

TITLE 12

STREETS AND OTHER PUBLIC WAYS AND PLACES¹

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CHAPTER 1

MISCELLANEOUS

SECTION

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12-101. Obstructing streets, etc. It shall be unlawful for anyone in any manner to obstruct the sidewalks, streets, or gutters of said town by erecting or establishing anything that is calculated to obstruct or render less serviceable the sidewalks, streets, or gutters or any portion thereof without permission of the Board of Mayor and Aldermen. [Ord. 40 of April 16, 1906, §§ 1 and 2, modified]

12-102. Cellar doors opening over sidewalks. It shall be unlawful for any cellar doors opening out on any of the streets or alleys of the town to be elevated above the pavements or sidewalks contiguous, and any such door now elevated above such sidewalk shall be placed down on a level at all points with such pavements or sidewalks. Such cellar doors shall be made of iron or wood at the elevation at the respective property owners and, if wood, be made of good sound

¹See title 9 in this code for related motor vehicle and traffic regulations.

seasoned timber not less than one and one-half inches in thickness and kept in good repair at all times. [Ord. 26 of April 16, 1906, § 1]

12-103. Depositing refuse on streets, etc. It shall be unlawful for any person to throw or cast any peelings or the hulls of any fruits, vegetables, or nuts, any pieces of glass, or metal, rocks, bricks, paper, wood, or sharp substance of any kind, or any refuse, matter, garbage, or filthy matter of any kind on the streets or sidewalks. [Ord. of Jan. 2, 1914, § 1]

12-104. Hog troughs, etc., on streets, etc. It shall be unlawful for any person to keep any hog trough, bin, or vessel for feeding swine, or for any other purpose, on any of the streets or alleys of said town, or keep any hog pen on or so near any of said streets or alleys as to become a nuisance. [Ord. 18 of April 16, 1906, § 1]

12-105. Fires in streets and alleys. It shall be unlawful for any person to build a fire on any of the streets or alleys of the town unless by permission. [Ord. 22 of April 16, 1906, § 1]

12-106. Trees obstructing utility wires. The growing or permitting to grow of trees by the owner of adjacent or abutting property upon the streets of said town, or upon the sidewalks thereof, in such a manner as to obstruct the electric lights or telephone wires of said town is hereby declared to be a nuisance.

All trees upon the sidewalks or upon the streets of said town which so obstruct or interfere with the electric light or telephone wires shall be removed within a reasonable time after notification by the recorder to do so. Anyone failing to remove such trees after notice by the recorder to do so shall be guilty of a misdemeanor, and each day that a violation continues shall constitute a separate offence.

Provided, however, that anyone wishing to retain trees upon, abutting, or near his premises may apply to the Board of Mayor and Aldermen for permission to prune or trim such trees in lieu of pecuniary penalties in such manner as to prevent same from obstructing said electric lights or telephone wires, and said board may grant to the person permission to prune or trim said trees, but same shall be under the supervision of the board or the chief of police. [Ord. 49 of April 16, 1906, §§ 1, 2, and 3]

12-107. Procedure for special events. The sponsoring organization of any special event shall be responsible for the following:

(1) The preparation of a plan of the special event which is to be approved by the Board of Mayor and Aldermen and shall include the exact delineation of any streets, parks or other public rights-of-way to be closed or

used in any manner as part of the special event. This plan shall also address all other items listed in the Procedure for Special Events as adopted by the town.

(2) The acquisition of a special events permit to cover business authorized by the sponsor. The sponsor must be a tax exempt nonprofit organization as defined by the Tennessee Code Annotated. Such permits shall be limited to a period of not more than 14 consecutive days and shall amount to \$50.00 for each sponsored event.

(3) The determination of all participants in the special events and the location of any booths, vending operation, stalls or other facility proposed to be used in the special event. No person shall knowingly join or participate in any special event in violation of any of the terms, conditions or regulations of the permit issued therefore, or knowingly join or participate in any event without the consent and over the objection of the permittee or in any manner interfere with the orderly conduct of such event.

(4) The acquisition of a blanket insurance policy to cover the eventuality of any liability which might be incurred during the special event. [Ord. of June 27, 1989]

12-108. Permits required for the exclusive use of any park or other municipal area. It shall be unlawful for any person, corporation or organization to conduct public meetings, assemblies, worship services, entertainment, demonstrations, or political rallies, within the general confines of a park or municipal area without a permit, issued by the town recorder, and shall be allowed only in those areas so designated by the permit. It is generally accepted that all park areas or municipal areas are open and accessible to, and maintained for, the general public at large. Prior to being issued a "municipal area permit," the person or organization requesting the permit shall post a \$25.00 cash deposit with the town recorder to cover any cost to the town for clean-up of the area. Said deposit shall be returned to the permittee if no clean-up is required. [as added by Ord. #2000-15, Sept. 2000]

12-109. Fundraising roadblocks prohibited. All fundraising using roadblocks with personnel standing in open public streets within the corporate limits of the Town of Jonesborough is expressly prohibited. (as added by Ord. #2003-18, Oct. 2003)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 12-201. Permit required.
- 12-202. Applications.
- 12-203. Fee.
- 12-204. Deposit or bond.
- 12-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 12-206. Restoration of streets, etc.
- 12-207. Insurance.
- 12-208. Time limits.
- 12-209. Supervision.
- 12-210. Driveway curb cuts.

12-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business and said permit shall be retroactive to the date when the work was begun. [Code of 1982]

12-202. Applications. Applications for such permits shall be made to the 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

¹Sections 12-201 through 12-209 in this chapter were taken substantially from the ordinance upheld by the Tennessee Supreme Court in the 1960 case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S. W. 2d 885.

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. [Code of 1982]

12-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. [Code of 1982]

12-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) 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 recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. [Code of 1982]

12-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. [Code of 1982]

12-206. 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 the Town of Jonesborough shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the public works director 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. [Code of 1982]

12-207. 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 recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. [Code of 1982]

12-208. 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 recorder. [Code of 1982]

12-209. Supervision. The public works director 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. [Code of 1982]

12-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the building inspector who will seek planning commission approval when deemed necessary. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to

pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge, and when two (2) or more adjoining driveways are provided for the same property, a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend into the street. [Code of 1982]

CHAPTER 3

MAINTENANCE OF DRIVEWAY DRAINAGE CULVERTS

SECTION

12-301. Maintenance of residential driveway drainage culverts.

12-302. Maintenance of multi-family residential, commercial and industrial driveway drainage culverts.

12-303. Time limitations to make repairs on drainage culverts.

12-301. Maintenance of residential driveway drainage culverts. Where residential driveways cross streetside drainage ditches requiring drainage culverts, it shall be the responsibility of the property owner served by the driveway, to maintain the drainage culvert in such a manner as to ensure an uninterrupted flow through the drainage culvert at all times. In the event of the drainage culvert being declared unusable by the town, the owner of the property served by the driveway shall be responsible for purchasing a replacement drainage culvert. The installation of the replacement drainage culvert will be made by the Town of Jonesborough. The town shall determine drainage culvert location, alignment, material, size and length. [as added by Ord. #2000-13, Sept. 2000]

12-302. Maintenance of multi-family residential, commercial and industrial driveway drainage culverts. Where multi-family residential, commercial and industrial driveways cross streetside drainage ditches requiring drainage culverts, it shall be the responsibility of the property owner served by the driveway to maintain the drainage culvert in such a manner as to ensure an uninterrupted flow through the drainage culvert at all times. In the event of the drainage culvert being declared unusable by the director of public works or his designee, the owner of the property served by the driveway shall be responsible for purchasing a replacement drainage culvert and for the installation of the drainage culvert. The director of public works or his designee shall determine drainage culvert location, alignment, material, size and length. [as added by Ord. #2000-13, Sept. 2000]

12-303. Time limitation to make repairs on drainage culverts. In the event a property owner is told by the director of public works or his designee that maintenance or replacement of the drainage culvert is required, the owner shall have sixty (60) days from the time notified by the department of public works to complete the required work. However, if the public welfare and health are endangered by a condition which needs to be corrected, the director of public works shall specify a time period less than sixty (60) days in which the work shall be completed. [as added by Ord. #2000-13, Sept. 2000]

CHAPTER 4

SPECIAL EVENTS

SECTION

- 12-401. General.
- 12-402. "Special event" defined.
- 12-403. Special event permit required.
- 12-404. Permit application procedure.
- 12-405. Insurance required.
- 12-406. Board approval required.
- 12-407. Fee for additional services.
- 12-408. Concession booths and vendors.
- 12-409. Sales tax.
- 12-410. Rules and regulations.
- 12-411. Enforcement.

12-401. General. Special events sponsored by local groups, associations or individuals and taking place within the town limits impact public safety, solid waste collection, use of public streets and/or right-of-ways but often celebrate heritage, enhance community spirit, improve quality of life, support economic development and provide educational opportunities. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-402. "Special event" defined. A "special event" is any occasion including but not limited to fairs, shows, exhibitions, city-wide celebrations, and festivals taking place within a specifically defined area of the Town of Jonesborough for a period of time. A special event may include the use of public facilities in the Town of Jonesborough, including, but not limited to parks, streets, alleys, sidewalks, or other municipal owned facilities, and which includes a general invitation to all members of the public to either participate in and/or view such event, or part thereof. Special events may be one-time or recurring occasions. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-403. Special event permit required. Whenever any person, group, association, club, business, firm or corporation desires to sponsor a "special event," such person, group, association, club, business, firm, or corporation shall first obtain a "special event permit" from the Town of Jonesborough. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-404. Permit application procedure. (1) Application. Special event permits will be issued only upon the submission of an application filed with the town recorder. Such application must contain the following information:

- (a) Name, description, and purpose of event.
- (b) Name and purpose of sponsoring organization.
- (c) List of pre-events and post-events held in conjunction with the main event. (including parade, fireworks, etc.)
- (d) Days and hours of events.
- (e) Event boundary including a map with city streets showing requested including registration, tents, booths, food, office/administration, etc.
- (f) Estimated number expected to attend.
- (g) Outline of publicity plan with examples of previous efforts, if available.
- (h) Security plan, including crowd control, pedestrian safety, etc., and general request for public safety assistance.
- (i) Emergency procedures, first aid services, and plan for appropriate emergency communication. Also include outline of activities involving moving vehicles and safety related procedures used to avoid or prevent injury.
- (j) Names, street addresses and phone numbers including home phone, work phone and cell phone, and title/area of responsibility of at least two contacts with event sponsors.
- (k) Proof of liability insurance, provided by insurance company and sent, if requested, directly by the carrier to the town recorder.
- (l) A list of anticipated vendors and concession booths. A final revised list of vendors and concession booths shall be filed with the town recorder at least 48 hours before the event begins.
- (m) Services provided by or through the event sponsor. List should include erection of temporary stages or facilities including tents, efforts to address refuse collection, security, etc.
- (n) Services requested from the Town of Jonesborough including:
 - (i) Police and security
 - (ii) Refuse collection
 - (iii) Street cleaning
 - (iv) Event preparation/beautification
 - (v) Signage
 - (vi) Parking
 - (vii) Use of facilities, including days and hours, space and staffing needs.
 - (viii) Communication/publicity
- (o) Detailed clean-up plan stating person or persons responsible, schedule, and any repairs or grounds remediation expected.
- (p) The approximate number of citizens expected to either participate in and/or view the event.

(q) If street closure is requested, a complete listing of such streets or portions thereof, together with the dates and hours of closure.

(r) The payment of a \$35.00 fee for processing the application.

(2) Hold harmless clause required. The special event sponsor shall hold the Town of Jonesborough harmless for any damages or injuries caused by any action or activities of the sponsoring organization. The sponsor shall sign a hold harmless clause approved in form by the town attorney.

(3) Town staff review. The request to hold a special event shall be reviewed by the appropriate town staff. Town staff will work with event sponsors to the extent necessary to clarify and resolve any issues or concerns. Any written comments resulting from the staff review shall be provided to the board of mayor and aldermen before board action is taken. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-405. Insurance required. (1) A special event permit will be issued by the town recorder only after the sponsor has presented the town recorder with a certificate of insurance, with the Town of Jonesborough named as an additional insured; protecting the town from any and all claims and liabilities arising out of the event, in an amount equal to the upper limits of liability the town is exposed to under the Tennessee Governmental Tort Liability Act at the time of the event.

(2) Insurance coverage shall include all activities and the individuals carrying them out as well as vendors permitted within the special event boundaries.

(3) Any individual or organization carrying out a special event activity within the special event boundary involving the general public, whether on public or private property, shall be covered by insurance with the minimum limits listed above. Proof of coverage shall be obtained through a permit issued through the special event sponsor or through a certificate of insurance provided by the carrier.

(4) Events sponsored by the town shall be covered under the town's general liability insurance policy. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-406. Board approval required. (1) Approval in part or whole. The board of mayor and aldermen shall review all requests for special events and the associated request for services. At least one of the designated contacts with the event sponsor shall be at the board meeting to answer questions and provide any additional information needed. The board may approve, reject or modify any request in whole or part.

(2) Schedule of approval. Although the board of mayor and aldermen may authorize the carrying out of an event at any time, the board will normally require documentation necessary for a request to be presented to the board for review a minimum of thirty-five (35) days in advance of the special event.

Special events sponsors should submit preliminary event plans with the information outlined in section (9) to the town administrator so the request can be reviewed by the appropriate town staff forty-five (45) days prior to the special event.

(3) Annual action required for recurring special events. Special events that are recurring require the annual approval of the board of mayor and aldermen. The permit application shall provide a schedule for the term of the special event within the special event permit request.

(4) Town sponsored special events. The board of mayor and aldermen may choose to sponsor a special event for any reason. Special events sponsored by the Town of Jonesborough may be approved by the board of mayor and aldermen, at its discretion, through the annual budget process or through the criteria established in this ordinance for all other special events. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-407. Fee for additional services. If the town determines that the special event is not expected to generate sufficient tax revenues sufficient to pay the town's expected costs for municipal services and utilities over and above the normal level of service provided to the general public, the town may charge the special event sponsor at rates for services rendered that are established by resolution of the board of mayor and aldermen. If the town chooses to levy a fee for additional services, the town shall estimate the fees for additional services which must be paid in advance of the issuance of the special event permit. Upon the conclusion of the special event, the town will itemize its fees for additional services actually provided and will bill the special event sponsor for any unpaid balance or refund any overpayment made. Fees levied for special services provided shall be due upon demand. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-408. Concession booths and vendors. (1) Definitions. (a) Goods, wares, merchandise shall include but not be limited to fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, crafts, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks.

(b) Vendor or concession booth means any person, traveling by foot, wagon, vehicle or any other type of conveyance from street to street carrying, conveying, or transporting goods, wares or merchandise and offering and exposing them for sale, or making sales and delivering articles to purchasers; or who, without traveling from place to place, exhibits, displays, sells or offers for sale such products from a wagon, handcart, pushcart, motor vehicle, conveyance or from his person while on the public ways of the Town of Jonesborough. A vendor or concession

booth also includes any transient vendor, street vend, hawker, huckster, itinerant merchant, or persons or companies providing services for fees or other compensation.

(2) General. The special event sponsor shall be in charge of all concession booths and vendors. The sponsor shall determine what booths and vendors shall be allowed, and see that they comply with all ordinances, statutes, rules, and regulations, including, but not limited to, public health, safety requirements, and anti-discrimination laws. The special event sponsor shall also issue an identification badge to each vendor or concession booth operator.

(3) Vendors or concession booths shall not obstruct the entrance or display windows of fixed location businesses without the permission of the owner of the affected business. In no event shall a vendor or concession booth obstruct pedestrian access to other neighboring fixed located businesses.

(4) No vendor or concession booth shall be permitted to operate in the following areas of public space:

(a) Within ten (10) feet of any street intersection or pedestrian crosswalk, unless the street intersection is closed as part of the special event;

(b) Within five (5) feet of any driveway or loading zone;

(c) Within five (5) feet of any parking space or access ramp designated for persons with disabilities;

(d) Within ten (10) feet of a fire hydrant or fire escape. In no event, vendors or concession booths shall not obstruct public sidewalks.

(5) No vendors or concession booths shall be allowed within the boundary of the permitted special event without the approval of the special event sponsor or the board of mayor and aldermen.

(6) Vendors operating outside of a special event boundary must obtain a separate permit in the name of the vendor. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-409. Sales tax. Sales booths and/or activities, in which fees are charged, if allowed, shall be governed by the state flea market rules for license to sell. It shall be the responsibility of the special event sponsor to ensure that all individuals and groups permitted to conduct sales through the special event have paid any applicable local or state fee for sales, and to verify that all booths or fee generating activities are properly licensed. Upon request, permit and sales tax information for all permitted special event vendors and activities shall be provided to the town recorder within fifteen (15) days of the last day of the special event. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-410. Rules and regulations. (1) Alcoholic beverages. Alcoholic beverages of any kind in public use areas, which includes parks, public buildings, grounds, streets, sidewalks and other such public areas, are

prohibited except as may be authorized by permit under the ordinance of the town.

(2) Cancellation. The town reserves the right to cancel a special events permit if it is determined that the information provided is inaccurate or false, that the intended use is actually different than stated, or that the activities taking place create an unanticipated threat to public property or a public safety hazard.

(3) Compliance with town policies and ordinances and other laws. The event sponsor shall comply with all Jonesborough ordinances and policies and all local, state and federal laws, and will to the extent possible see that event participants comply as well.

(4) Fires. Fires or burning in the public areas within boundaries is prohibited. This restriction shall not apply to the use of grills or other such devices approved for use by vendors, or as specifically authorized in other designated areas through the special event application.

(5) Firearms. No person shall possess, carry or discharge any firearm, shotgun, rifle, pistol, bow and arrow, crossbow, blowgun, slingshot, BB gun, air gun, or paint gun in the special event boundary. This restriction shall not apply to duly authorized law enforcement officers acting in their official duty or to any town employee duly authorized by the Jonesborough Board of Mayor and Aldermen. The board of mayor and aldermen may permit the use of firearms in demonstration exercises, training supervised by qualified personnel, and may authorize "turkey shoots" or other such competitions or demonstrations of skill when the board determines such activity is in the public interest and the necessary safeguards for public safety are in place. "Firearm" means any device designed, made, or adopted to expel a projectile by the action of an explosive or any device readily convertible to do so.

(6) Fireworks, explosive devices. Fireworks, firecrackers, or any such explosive devices are prohibited from the special event area boundary. This restriction shall not apply to any explosive device utilized by duly authorized law enforcement officers acting in their official duties, or as a fireworks display or similar activity approved by the board of mayor and aldermen through the special event permit process.

(7) Non discrimination. It is the policy of the Town of Jonesborough to not discriminate against any person, group or organization based on the grounds of race, color, religion, gender, or national origin. Special event sponsors shall not discriminate against any person, group or organization based on the grounds of race, color, religion, gender, national origin except as may be allowed under state or federal law.

(8) Trash and refuse. Special event sponsors shall be responsible for picking up trash and refuse generated from their event in parks, parking lots and sidewalks. It is the responsibility of the special event sponsor to place trash and refuse collected in a location(s) approved by the public works director or town administrator. If proper disposal containers are not available, it shall be

the responsibility of the special event sponsor to collect trash and refuse and place it in a location that does not restrict normal activity but is also available for easy collection. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-411. Enforcement. Enforcement of permitting requirements outlined in this ordinance shall be the responsibility of the town recorder and the department of public safety. Any violation of these permitting requirements shall be a misdemeanor and subject to the fines associated thereof. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

CHAPTER 5

JONESBOROUGH TREE ORDINANCE

SECTION

- 12-501. Short title.
- 12-502. General purpose.
- 12-503. Definitions.
- 12-504. Applicability of ordinance.
- 12-505. Hazardous trees.
- 12-506. Coordination with town departments--notice requirements.
- 12-507. Supervision by urban forester.
- 12-508. Work undertaken by public utilities.
- 12-509. Work undertaken by private contractors.
- 12-510. License and insurance required.
- 12-511. License requirements--work undertaken by property owner.
- 12-512. Brush and limbs removed by contractor.
- 12-513. Harming public trees forbidden.
- 12-514. Permit required on public property.
- 12-515. Designation as heritage tree.
- 12-516. Permit required for heritage trees.
- 12-517. Tree topping prohibited in public area.
- 12-518. Trees in buffer zones, setbacks, and open spaces.
- 12-519. Comprehensive management plan/standards and guidelines.
- 12-520. Tree size specifications.
- 12-521. List of acceptable trees.
- 12-522. Community education.
- 12-523. No liability inferred.
- 12-524. Penalty.
- 12-525. Enforcement.
- 12-526. Severability.

12-501. Short title. This ordinance shall be named the Jonesborough Tree Ordinance. (as added by Ord. #2004-02, April 2004)

12-502. General purpose. The town recognizes that the urban forest of Jonesborough is a vital part of the community and wishes to ensure its citizens enjoy the right to the many benefits provided by public trees while being protected from the possible risk of personal injury and/or property damage due to improper care. It is the intent of this ordinance to preserve and protect the public health, safety and general welfare by regulating the planting, maintenance and removal of public and heritage trees and the removal or trimming of any trees and vegetation where a hazard exists; and it shall be the policy of the Town of Jonesborough to:

- (1) Establish and maintain maximum tree cover.
- (2) Maintain trees in a healthy condition through good tree maintenance and care practices.
- (3) Establish and maintain trees of a diverse level of age and species.
- (4) Promote conservation of tree resources.
- (5) Select, locate and maintain trees appropriately to maximize benefits and minimize hazard, nuisance, hardscape damage, and maintenance costs.
- (6) Focus tree management under one staff position having the necessary expertise to direct and carryout the program.
- (7) Promote efficient and cost-effective management of the urban forest.
- (8) Foster community support for the local urban forestry program and encourage good tree management on privately owned properties.
- (9) Educate residents and town staff to proper tree maintenance techniques and practices.
- (10) Organize and direct volunteer efforts to plant and maintain trees on public property.
- (11) Locate and facilitate the designation of heritage trees.
- (12) Protect specimen, heritage and landmark trees.
- (13) Encourage the proper selection of trees and shrubs on private property and their proper maintenance and care through education, and to protect the health, safety and welfare of the general public through a minimum of regulation. (as added by Ord. #2004-02, April 2004)

12-503. Definitions. For the purposes of this ordinance, the following terms, phrases, and words and their derivations shall have the following meanings respectively described in this section:

- (1) "Arborist." A person who is trained or competent in the practice of arboriculture;
- (2) "Critical root zone." The area beneath a tree's canopy that falls within the tree's drip line;
- (3) "DBH." (Diameter at Breast Height) the diameter of a tree trunk measured at four (4) feet above grade;
- (4) "Designed vegetation." Trees, shrubs, flowers, vines, ornamental grasses, and other like vegetation, whether planted or volunteer, that have been incorporated into the landscape design of a town park, right-of-way, or other public area;
- (5) "Drip line." A continuous line which is the vertical projection of the outermost portion of the tree's canopy onto the ground;
- (6) "Hardscape." The non-organic components of an urban landscape including, but not limited to, streets, gutters, curbs, sidewalks;
- (7) "Hazardous tree and vegetation." Any tree or portion of tree or other such vegetation which because of condition, surroundings and/or tendency

to fail constitutes a risk to life, health or property; that has a limb or foliage that obstructs street lights, traffic signs or the free passage of pedestrians and/or vehicles; or that poses a threat to safety to persons, structures, vehicles or other trees and/or vegetation. Additionally, hazardous trees can be more specifically defined as:

(a) Any tree on public or private property whose limbs remain untrimmed so that there is not at least fourteen (14) feet of clearance above any public street or alley.

(b) Any tree on public or private property whose limbs remain untrimmed so that they obstruct the view of any traffic sign, signal or device for vehicular traffic in the direction controlled by that traffic sign, signal or device.

(c) Any tree with a documented disease that can easily infect other area trees and whose timely removal is recommended by the Tennessee Division of Urban Forestry as a necessary measure to prevent the spread of the disease.

(8) "Heritage trees." Conspicuous native or long established individual trees that are of unique historical, ecological, or aesthetic value and therefore constitute an important community resource that are designated to be heritage trees by the Jonesborough Tree and Townscape Board; or trees that have received the "Landmark and Historic Tree" designation by the Tennessee Urban Forestry Council.

(9) "Maintenance." All operations which might be performed on a tree, including, but not limited to, trimming, pruning, spraying, injecting, fertilizing, treating, bracing, cabling, and cutting either above or below the ground;

(10) "Park." Any open space or public areas open to the public designated as such by the town;

(11) "Person." Any individual, firm, partnership, association, corporation, company or organization of any kind;

(12) "Public area." All land, open space, and right-of-ways within the corporate limits of the Town of Jonesborough owned, leased, or otherwise held by the town, including parks, right-of-way for streets, alleys, sidewalks, utility lines, median strips; and areas around facilities;

(13) "Public tree." Any tree planted or growing in a public area;

(14) "Public utility company." (public utility) Any corporation, company, individual, contractor, association or cooperative that in some part is responsible for the provision and maintenance of electricity, gas, water, cable TV or other such similar service within the corporate limits of Jonesborough;

(15) "Standards and guidelines." Specific requirements for the planting, maintenance, cutting and pruning, etc. of trees and vegetation for work carried on by town crews or contractors within public areas. In absence of any specification or guideline adopted by the town, planting and maintenance standards established by the National Arborist Association, the American

Association of Nurseryman's American Standards for Nursery Stock, or the professional standards of the International Society of Arboriculture shall apply;

(16) "Top or topping." Severely cutting or trimming the branches and/or trunk of a tree in a manner that substantially reduces the overall size of the spatial area occupied by the tree, and destroys or dramatically diminishes the symmetrical appearance or natural shape of the tree, and may result in the removal of mature lateral branches;

(17) "Town." The Town of Jonesborough; its board of mayor and aldermen, administration, committees, and staff;

(18) "Tree." Any self-supporting woody plant growing above ten (10) feet at maturity that usually possesses one main trunk and produces a more or less distinct and elevated head with many branches;

(19) "Tree and townscape board." (townscape board) The board created by ordinance by the Jonesborough Board of Mayor and Aldermen responsible for overseeing landscape related activities within the Town of Jonesborough including tree planting and maintenance;

(20) "Urban forester." Person employed by the town to carryout tree and vegetation related activities as defined in the approved position description, or such other person designated by the board of mayor and aldermen to carry out the duties outlined; or a designee directed by the town administrator to carry out the duties outlined on a temporary basis in absence of the urban forester. (as added by Ord. #2004-02, April 2004)

12-504. Applicability of ordinance. All trees, shrubs and other vegetation, now existing or hereafter planted in any public area shall be the property of the town, and be subject to the provisions of this ordinance. (as added by Ord. #2004-02, April 2004)

12-505. Hazardous trees. No person shall harbor on their property any tree or vegetation that has been designated to be in a hazardous condition.

(1) Determination of hazardous tree or vegetation. The urban forester has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a hazardous tree or vegetation in order to make a determination if a hazardous condition exists and if corrective action is required.

(2) Removal or corrective action with hazardous trees and vegetation. The urban forester; upon determining that a tree or other vegetation has become hazardous as defined in this chapter, shall cause written notice of violation to be issued to the owner of the property upon which the tree or vegetation is determined to be in violation. Written notice shall be to the last recorded address on the tax notice and/or posted on the property and the notice shall include a description of the tree or vegetation in violation, the reasons the determination of being a hazard was reached, a statement of corrective

measures required, and a reasonable time period in which corrective action must be taken.

(a) Appeal. The owner of the property or their representative may file an appeal of the corrective action required by submitting within seven (7) days of receipt of a notice of violation a written request to appeal to the administrator's office at town hall in Jonesborough. Upon receipt of the request to appeal, a hearing shall be placed on the agenda of the next meeting of the Jonesborough Tree and Townscape Board. The tree and townscape board shall review all evidence presented by the owner, the urban forester and other pertinent individuals and any other relevant information and make a determination whether the notice of violation was justified. If the notice of violation (NOV) is upheld, a revised timetable shall be issued. The determination of the tree and townscape board reflected to the appeal shall be final.

(b) Failure to comply with the timetable specified within the written notice of violation shall constitute a violation of the ordinance unless an appeal is properly filed. Failure to comply with any timetable established as a result of the appeal process is also a violation of this ordinance. Upon failure to comply with the notice of violation, the urban forester shall have the authority to initiate immediate corrective action. Upon taking corrective action, the urban forester may bill the owner for the expense of the corrective action taken and/or assess the costs thereof against the property.

(c) Upon the judgment of the urban forester, public safety director, or public works director that an immediate and eminent threat to the health, safety and welfare to the general public exists and upon attempting to communicate with the owner, the town may remove or trim such tree or vegetation to the extent necessary to eliminate the immediate hazard without providing written notice to the owner. Documented costs of the corrective action taken may be charged to the owner and/or assessed against the property. (as added by Ord. #2004-02, April 2004)

12-506. Coordination with town departments - notice requirements.

Prior to the commencement of any town related work impacting trees and/or vegetation, the department concerned shall give notice outlining the proposed project in sufficient detail and providing a sufficient amount of time to enable the town's urban forester to inspect the work site, evaluate the degree of risk of injury and submit to the party responsible for work to be undertaken instructions designed to protect to the extent possible any trees or designed vegetation at risk. (as added by Ord. #2004-02, April 2004)

12-507. Supervision by urban forester. The urban forester shall be responsible for reviewing, preparing comments related to, and supervising all

proposed municipal tree care operations and site plan work, and the carrying out of activities intended to accomplish the purposes of this ordinance. To enable the urban forester to carry out his/her duties, the public works director, recreation director, water distribution superintendent, and other departments that might be undertaking activities affecting trees or vegetation, shall coordinate with the urban forester prior to commencing with any public work that might require the removal of or cause injury to a public tree or its root system. When and as appropriate, the urban forester shall advise and/or supervise town work crews about matters relating to the planting, maintenance, removal and protection of public trees and/or designed vegetation. In general, the urban forester shall have supervisory responsibility for all municipal tree care and site plan work, and authority and duty to inspect such work, to the end that all work done under the supervisory authority of the urban forester shall be in full compliance with his/her instructions. The following town activities shall require coordination with the urban forester when undertaken within the corporate limits:

(1) Plans to install water and sewer lines, curbs, gutters, sidewalks, driveways, walkways or other improvements that might cause injury to public trees. Where sidewalk, curb, gutter, utility, or street damage occurs due to tree roots, every effort shall be made to correct the problem without removing the tree. The urban forester shall be responsible for developing or approving corrective measures in consultation with town and/or agency supervisory personnel.

(2) Planting maintenance, protection and all other work pertinent to public trees.

(3) Contractors hired by the town to perform any of the activities such as water and sewer work or other such activity outlined in § 12-507(1) of this chapter, shall comply with any or all requirements to coordinate work impacting trees and designed vegetation within the town limits prior to beginning work; and to perform any and all requirements for planting, maintenance, removal and protection of trees and designed vegetation as required by the urban forester. Regardless of the use of contractors by the town, it shall be the responsibility of the appropriate department head to adhere to all notification requirements outlined in this section. (as added by Ord. #2004-02, April 2004)

12-508. Work undertaken by public utilities. Work undertaken by public utilities or their agents in public areas in Jonesborough shall only occur upon the issuance of a permit by the public works director or under policies established by the board of mayor and aldermen. Permits and policies established shall detail specific expectations for the trimming of trees and vegetation impacted by the construction of the utilities or in their ongoing maintenance. It is the intent of this section that construction and maintenance activities minimally impact existing trees and that tree maintenance

undertaken is done with the proper techniques and care. (as added by Ord. #2004-02, April 2004)

12-509. Work undertaken by private contractors. Work undertaken by private contractors that may impact the health and welfare of trees and vegetation in public areas shall not commence until a permit has been issued by the urban forester with the following exceptions:

(1) Work done along street shoulders and right-of-ways that are not within a park, public building grounds or a landscaped area designed by the town.

(2) Work done in a beauty spot area that is being undertaken under a pre-approved maintenance plan.

(3) Any work undertaken by a continuing authorization either through policy established by the board of mayor and aldermen or a previous permit issued by the urban forester. (as added by Ord. #2004-02, April 2004)

12-510. License and insurance required. It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vegetation within the corporate limits of the Town of Jonesborough without first producing evidence of a Jonesborough business license and proof of liability insurance in the minimum amount of \$1,000,000 for bodily injury or death and \$100,000 property damage indemnifying the town or any person injured or damaged as result of said activities. A person undertaking planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees or shrubs in public areas within the corporate limits shall be required to show proof of workers compensation insurance at the least minimum amount required by the State of Tennessee. After a business license is obtained, the town recorder's office shall provide a copy of the Jonesborough Tree Ordinance and the current Jonesborough Brush Collection Policy to contractors and have them sign a form verifying that they have received said information.

The following activities by a business person are exempt from the license and insurance requirements outlined in this section:

(1) Persons only in the business of yard mowing, weedeating, raking, fertilizing, weeding as other such similar activity typical of yard maintenance and care.

(2) Individuals contracting labor and services who are exempt from obtaining any business license. (as added by Ord. #2004-02, April 2004)

12-511. License requirements - work undertaken by property owner. Planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees or shrubs by a property owner, their employees or other such individuals not in the tree maintenance and care business, on his/her own property may be

undertaken without proof of license or insurance. (as added by Ord. #2004-02, April 2004)

12-512. Brush and limbs removed by contractor. Trunks, limbs and/or brush generated by tree maintenance performed by a contractor or other such person engaged in the business of planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs, or vegetation shall be chipped or removed from the property and taken to an appropriate disposal site by said contractor. It shall be a violation of this ordinance for any contractor to leave limbs or brush to be removed by the town without written approval in advance; by the director of public works. Each day limbs are left out in violation of this ordinance shall constitute a separate violation. Limbs and brush generated from trees or shrubs within the corporate limits may be taken by the contractor to the Jonesborough Composting and Recycling Center during normal business hours at the current rate for disposal, if there is any charge. (as added by Ord. #2004-02, April 2004)

12-513. Harming public trees forbidden. It shall be a violation of this ordinance for any person to attach, nail, or place a sign, poster, rope or wire (other than one used as part of an approved tree maintenance); handbill or other such displayed item on a tree growing in a public area. In addition, it shall be a violation to fill or cut the soil within the drip line of a tree within a public area without the approval of the urban forester or without said activity being part of a pre-approved maintenance program authorized by the tree and townscape board. (as added by Ord. #2004-02, April 2004)

12-514. Permit required on public property. No person, unless expressly authorized hereunder, shall plant, remove, cut, trim, prune, spray or provide on-going maintenance to any street tree or any tree, plant or shrub in public parks, public building grounds, or designed vegetation areas without a permit issued by the urban forester or designee. The urban forester shall use the following criteria in determining if a permit should be issued:

- (1) The work to be undertaken is clearly defined.
- (2) There is a need for the proposed work on the tree; the work to be undertaken is justified.
- (3) The work will be performed by qualified and competent personnel.
- (4) Proper attention has been given to safety and risk management.

The urban forester or designee may waive permitting in any individual location for sites approved through the Jonesborough Beauty Spot Program or through an on-going maintenance program previously approved by the tree and townscape board. (as added by Ord. #2004-02, April 2004)

12-515. Designation as heritage tree. The Jonesborough Tree and Townscape Board shall establish criteria for the designation of heritage trees.

The criteria developed shall include the voluntary cooperation of the property owner on which the tree is located. (as added by Ord. #2004-02, April 2004)

12-516. Permit required for heritage trees. A permit from the urban forester is required before any tree maintenance is undertaken on a tree formally designated as a heritage tree. (as added by Ord. #2004-02, April 2004)

12-517. Tree topping prohibited in public areas. Tree topping, as defined in § 12-503 of this chapter, is prohibited in public areas without the written approval of the urban forester, and the practice is expressly discouraged on private property as well. Utility line maintenance involving trees on public right-of-ways without the approval of the urban forester or under a pre-approved agreement will be restricted to the extent allowed under state law. (as added by Ord. #2004-02, April 2004)

12-518. Trees in buffer zones, setbacks, and open spaces. Trees that are located within the setbacks, buffer strip areas, drainage ways, designated open space areas, or other such required or dedicated spaces or areas within a development, as defined in the Jonesborough Stormwater Management, Erosion and Sedimentation Control Ordinance in § 11-203 shall not be cut or otherwise damaged or destroyed without the formal approval of the Jonesborough Planning Commission. Developers, as defined in § 11-203 of the stormwater management, erosion and sedimentation control ordinance, must show why it is necessary to remove trees in areas where tree and landscape plantings are required in §§ 11-610 -- 11-614 of the Jonesborough Landscape Ordinance. (as added by Ord. #2004-02, April 2004)

12-519. Comprehensive management plan/standards and guidelines. The Jonesborough Tree and Townscape Board under the guidance of the urban forester shall develop and adopt an urban forest management plan for town owned properties which shall include:

- (1) A clear concise and comprehensive statement of policies and objectives,
- (2) A set of standards and guidelines for the planting, maintenance and protection of trees, plants and shrubs in public areas,
- (3) Inventory of existing trees in public areas,
- (4) Identification of planting sites,
- (5) Planting priorities.
- (6) Street tree renewal plan. (as added by Ord. #2004-02, April 2004)

12-520. Tree size specifications. Trees planted as a requirement through the Jonesborough Landscape Ordinance or through an approved plan in public areas shall meet the size requirements specified in § 11-608 of the Landscape Ordinance. (as added by Ord. #2004-02, April 2004)

12-521. List of acceptable trees. As a general rule, trees planted in developments as defined in 11-203 of the Jonesborough Landscape and Stormwater ordinances, and trees planted in public areas should be indigenous or native, non-invasive, not particularly susceptible to insects and disease, long-living and require little care. A list of acceptable trees will be prepared by the urban forester or his/her designee, approved by the tree and townscape board, and maintained by the building inspector. As stated in § 11-608(2) of the Landscape Ordinance, trees not found on the list of acceptable species will not be counted toward the required plantings unless presented to the planning commission for approval (initially through tree and townscape board) with documentation from a landscape architect or other similarly trained specialist, justifying the species proposed. (as added by Ord. #2004-02, April 2004)

12-522. Community education. The tree and townscape board through the assistance of the urban forester, the local extension service, soil conservation service and other agencies, shall develop and present workshops to the general public to educate the residents of Jonesborough as well as contractors, engineers, surveyors, merchants, students, etc. and the various aspects of best management practices related to tree planting, care, maintenance, and protection. (as added by Ord. #2004-02, April 2004)

12-523. No liability inferred. Nothing contained in this chapter shall be deemed to impose any liability upon the town, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plant on his/her property on under his/her control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street or public area. (as added by Ord. #2004-02, April 2004)

12-524. Penalty. Any person who violates any provision of this chapter shall be guilty of a misdemeanor punishable by a fine not to exceed the limits of state law, with each and everyday constituting a separate offense. (as added by Ord. #2004-02, April 2004)

12-525. Enforcement. The Jonesborough Public Safety Director and Jonesborough Building Inspector, and the Jonesborough Urban Forester or his/her designee are hereby charged with the responsibility for the enforcement of this ordinance and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the town attorney is hereby authorized to institute appropriate proceedings to that end. (as added by Ord. #2004-02, April 2004)

12-526. Severability. Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof than the part held to be invalid. (as added by Ord. #2004-02, April 2004)

CHAPTER 6

JONESBOROUGH HERITAGE TREE PROGRAM

SECTION

12-601. Creation of Jonesborough Heritage Tree Program.

12-602. Program purpose.

12-603. Intent to incorporate a conservation easement pursuant to T.C.A. 66-9-301 in heritage tree program.

12-604. Jonesborough Tree and Townscape Board to recommend policies and oversee program.

12-605. Limitation on funds designed for use in the heritage tree program.

12-601. Creation of Jonesborough Heritage Tree Program. There shall be a Jonesborough Heritage Tree Program ("the program") established by the board of mayor and aldermen and overseen through the Jonesborough Tree and Townscape Board. Rule making authority shall remain vested in the board of mayor and aldermen which will approve all policy and regulatory decisions within the program. (as added by Ord. #2005-08, March 2005)

12-602. Program purpose. The purpose of the Jonesborough Heritage Tree Program is to contribute to the welfare and aesthetics of the community and retain the great historical and environment value of those trees falling under the program. (as added by Ord. #2005-08, March 2005)

12-603. Intent to incorporate a conservation easement pursuant to T.C.A. 66-9-301 in heritage tree program. It is the intent of the board of mayor and aldermen to incorporate a conservation easement as provided for in Tennessee Code Annotated, § 66-9-301 et. seq. into each agreement with a property owner under the Jonesborough Heritage Tree Program to insure appropriate levels of control on behalf of the town and to provide the property owner with a level of incentive to participate in the program. (as added by Ord. #2005-08, March 2005)

12-604. Jonesborough Tree and Townscape Board to recommend policies and oversee program. It shall be the responsibility of the Jonesborough Tree and Townscape Board to develop and oversee the Jonesborough Heritage Tree Program and recommend to the board of mayor and aldermen a heritage tree designation criteria for use in determining what constitutes a heritage tree under the program, a process for nomination of a heritage tree, any sponsorship fees, a form of conservation easements, both the town's and property owner's responsibilities under the program, and other aspects of the program the tree and appearance board request be incorporated into the guidelines of the program. Additionally, the tree and townscape board shall recommend changes from time to time in the policy governing the heritage tree fund to the board of mayor and aldermen. (as added by Ord. #2005-08, March 2005)

12-605. Limitation on funds designated for use in the heritage tree program. Only funds deposited in the heritage tree fund will be available for use by the program and no other town funds may be obligated for use by the program except by ordinance or by other action of the board of mayor and aldermen. The board of mayor and aldermen will adopt from time to time a set of regulations and rules regarding expenditures and solicitation of funds for the heritage tree fund. (as added by Ord. #2005-08, March 2005)