTION

- 11-501. Definitions.
- 11-502. Littering offenses.
- 11-503. Scope of regulation.
- 11-503. Violations and penalty.

11-501. Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Commercial Purpose" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity;
 - (2) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;
 - (3) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in Tennessee Code Annotated § 39-17-1503(9) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.
 - (4) "Refuse" includes all putrescible and nonputrescible solid waste;
- and
- (5) "Rubbish" includes nonputrescible solid waste consisting of both combustible and non-combustible waste.

11-502. Littering offenses. (1) A person commits the civil offense of littering who:

- (a) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;
 - (b) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or
 - (c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.
- (2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.
- (3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person thereon in such

a manner as to indicate that the article belongs or belonged to such person, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering.

11-503. Scope of regulation. The regulation of litter in this chapter is limited to amounts of litter less than or equal to five (5) pounds in weight or seven and one-half (7.5) cubic feet in volume.

11-504. Violations and penalty. Littering is a civil offense punishable by a penalty under the general penalty provision of this code.

TITLE 12**BUILDING, UTILITY, ETC. CODES****CHAPTER**

1. BUILDING CODE.
2. PLUMBING CODE.
3. PROPERTY MAINTENANCE CODE.
4. RESIDENTIAL CODE.
5. ENERGY CONSERVATION CODE.

CHAPTER 1**BUILDING CODE****SECTION**

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

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,¹ 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code.

12-102. Modifications. (1) (a) Definitions. Whenever in the building code reference is made to the duties of a certain official named therein, that designated official of the Town of Gadsden who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned.

(b) Deletions. Chapter 11 pertaining to accessibility and chapter 27 pertaining to electrical requirements and the International Electrical Code, are deleted.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(2) Permit fees. The schedule of permit fees shall be set and revised from time to time by the board of mayor and aldermen.

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

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations and penalty.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the International Plumbing Code,² 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code.

12-202. Modifications. (1) Definitions. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen.

Wherever "Town Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the plumbing code.

(2) Permit fees. The schedule of permit fees as recommended shall be set and revised from time to time by the board of mayor and aldermen.

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502 one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein

¹Municipal code references
Street excavations: title 16.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

PROPERTY MAINTENANCE CODE

SECTION

12-301. Property maintenance code adopted.

12-302. Modifications.

12-303. Available in recorder's office.

12-304. Violations and penalty.

12-301. Property maintenance code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506, and for the purpose of providing minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance, the International Property Maintenance Code,¹ 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the property maintenance code.

12-302. Modifications. Whenever in the property maintenance code reference is made to the duties of a certain official named therein, that designated official of the Town of Gadsden who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the property maintenance code are concerned.

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502, one (1) copy of the property maintenance code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-304. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 4
RESIDENTIAL CODE

SECTION

- 12-401. Residential code adopted.
- 12-401. Modifications.
- 12-402. Available in recorder's office.
- 12-403. Violations and penalty.

12-401. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code,¹ 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code.

12-402. Modifications. Whenever in the residential code reference is made to the duties of a certain official named therein, that designated official of the Town of Gadsden who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the residential code are concerned.

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 5

ENERGY CONSERVATION CODE¹**SECTION**

12-501. Energy conservation code adopted.

12-502. Modifications.

12-502. Available in recorder's office.

12-503. Violations and penalty.

12-501. Energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of energy-efficient building envelopes and the installation of energy-efficient mechanical, lighting and power systems to establish energy-efficient buildings using prescriptive and performance-related provisions which will make possible the use of new materials and innovative techniques that conserve energy, the International Energy Conservation Code,² 2012 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy conservation code.

12-502. Modifications. Whenever in the energy conservation code reference is made to the duties of a certain official named therein, that designated official of the Town of Gadsden who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the energy conservation code are concerned.

12-503. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

¹ 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

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-504. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy conservation code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. JUNKED MOTOR VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

13-101. 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.

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an

¹Municipal code references

Animal control: title 10.

International property maintenance code: title 12.

Littering generally: title 11.

Littering streets, etc.: § 16-107.

order by the town recorder to cut such vegetation when it has reached a height of over one foot (1').

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of mayor and aldermen shall designate the police chief to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the police chief to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Gadsden Municipal Code, which has been enacted under the authority of Tennessee Code Annotated § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the police chief to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The town may collect the costs assessed against the owner through an action for debt filed

in any court of competent jurisdiction. The town may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Crockett County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the police chief to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the police chief may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the town recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the police chief under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds,

underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

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 town recorder and dispose of such animal in such manner as the town recorder shall direct.

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.

13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to Tennessee Code Annotated § 13-21-101, *et seq.*, the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(3) "Municipality" shall mean the Town of Gadsden, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the mayor.

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such

determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.

13-208. Lien for expenses; sale of salvage materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in Tennessee Code Annotated, § 67-5-2010 and § 67-5-2410. In addition, the municipality may collect the costs assessed against the owner

through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Crockett County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Gadsden to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Gadsden. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness.

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Crockett County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final

disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3**JUNKYARDS****SECTION**

13-301. Junkyards.

13-302. Violations and penalty.

13-301. Junkyards. All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

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

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

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

13-302. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Penalty for violations.

13-401. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including,

but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

13-402. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle.

13-403. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property

maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the town.

13-404. Enforcement. Pursuant to Tennessee Code Annotated § 7-63-101, the building inspector and the police chief are authorized to issue ordinance summons for violations of this ordinance on private property. The building inspector and the police chief shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the town judge to issue a summons; or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated § 7-63-101, et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. In addition, pursuant to Tennessee Code Annotated § 55-5-122, the municipal court may issue an order to remove vehicles from private property.

13-405. Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOME PARKS.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
14-102. Organization, powers, duties, etc.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other three (3) 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 three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) 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 with 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.

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13.

CHAPTER 2**ZONING ORDINANCE****SECTION**

14-201. Land use to be governed by zoning ordinance.

14-202. Violations and penalty.

14-201. Land use to be governed by zoning ordinance. Land use shall be governed by the "Zoning Ordinance, Gadsden, Tennessee," and any amendments thereto.¹

14-202. Violations and penalty. Violations of the zoning ordinance shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Ordinance dated September 1978 is the Zoning Ordinance for the Town of Gadsden. This document and any amendments thereto is of record in the office of the town recorder.

CHAPTER 3

MOBILE HOME PARKS

SECTION

- 14-301. Definitions.
- 14-302. Location of mobile homes.
- 14-303. Compliance with construction standards required.
- 14-304. Installation requirements.
- 14-305. Permit for mobile home park.
- 14-306. Inspections by town building inspector.
- 14-307. Location and planning.
- 14-308. Minimum size of mobile home park.
- 14-309. Minimum number of spaces.
- 14-310. Minimum mobile home space and spacing of mobile homes.
- 14-311. Water supply.
- 14-312. Sewage disposal.
- 14-313. Refuse.
- 14-314. Electricity.
- 14-315. Streets.
- 14-316. Parking spaces.
- 14-317. Buffer strip.
- 14-318. License for mobile home parks.
- 14-319. Enforcement.
- 14-320. Board of appeals.
- 14-321. Appeals from board of appeals.
- 14-322. Violation and penalty.

14-301. Definitions. (1) "Health officer." The director of the town, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(2) "Mobile home." A detached single family dwelling unit with any or all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, connection to utilities and the like.

(3) "Mobile home park (trailer court)." The term mobile home park shall mean any plot of ground on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located.

(4) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(5) "Permit (license)." The permit required for trailer parks and single mobile homes. Fees charged under the license requirement are for inspection and the administration of this chapter.

14-302. Location of mobile homes. It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the town where the mobile home is outside of any designated and licensed mobile home park after December 31, 2007. The use of a single wide mobile home other than as a residential dwelling in a licensed and approved mobile home park is prohibited.

14-303. Compliance with construction standards required. No mobile home shall be used, placed, stored or serviced by utilities within any mobile home park in the town unless it displays the appropriate decal(s) evidencing compliance with the applicable construction standards pursuant to the "Uniform Standards Code for Manufactured Homes," Tennessee Code Annotated, title 68, chapter 126, is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section.

14-304. Installation requirements. Mobile home installations shall comply with the "Tennessee Manufactured Home Installation Act," Tennessee Code Annotated, § 68-126-401, *et seq.*

14-305 Permit for mobile home park. No place or site within the town shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the town building inspector in the names of such person or persons for the specific mobile home park. The town building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

14-306. Inspections by town building inspector. The town building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The town building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

14-307. Location and planning. A mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the town planning commission and town building inspector. The town planning commission and building inspector may promulgate regulations for mobile home park location and plan approval, which shall provide for adequate space, lighting, drainage, sanitary facilities, safety features, and service buildings as may be necessary to protect the public health, prevent nuisances, and provide for the convenience and welfare of the mobile home park occupants.

14-308. Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than two (2) acres. The tract of land shall consist of a single plat so dimensioned and related as to facilitate efficient design and management.

14-309. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is ten (10).

14-310. Minimum mobile homes space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen feet (15') of open space between mobile homes or any attachment such as a garage or porch¹, and at least ten feet (10') end to end spacing between trailers and any building or structure, twenty feet (20') between any trailer and property line and twenty-five feet (25') from the right-of-way of any public street or highway.

The individual plot sizes for mobile home spaces shall be determined as follows:

- (1) Minimum lot area of two thousand four hundred (2,400) square feet;
- (2) Minimum depth with end parking of an automobile shall be equal to the length of the mobile home plus thirty feet (30');
- (3) Minimum depth with side or street parking shall be equal to the length of mobile home plus fifteen feet (15'); and
- (4) In no case shall the minimum width be less than forty feet (40') and the minimum depth less than sixty feet (60').

¹If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile homes spaces shall be made wider to accommodate such construction in order to maintain the required fifteen feet (15') of open space.

14-311. Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the trailer court operator to provide such treatment as is deemed necessary to maintain a safe, potable water supply. Water shall be furnished at the minimum rate of one hundred twenty-five (125) gallons per day per mobile home space. An additional water service connection shall be provided for each mobile home space, with meter for each individual trailer.

14-312. Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and sub-surface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home a such single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate must be determined according to the "Percolation Test Procedures" in the Official Compilation of the Rules and Regulations of the State of Tennessee, which may be found online at <http://state.tn.us/sos/rules/1200/1200-01/1200-01-06.pdf>. No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

All sewer lines shall be laid in trenches separated at least ten feet (10') horizontally from any drinking water supply line.

14-313. Refuse. The storage, collection and disposal of refuse, in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight and rodent proof containers. Satisfactory

container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

14-314. Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code, 2002 edition, and shall satisfy all requirements of the local electric service organization.

14-315. Streets. Widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	11 ft.
One-way, with parallel parking on one side only	18 ft.
One-way, with parallel parking on both side	26 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

Streets shall have a compacted gravel base and a prime seal treatment to meet requirement of the Tennessee State Highway Department.

14-316. Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two (2) car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home space. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten feet (10') and a length of not less than twenty feet (20'). The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

14-317. Buffer strip. An evergreen buffer strip shall be planted along those boundaries of the mobile home court that are adjacent to development.

14-318. License for mobile home parks. It shall be unlawful for any person or persons to maintain or operate within the corporate limits of the town, a mobile home park unless such person or persons shall first obtain a license therefor.

14-319. Enforcement. It shall be the duty of the county health officer and town building inspector to enforce provisions of this chapter.

14-320. Board of appeals. The planning commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, may appeal for and receive a hearing by the planning commission for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of this chapter, the planning commission may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector.

14-321. Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the town aggrieved by any decision of the planning commission may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee.

14-322. Violation and penalty. Any person or corporation who violates the provisions of the chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the town building inspector or county health officer after receipt of thirty (30) days written notice of such requirements, shall be subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic control signs, etc.
- 15-108. General requirements for traffic control signs, etc.
- 15-109. Unauthorized traffic control signs, etc.
- 15-110. School safety patrols.
- 15-111. Driving through funerals or other processions.
- 15-112. Clinging to vehicles in motion.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-50-504; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-113. Riding on outside of vehicles.
- 15-114. Backing vehicles.
- 15-115. Projections from the rear of vehicles.
- 15-116. Causing unnecessary noise.
- 15-117. Vehicles and operators to be licensed.
- 15-118. Passing.
- 15-119. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-120. Delivery of vehicle to unlicensed driver, etc.
- 15-121. Compliance with financial responsibility law required.
- 15-122. Adoption of state traffic statutes.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9.

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose.

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction.

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the town for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when

lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary.

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street.

15-107. Miscellaneous traffic control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

15-108. General requirements for traffic control signs, etc. Pursuant to Tennessee Code Annotated, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways,² and shall be uniform as to type and location throughout the town.

15-109. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

²For the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, et seq.

official traffic control sign, signal, marking, or device or any railroad sign or signal.

15-110. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals.

15-111. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

15-112. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place.

15-113. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks.

15-114. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

15-115. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle.

15-116. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

15-117. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Classified and Commercial Driver License Act of 1988."

15-118. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

15-119. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred (1,500) pounds, and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five (125) cubic centimeters;

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity

not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(i)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Foundation.

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred (1,500) pounds and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

15-120. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Adult" shall mean any person eighteen years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues,

parkways, alleys or public thoroughfares in the Town of Gadsden unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town.

15-121. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under Tennessee Code Annotated, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected.

15-122. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, and Tennessee Code Annotated § 55-10-307, the Town of Gadsden adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, §§ 55-8-133 through 55-8-150, and §§ 55-8-152 through 55-8-180. Additionally, the Town of Gadsden adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606, § 55-12-139, and § 55-21-108 by reference as if fully set forth in this section.

CHAPTER 2**EMERGENCY VEHICLES****SECTION**

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police.

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limit so long as life or property is not thereby endangered; and

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle.

15-203. Following emergency vehicles. No driver of any vehicle other than one on official business shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman.

CHAPTER 3**SPEED LIMITS****SECTION**

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply.

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets.

15-303. In school zones. Pursuant to Tennessee Code Annotated, § 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. Every driver who intends to 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 Tennessee Code Annotated, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway.

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of 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.

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

15-405. U-turns. U-turns are prohibited.

CHAPTER 5**STOPPING AND YIELDING****SECTION**

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At railroad crossings.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.

15-501. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto 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.

15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed.

15-503. At railroad crossings. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until that driver can do so safely. The foregoing requirements shall apply when:

- (a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- (b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
- (c) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; and

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall stop before entering the crosswalk on the near side of the intersection or, if 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.

15-505. At "yield" signs. (1) The driver of a vehicle who is faced with a yield sign at the entrance to a through highway or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway or other roadway, or which are approaching so closely on the highway or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this section 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.

15-506. At traffic control signals generally. Whenever traffic is controlled by traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Yellow alone, or "Caution", when shown following the green or "Go" signal:

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) Red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. A right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, such turn will not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections, except those that are clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(c) A left turn on a red or stop signal shall be permitted at all intersections within the town where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection except that clearly marked by a "No Turn of Red" sign, which may be erected by the town at intersections which the town decides requires no left turns on red in the interest of traffic safety.

(d) The driver of a motorcycle approaching an intersection that is controlled by a traffic-control signal utilizing a vehicle detection device that is inoperative due to the size of the motorcycle shall come to a full and complete stop at the intersection and, after exercising due care as provided by law, may proceed with due caution when it is safe to do so. It is not a defense to § 15-506, "At traffic control signals generally," that the driver of a motorcycle proceeded under the belief that a traffic-control

signal utilized a vehicle detection device or was inoperative due to the size of the motorcycle when such signal did not utilize a vehicle detection device or that any such device was not in fact inoperative due to the size of the motorcycle.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

15-507. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, and the light is clearly visible for a sufficient distance ahead to permit such stopping, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code.

15-508. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) Walk. Pedestrians facing such signals may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed

crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

15-509. Stops to be signaled. Every driver operating a motor vehicle who intends to stop such vehicle, 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 the signal required in Tennessee Code Annotated, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this town shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street.

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24').

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space.

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (a) physically handicapped, or (b) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21.

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone.

CHAPTER 7**ENFORCEMENT****SECTION**

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver license in lieu of bail.
- 15-707. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town 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.

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.

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

¹Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 3.

State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109.

15-706. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the town court, and shall state such period of validity on its face.

(3) Failure to appear--disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq.

15-707. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows:

Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Violations and penalty.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8').

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons

¹Municipal code reference

Motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection.

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign.

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law.

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes.

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way.

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk.

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the town recorder.

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any

¹Municipal code reference
Building code: title 12, chapter 1.

vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section.

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk.

16-113. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 2

EXCAVATIONS

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Violation and penalty.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town recorder is open for business, and the permit shall be retroactive to the date when the work was begun.

16-202. Applications. Applications for such permits shall be made to the town recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the town recorder within twenty-four (24) hours of its filing.

16-203. Fee. The fee for such permits shall be twenty dollars (\$20.00).

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the town recorder a cash deposit.

The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the town recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the town recorder a surety bond in such form and amount as the town recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration.

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users.

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this town shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the town but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the town recorder 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.

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as

against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the town recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person and seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for each accident.

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the town recorder.

16-209. Supervision. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences.

16-210. Violation and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE STORAGE AND COLLECTION.

CHAPTER 1

REFUSE STORAGE AND COLLECTION

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Violations and penalty.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith.

17-102. Premises to be kept clean. All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter.

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this town where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less

¹Municipal code references

Property maintenance regulations: title 13.

Littering: title 11, chapter 7.

than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town handles mechanically, the combined weight of any refuse container and its contents shall not exceed thirty (30) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than thirty (30) pounds each and being not more than two feet (2') thick before being deposited for collection.

17-104. Location of containers. Where alleys are used by the town refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the town refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the town for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection.

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose.

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the mayor.

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys.

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited.

17-109. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this

code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 18

WATER AND SEWERS¹

[RESERVED FOR FUTURE USE]

¹Municipal code references

Building, utility and residential codes: title 12.

Refuse disposal: title 17.

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

[RESERVED FOR FUTURE USE]

APPENDIX

- A. OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN.
- B. ETHICS PROVISIONS PROVIDED BY STATUTE.

APPENDIX A

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

APPENDIX A

OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR EMPLOYEES OF THE CITY OF GADSDEN

- I. Purpose and coverage.
- II. Definitions.
- III. Employer's rights and duties.
- IV. Employee's rights and duties.
- V. Administration.
- VI. Standards authorized.
- VII. Variance procedure.
- VIII. Recordkeeping and reporting.
- IX. Employee complaint procedure.
- X. Education and training.
- XI. General inspection procedures.
- XII. Imminent danger procedures.
- XIII. Abatement orders and hearings.
- XIV. Penalties.
- XV. Confidentiality of privileged information.
- XVI. Compliance with other laws not excused.

APPENDICES

- I. Organizational chart
- II. Safety and health organizational chart
- III. Employee notification
- IV. Program budget
- V. Accident reporting procedures

I. Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the Town of Gadsden.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Town of Gadsden in electing to update and maintain an effective occupational safety and health program for its employees:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the

Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. Definitions. For the purposes of this program, the following definitions apply:

- a. "Act" or "TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- b. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- c. "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable.
- d. "Commissioner of Labor and Workforce Development" means the chief executive officer of the Tennessee Department of Labor and

Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

- e. "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program for the employees of the Town of Gadsden.
- f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. "Employer" means the Town of Gadsden and includes each administrative department, board, commission, division, or other agency of the City of Town of Gadsden.
- h. "Establishment" or "worksites" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- i. "Governing body" means the County Quarterly Court, board of commissioners, city council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- j. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- k. "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.
- l. "Person" means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.
- m. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially

reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- n. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

III. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.

- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program.

IV. Employee's rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.

- g. Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence.

V. Administration. a. The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

- 1. The director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.
- 2. The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.
- 3. The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
- 4. The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.

5. The director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of section 1 of this plan.
 6. The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The director shall maintain or cause to be maintained records required under section VIII of this plan.
 9. The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix V of this plan.

VI. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the

future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees.

VII. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 1. The employer:

- i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has an effective program for coming into compliance with the standard as quickly as possible.
- 2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. Recordkeeping and reporting. a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970, (revised 2003) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.

- b. The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix II to this plan.
- c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix V to this plan.

IX. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should

- sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of section 1 of this plan).
- b. Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
 - c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
 - d. The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
 - e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.
 - f. Copies of all complaint and answers thereto will be filed by the director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. Education and training. a. Director and/or compliance inspector(s).

1. Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars,

workshops, etc., conducted by the State of Tennessee or other agencies.

2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All employees (including managers and supervisory personnel).

A suitable safety and health training program for employees will be established. This program will, at a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury (such as falls, electrocution, crushing injuries [e.g., trench cave-ins], and being struck by material or equipment).
2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHAct Standards (1910 and/or 1926).
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels,

- pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
- ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. General inspection procedures. It is the intention of the governing body and the responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:
 - 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 - 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with section XII of this plan before

- inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
 - d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
 - e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
 - f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigate techniques.
 - g. Advance notice of inspections.
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees of their authorized representative(s) will also be given notice of the inspection.
 - h. The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors of other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.
 - 2. Records are made of the inspections and of any discrepancies found and are forwarded to the director.
 - i. The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. Imminent danger procedures.

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

1. The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (i) of section XI of this plan.
- b. Refusal to abate.
1. Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.
 2. The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement.

XIII. Abatement orders and hearings.

- a. Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to

this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:

1. Issue an abatement order to the head of the worksite.
 2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
1. The standard, rule, or regulation which was found to be violated.
 2. A description of the nature and location of the violation.
 3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. Penalties.

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. Confidentiality of privileged information. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise

privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. Compliance with other laws not excused.

- a. Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.
- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

Signature: Director, Occupational Safety and Health Date

ORGANIZATIONAL CHART

APPENDIX I

[For this section make a list of each work location wherein city employees work, such as City Hall, Water Plant, Police Department, City Garage, etc.), the address for the workplace, phone number at that workplace, and number of employees who work there.]

Example:

City Garage	-	<u>12 employees</u>
1234 Main Street		
Gadsden, TN		
423-555-1234		

Police Department	-	<u>25 employees</u>
4567 Garden Avenue		
Gadsden, TN		
423-555-5678		

TOTAL NUMBER OF EMPLOYEES: 37

[Once each work location has been listed, record the total number of employees that the city employs.]

SAFETY AND HEALTH ORGANIZATIONAL CHART
TOWN OF GADSDEN
APPENDIX II

Police Department - 20 employees
208 Monroe Street
Gadsden, TN
(423) 555-7890

Fire Department - 12 employees

Fire Hall #1
208 Monroe Street
Gadsden, TN 37874
(423) 555-2345

Fire Hall #2
305 E. Walnut St.
Gadsden, TN 37874
(423) 337-6789

City Garage - 12 employees
321 S. High Street
Gadsden, TN 37874
(423) 555-0123

Recreation Work Center - 5 employees
134 Starrett Street
Gadsden, TN 37874
(423) 555-4507

City Hall - 5 employees
203 Monroe Street
Gadsden, TN 37874
(423) 555-8901

Total Number of Employees: 54

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

APPENDIX III

NOTICE TO ALL EMPLOYEES OF THE TOWN OF GADSDEN

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as state standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage, of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director or _____ .

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before _____ for assistance in obtaining relief or to file a complaint with the commissioner of labor and workforce development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the employees of the Town of Gadsden is available for inspection by any employee at _____ office during regular office hours.

Signature: Official Date

OCCUPATIONAL SAFETY AND HEALTH PLAN
PROGRAM BUDGET

APPENDIX IV

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities)
7. Protective clothing and equipment (personnel).
8. Safety and health instruments.
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the program.
11. Contingencies and miscellaneous.

TOTAL ESTIMATED PROGRAM FUNDING:

Estimate of Total Budget for:

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN
ACCIDENT REPORTING PROCEDURES

APPENDIX V

Note: All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported by phone to the commissioner of labor and workforce development within eight (8) hours.

There are six important steps required by the OSHA recordkeeping system:

1. Obtain a report on every injury/illness requiring medical treatment (other than first aid).
2. Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
3. Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on worker's compensation reports giving the same information.
4. Every year, prepare the annual summary (OSHA Form No. 300A); post it no later than February 1, and keep it posted until April 30.
5. Retain these records for at least 5 years.
6. Complete the Survey of Occupational Injuries/Illness and mail it to Labor Research and Statistics, when requested.

The four (4) procedures listed below are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the chief executive officer but excluding the governing body (county court, city council, board of directors, etc.).

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours, after their occurrence. The supervisor will provide the director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the director or compliance inspector, if necessary) and will complete a written report on the accident or illness and forward it to the director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a

brief description of how the accident occurred. The supervisor or the administrative head is to be notified of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since a Workers Compensation Form C20 or OSHA No. 301 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address, and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 6 listed under PROGRAM PLAN in Chapter IV, Part IV of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation.

APPENDIX B

ETHICS PROVISIONS PROVIDED BY STATUE

Appendix B

Ethics Provisions Provided by Stature

1. Campaign finance.

All candidates for the chief administrative office (mayor), any candidates who spend more than \$500, and candidates for other offices that pay at least \$100 a month are required to file campaign financial disclosure reports. Civil penalties of \$25 per day are authorized for late filings. Penalties up to the greater of \$10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101-118).

Contributions to political campaigns for municipal candidates are limited to:

- a. \$1,000 from any person (including corporations and other organizations);
- b. \$5,000 from a multicandidate political campaign committee;
- c. \$20,000 from the candidate;
- d. \$20,000 from a political party; and
- e. \$75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of \$10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301-310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. Conflicts of Interest.

Municipal officers and employees are permitted to have an "indirect interest" in contracts with their municipality if the officers or employees publicly

acknowledge their interest. An indirect interest is any interest that is not "direct," except it includes a direct interest if the officer is the only supplier of goods or services in a municipality. A "direct interest" is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107-108, T.C.A. § 12-4-101-102).

3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 et seq. Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over \$10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from "knowingly" receiving any form of compensation for "consulting services" other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

"Consulting services" under T.C.A. § 2-10-122 means "services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official." "Consulting services" also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. "Consulting services" does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

"Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct, official oppression, misuse of official information.

a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall

engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude" (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal "duty" to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that "there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county." However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney's duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101-102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

ORDINANCE NO. 1

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF GADSDEN, TENNESSEE.

WHEREAS some of the ordinances of the Town of Gadsden 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 Mayor and Aldermen of the Town of Gadsden, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Gadsden Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF GADSDEN, TENNESSEE,* THAT:

Section 1. Ordinances codified. The ordinances of the Town of Gadsden 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 "Gadsden 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

*The charter may provide for a different ordination clause; use whatever the charter prescribes.

favor of said city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing 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, closing, 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 fifty dollars (\$50.00) 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."

Each day any violation of the municipal code continues shall constitute a separate civil offense.¹

¹State law reference

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

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 mayor and aldermen, 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.

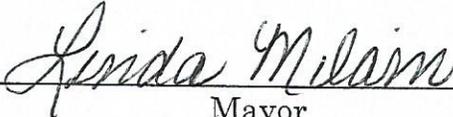
Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

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.

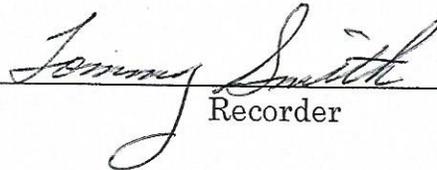
Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading Sept 15, 2014

Passed 2nd reading Sept 29, 2014.



Mayor



Recorder