

**THE  
CLINTON  
MUNICIPAL  
CODE**

Prepared by the



**Municipal Technical Advisory Service**

*In cooperation with the Tennessee Municipal League*

July 2023

**CITY OF CLINTON TENNESSEE**

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**VICE MAYOR**

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**CITY RECORDER**

Regina Ridenour

**CITY ATTORNEY**

Phil Crye

## PREFACE

The Clinton Municipal Code contains the codification and revision of the ordinances of the City of Clinton, 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, Nancy Gibson and Sandy Selvage is gratefully acknowledged.

Codes Administrator

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

Section 8. Form of ordinances. Any action of the City Council having a regulatory or penal effect shall be taken only by ordinance. Each ordinance shall be in written form before being introduced. Each ordinance shall have a title, and upon passage, shall be further identified by a number. The enacting clause of all ordinances shall be "Be it ordained by the City Council of the City of Clinton, Tennessee." Other actions may be taken or authorized by resolutions or by motions.

Section 9. Passage, amendment and repeal of ordinances. Each ordinance shall be approved by a majority vote at two meetings held at least one week apart unless an emergency exists. If an emergency exists, and the public safety and welfare require it, the two meetings may be held not less than twenty-four hours apart. The title of each ordinance shall be read before the vote at the first meeting and the full text of each ordinance shall be read before the vote at the second meeting, unless the City Council votes to waive the reading of the full text of the ordinance. Every ordinance so adopted shall take effect from and after its passage unless otherwise specified in the ordinance. After adoption every ordinance shall be published in a local newspaper of general circulation either by printing the text of the ordinance or by printing the title and a summary of the ordinance. Amendments of ordinances or parts thereof shall be accomplished only by setting forth the complete section(s) or subsection(s) in their amended form. A repeal of an ordinance must refer to its number and title.

Section 10. Preservation and publication of ordinances. All ordinances and their amendments shall be recorded by the City Recorder in a book to be known as the "ordinance book," and it shall be the duty of the Mayor and the City Recorder to authenticate such records by their official signatures. The original copies of all ordinances and resolutions shall be filed and preserved by the City Recorder. [art. II, sections 8, 9 and 10]

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**TITLE 1**

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

**CHAPTER**

1. CITY COUNCIL.
2. ADMINISTRATIVE ORGANIZATION.
3. OFFICERS AND EMPLOYEES.
4. CITY ATTORNEY.
5. CODE OF ETHICS.

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<sup>1</sup>Charter reference

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

## CHAPTER 1

### CITY COUNCIL<sup>1</sup>

#### SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Wards.
- 1-105. Vice mayor's term.

**1-101. Time and place of regular meetings.** The city council shall hold regular meetings at 5:30 P.M. on the 4th Monday of each month at the City Hall Building. (1991 Code, § 1-101)

**1-102. Order of business.** At each meeting of the city council, 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.

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

- Budgetary authority: art. V, §§ 5-6.
- Compensation: art. II, § 7.
- Election: art. I, §§ 1-10.
- Employee compensation and benefits: art. VI, §§ 3-4.
- Legislative powers
  - General: art. I, § 1.
  - Specific: art. III, § 1.
- Mayor--duties, powers, etc.: art. II, § 4.
- Meetings: art. II, § 2.
- Oaths of office: art. I, § 12.
- Ordinances: art. II, §§ 8-9.
- Qualifications: art. I, § 6.
- Quorum: art. II, § 3.
- Rules and order of business: art. II, § 6.
- Term of office: art. I, § 8.
- Time taking office: art. I, § 11.
- Vacancies in office: art. I, §§ 8, 13.
- Vice mayor: art. II, § 5.

- (3) Approval of the agenda.
- (4) Prayer and Pledge of Allegiance.
- (5) Reading of minutes of the previous meeting by the recorder, and approval or correction.
- (6) Recognition of visitors and citizens.
- (7) Communications from the mayor.
- (8) Reports from committees, members of the city council, and other officers.
- (9) Ordinances and resolutions.
- (10) Old business.
- (11) New business.
- (12) Adjournment. (1991 Code, § 1-102, modified)

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, 12th Edition, shall govern the transaction of business by and before the city council 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. (1991 Code, § 1-103, modified)

**1-104. Wards.**<sup>1</sup> The City of Clinton shall be divided into three (3) wards with boundary descriptions as follows:

**First Ward.** Being all of the area or territory in the City of Clinton lying within the described area:

Beginning at a point, said point being the common intersection of the Southern Railway and the south bank of the Clinch River. Thence running in a southerly and westerly direction along the south bank of the Clinch River to its intersection with the existing corporate limits. Thence along existing corporate limits to its intersection and crossing of the Southern Railway. Thence continuing along existing corporate limits to its intersection with West Broad Street. Thence running in a southeasterly direction along West Broad Street to its intersection with Southern Railroad. Thence running in an easterly direction along the Southern Railroad to the point of beginning.

**Second Ward.** Being all of the area or territory in the City of Clinton lying within the described area:

Beginning at a point, said point being the common intersections of North Main Street and the Southern Railway. Thence following the Southern Railway

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<sup>1</sup>Charter references

Elections in general: art. I.

Provision for wards: art. I, § 1.

Residency in: art. I, § 6.

Removing residency from: art. I, §§ 8, 13.

in a westerly direction to its intersection with West Broad Street. Thence running in a northerly and westerly direction along West Broad Street to the corporate limits. Thence following the existing corporate limits to its intersection with the Southern Railway. Thence running in a southerly direction along the Southern Railway to its intersection with North Fowler Street. Thence running in a southwesterly direction along North Fowler Street to its intersection with Scruggs Street. Thence running in a northwesterly direction along Scruggs Street to its intersection with Sharp Street. Thence west along Sharp Street to its intersection with North Main Street. Thence in a southwesterly direction along North Main Street to the point of beginning.

Third Ward. Being all of the area or territory in the City of Clinton lying within the described area:

Beginning at a point, said point being the common point of intersection with the Southern Railway and the south bank of the Clinch River. Thence running in a westerly direction along the south bank of the Clinch River to its intersection with the existing corporate limits. Thence running in a southerly, westerly and east and northerly directions along the existing corporate limits to its intersection with the Southern Railway. Thence running in a southwesterly direction along the Southern Railway to its intersection with North Fowler Street. Thence running in a southwesterly direction along North Fowler Street to its intersection with Scruggs Street. Thence running in a northwesterly direction along Scruggs Street to its intersection with Sharp Street. Thence running in a westerly direction along Sharp Street to its intersection with North Main Street. Thence running in a southwesterly direction along North Main Street to its intersection with the South Railway. Thence running in a southerly direction along Southern Railway to the point of beginning. (1991 Code, § 1-104)

**1-105. Vice mayor's term.** The vice mayor provided for in article II, § 5, of the Clinton City Charter shall be chosen and take office at the first meeting of the new city council after each regular city election to serve for two (2) years and until a successor is chosen. Vacancies in the office of vice mayor shall be filled by the city council for the unexpired term. (1991 Code, § 1-105)

## CHAPTER 2

### ADMINISTRATIVE ORGANIZATION<sup>1</sup>

#### SECTION

1-201. Plan of administrative organization.

**1-201. Plan of administrative organization.** The plan of administrative organization reflected on the organization chart<sup>2</sup> is hereby adopted to provide the city with general government, finance, health, welfare, police, recreation, fire, library, public works and other municipal services. (1991 Code, § 1-201)

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<sup>1</sup>Charter references

City manager

Appointment, qualifications, term: art. IV, § 1.

Absence of: art. IV, § 2.

Budgetary and financial duties and powers: art V, §§ 1-2, 4-5, 8-10.

General duties and powers described: art. IV, § 4.

Personnel authority: art. V, art VI, § 1-4.

Recorder

Appointment, duties, etc.: art. IV, § 6.

Recording and preserving ordinances, etc.: art. II, § 10.

<sup>2</sup>The organizational chart (and any amendments) is on file with the city recorder.

**CHAPTER 3**

**OFFICERS AND EMPLOYEES<sup>1</sup>**

**SECTION**

1-301. Surety bonds of officers and employees.

**1-301. Surety bonds of officers and employees.** The following city officers or employees shall be bonded in such sums as indicated.

(1) City manager in the sum of one hundred thousand dollars (\$100,000.00).

(2) Finance director in the sum of one hundred thousand dollars (\$100,000.00).

(3) City recorder in the sum of fifty thousand dollars (\$50,000.00).

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<sup>1</sup>Charter references

Appointment, duties, etc.: art. IV, § 6.

Recording and preserving of ordinances, etc.: art. II, § 10.

## CHAPTER 4

### CITY ATTORNEY

- 1-401. Appointment.
- 1-402. Qualifications.
- 1-403. Temporary absence.

**1-401 Appointment.** The city attorney designated by the charter to provide advise to the city council, city manager and other officers of the city concerning legal aspects of the city's affairs shall be appointed by the city council and shall serve at the will of the city council. City council shall appoint a city attorney for a term of four (4) years at the January council meeting of the starts of the third year of the mayor's term of office. Vacancies in the office of the city attorney arising for resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner as prescribed for the appointment of the city attorney.

**1-402 Qualifications.** The city attorney shall have a minimum of five (5) years of experience as a licensed attorney in the State of Tennessee and be entitled to practice law in all courts in the State of Tennessee.

**1-403 Temporary absence.** Should the city attorney be unable to perform the duties of the office for thirty (30) consecutive days for any reason or at any time, the city council may appoint a city attorney to serve until the city attorney returns to his duties or the office of city attorney is no longer vacant.

## CHAPTER 5

### CODE OF ETHICS<sup>1</sup>

#### SECTION

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in non-voting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.
- 1-510. Ethics complaints.
- 1-511. Violations and penalty.

**1-501. Applicability.** This chapter is the code of ethics for personnel of the City of Clinton, Tennessee. 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 city. The words "municipal" and "City of Clinton" include these separate entities. (1991 Code, § 4-101)

**1-502. Definition of "personal interest."** 1. For purposes of §§ 1-503 and 1-504, "personal interest" means:

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

Campaign finance - T.C.A. Title 2, Chapter 10.

Conflict of interests - T.C.A. §§ 6-54-107, 108; 12-4-101, 102

Conflict of interests disclosure statements - T.C.A. § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials - T.C.A. §§ 2-10-122, 124

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office) - T.C.A. § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information - T.C.A. § 39-16-401 and the following sections.

Ouster law - T.C.A. § 8-47-101 and the following sections.

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 interest; 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), grandparents(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 provision of this chapter. (1991 Code, § 4-102)

**1-503. 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 himself<sup>1</sup> from voting on the measure. (1991 Code, § 4-103)

**1-504. 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 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. (1991 Code, § 4-104)

**1-505. 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 city:

(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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (1991 Code, § 4-105)

**1-506. 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. (1991 Code, § 4-106)

**1-507. 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 city council to be in the best interests of the city. (1991 Code, § 4-107)

**1-508. 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 city.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for him or others that are not authorized by the charter, general law, or ordinance or policy of the city. (1991 Code, § 4-108)

**1-509. Outside employment.** A full-time employee of the city may not accept any outside employment without written authorization from the city manager. (1991 Code, § 4-109, modified)

**1-510. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city 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 city attorney shall investigate any credible complaint against an appointed official or employee charging 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 city attorney may request the city council 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 city's council, city council 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 council determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the city council.

(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. (1991 Code, § 4-110)

**1-511. Violations and penalty.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violated any provision of this chapter is subject to punishment as provided by the city council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (1991 Code, § 4-111)

## TITLE 2

### BOARDS AND COMMISSIONS, ETC.<sup>1</sup>

#### CHAPTER

1. SCHOOL BOARD.
2. RECREATION ADVISORY COMMISSION.
3. TREE ADVISORY BOARD.

#### CHAPTER 1

#### SCHOOL BOARD

#### SECTION

- 2-101. Establishment and maintenance of school system.
- 2-102. Collection of common school funds from county.
- 2-103. "Common school fund" defined.
- 2-104. Bonds required of certain officials.
- 2-105. City manager's responsibilities.
- 2-106. Board of education.
- 2-107. Fiscal year.
- 2-108. Expenditures by board of education.
- 2-109. Reports to city council--compensation of members of board of education.
- 2-110. Students not entitled to free education.

**2-101. Establishment and maintenance of school system.** The city, in its corporate capacity, does hereby assume control and management of the pro rata share of its citizens in and to the common school funds of the County of Anderson and State of Tennessee and undertakes the administration of the common school laws within its corporate limits for the purpose of establishing and maintaining therein a system of high graded common schools. (1991 Code, § 2-101)

**2-102. Collection of common school funds from county.** The city manager of the city shall collect and receive from the trustee of Anderson

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<sup>1</sup>Charter references

Advisory boards: art. III, § 4.

Board of education: art. VII.

Port authority board: art. VIII

Utility board: art. IX.

Municipal code reference

Clinton Utilities Board: title 18, chapter 1.

County the city's proper pro rata share, as provided by statute, of the common school funds of the county which may then be in or may thereafter come into his hands. (1991 Code, § 2-102)

**2-103. "Common school fund" defined.** The "common school fund" of the city shall be:

(1) The city's proper pro rata share of the common school funds of the county and state as now is or may hereafter be provided by law.

(2) Such portion of the city's annual levy on polls, property and privileges within the city as may be set aside from time to time by the city council.

(3) The net proceeds of any special levies made for school purposes.

(4) Such sums as may be received on account of students attending the schools who are not for any reason entitled to free education therein.

(5) Such other sums, not herein expressly provided for, as may be received from miscellaneous sources. (1991 Code, § 2-103)

**2-104. Bonds required of certain officials.** The treasurer of the board of education shall each give annually a separate school fund bond in the penal sum required by law with good and solvent sureties conditioned as common school fund bonds now executed to the county and state together with such additional provisions as may be necessary to enforce duties and responsibilities imposed by this or other ordinances of the city. (1991 Code, § 2-104, modified)

**2-105. City manager's responsibilities.** The city manager shall make settlements of the school fund account with the trustee and treasurer as for other revenues of the city and shall make due report thereof to the city council for its inspection, correction and approval. (1991 Code, § 2-105)

**2-106. Board of education.** There is hereby created for the city a popularly elected board of education to consist of six (6) members, two (2) members from each of the three (3) identified wards of the city. Said members shall, at the time of their election and for the term of their service, be residents of the city and of the ward from which they are elected.

Elections for the school board shall be on the same schedule as city general elections.

Any vacancy in the office of a school board member from death, resignation, moving from the city or ward or other cause shall be filled by appointment of a school board member by the city council for the unexpired portion of the term of office.

The board shall, within thirty (30) days after the special elections to be held in June, 1999 and June, 2000, meet and organize by the election of a president, a secretary and a treasurer. The treasurer shall be required to promptly give bond as is provided consistent with the terms of the charter.

Beginning with the general elections in December, 2001 and every year thereafter in the month of January, the board shall meet and organize itself as herein provided by the election of officers.

The duties and powers of the board of education shall be to institute, operate and have general supervision of a system of public schools for the city, to procure suitable buildings, rooms and furnishings, to employ teachers and other necessary personnel, and to do all other acts necessary and have such duties as are incumbent to the operation of a municipal public school system as defined in the ordinances of the city and the state general law.

The board of education shall have no power to purchase real estate. (1991 Code, § 2-106, modified)

**2-107. Fiscal year.** The school system fiscal year shall be from July 1st to June 30th of each year. (1991 Code, § 2-107)

**2-108. Expenditures by board of education.** Before the 1st day of August in each year the city council shall cause to be certified to the board of education the total amount of school funds of the current year and the board of education shall be limited in their expenditures for all purposes for any one (1) year to the sum so certified. (1991 Code, § 2-108, modified)

**2-109. Reports to city council--compensation of members of board of education.** The board of education shall make to the city council at its last regular meeting before the close of each school fiscal year a full and complete report of its receipts and expenditures. It shall at that time also present to the city council all vouchers and other matters of interest touching the management of the schools. The board of education shall make such special reports as may be required of it by the city council.

Members of the board of education shall serve without compensation. (1991 Code, § 2-109)

**2-110. Students not entitled to free education.** The board of education shall make regulations controlling the admission of students not entitled by law to free education in the city schools. (1991 Code, § 2-110)

## CHAPTER 2

### RECREATION ADVISORY COMMISSION

#### SECTION

2-201. Creation.

2-202. Purpose and duties.

2-203. Membership and organization.

**2-201. Creation.** There is hereby created a recreation advisory commission in and for the City of Clinton. (1991 Code, § 2-201)

**2-202. Purpose and duties.** The recreation advisory commission shall have the following purposes and duties:

(1) To advise the city council, city manager, and recreation director on kinds of recreation programs and facilities desired by the citizens.

(2) To formulate and submit recommendations to the city council, the recreation director, and city manager regarding administration and expansion of the city's recreation program.

(3) To serve as liaison for new programs between volunteer recreation workers and organizations, the recreation director, and the city manager. (1991 Code, § 2-202)

**2-203. Membership and organization.** The committee will be comprised of five (5) members, all appointed by the city council. They shall all be residents of the city. One (1) shall be a member of the city council; he shall be appointed for a one (1) year term. The remaining four (4) shall be appointed for two (2) year terms, except for the initial appointments which shall be made so that the terms of office of two (2) members shall expire in one (1) year, and the terms of office of two (2) members shall expire in two (2) years. Members shall serve until their successors are appointed and qualified. Members shall serve without compensation. The commission shall have one (1) regularly scheduled meeting each calendar month, which shall be held at such time and place as the commission shall prescribe. The membership shall, from among its members, elect a chairman and secretary for one (1) year terms. The city manager and recreation director shall be ex officio members of the commission and shall meet with the commission at its regular meetings. (1991 Code, § 2-203)

## CHAPTER 3

### TREE ADVISORY BOARD

#### SECTION

- 2-301. Membership, terms, compensation and vacancies.
- 2-302. General powers and duties.
- 2-303. Definitions.
- 2-304. Operation.
- 2-305. Street trees to be planted.
- 2-306. Spacing.
- 2-307. Distance from curb and sidewalk.
- 2-308. Utilities.
- 2-309. Public tree care.
- 2-310. Tree topping.
- 2-311. Removal of stumps.
- 2-312. Violations and penalty.

**2-301. Membership, terms, compensation and vacancies.** There is hereby created a tree advisory board which shall consist of seven (7) persons, as follows: four (4) citizens without special qualifications; the mayor of the city or his/her designee; the director of public works or his/her designee; and the director of parks and recreation or his/her designee. The four (4) citizen members shall be appointed by the city mayor and ratified by city council to service for terms of four (4) years or until their successors are appointed. However, the first citizen members shall be appointed with two (2) members to serve for two (2) years and two (2) members to serve for four (4) years. The members of such board shall serve without pay. Any vacancy in the board occurring other than by expiration of term shall be filled only for the unexpired term, and such appointment shall be made by the mayor.

**2-302. General powers and duties.** It shall be the responsibility of the board:

(1) To develop and administer a comprehensive written plan for the planting, maintenance, and removal of trees or other growth on all municipal lands and along public streets. This plan shall designate the appropriate tree species to be planted upon public property; the appropriate requirements for spacing; the distances from curb or sidewalk, street corners and fireplugs; and the location of utilities when planting trees. Such plan shall be presented annually to the city council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Clinton.

(2) To establish policies concerning the care of trees on public property including, but not limited to, such matters as tree topping, pruning, removal of dead or diseased trees and removal of stumps.

(3) Upon request by the city council or city manager to consider, investigate, make findings, report and make recommendations upon any special matter or question coming within the scope of its work.

**2-303. Definitions.** (1) "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

(2) "Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks and all areas owned by the city, or to which the public has free access as a park.

**2-304. Operation.** The board shall choose its own officers, make its own rules and regulations, and keep a record of its proceedings. A majority of the members shall be a quorum for the transaction of business.

**2-305. Street trees to be planted.** The tree board shall formulate a species list of trees acceptable for planting on all city property. That list shall consist of small trees under thirty feet (30') tall, medium trees thirty to fifty feet (30' - 50') tall, and large trees over fifty feet (50') in height. No species other than those included in this list may be planted on city property without application to and written permission received from the tree board. That species list shall be made available for reference and be called the City of Clinton Species List.

**2-306. Spacing.** The spacing of street trees will be in accordance with the three species size classes listed in § 2-305, and no trees may be planted closer together than the following: Small trees, twenty feet (20'); medium trees thirty feet (30'); and large trees, forty feet (40'); except in special plantings designed or approved by the tree board.

**2-307. Distance from curb and sidewalk.** The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three (3) species size classes listed in § 2-305, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet (2'); medium trees, four feet (4'); and large trees, six feet (6').

**2-308. Utilities.** No street trees other than those species included on the small trees species list described in § 2-305 may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line, or other utility.

**2-309. Public tree care.** The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the property lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary

to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

**2-310. Tree topping.** It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section. The Clinton Utilities Board and its designated representative in tree topping shall be exempt from this section.

**2-311. Removal of stumps.** All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

**2-312. Violations and penalty.** The violation of any provision of this chapter is declared to be a misdemeanor.

## TITLE 3

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

#### CHAPTER

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

#### CHAPTER 1

#### CITY JUDGE<sup>2</sup>

#### SECTION

- 3-101. City judge.
- 3-102. Jurisdiction.

**3-101. City judge.** (1) Appointment. The city judge designated by the charter to handle judicial matters within the city shall be appointed by the city council and shall serve at the will of the city council. City council shall appoint a city judge for a term of four (4) years at the January council meeting of the start of the third year of the mayor's term of office. Vacancies in the office of the city 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 city judge.

(2) Qualifications. The city judge shall have a minimum of five (5) years of experience as a licensed attorney in the State of Tennessee, and be a resident of Anderson County. If the city judge for any reason removes his domicile from Anderson County after his appointment, the removal of this domicile shall automatically create a vacancy in the office of city judge.

(3) Judge pro-tem. The city judge shall have the right to appoint persons to temporarily assume the duties and authority of the city judge during his temporary absences. Should the city judge be unable to perform the duties

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<sup>1</sup>Charter references

City judge and city court: art. III, § 3.

Conflicts of interest: art. VI, § 5.

Fines and forfeitures--authority and limits: art. III, § 1(bb).

<sup>2</sup>Charter references

Appointment, compensation, duties, etc.: art. III, § 3.

Conflict of interest: art. VI, § 5.

of the office for thirty (30) consecutive days for any reason or at any time, the city council may appoint a city judge pro-tem to serve until the city judge returns to his duties or the office of city judge is no longer vacant. The city judge pro-tem shall have all the qualifications required, and powers of, the city judge. (1991 Code, § 3-101, modified)

**3-102. Jurisdiction.** The city 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 fines, penalties, and costs.

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

3-204. Contempt of court.

**3-201. Maintenance of docket.** The city judge or his designee 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; fines, penalties, and costs imposed and whether collected; and all other information which may be relevant. (1991 Code, § 3-201, modified)

**3-202. Imposition of fines, penalties, and costs.** All penalties and costs shall be imposed by the city judge and recorded by the court clerk on the city court docket in open court.

In all cases heard and determined by him, the city judge shall impose court costs in the amount of one hundred eleven dollars twenty-five cents (\$111.25). 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.

In addition, pursuant to authority granted in Tennessee Code Annotated, § 67-4-601, the court shall levy a local litigation tax in the amount of thirteen dollars seventy-five cents (\$13.75) in all cases on which state litigation tax is levied.

**3-203. Disposition and report of fines, penalties, and costs.** All fines, penalties, costs, forfeitures and money collected by the court, or the officers and employees thereof, shall be promptly recorded and turned over to the city treasury. At the end of each month the court clerk shall submit to the city council a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by the court during the current month and to date for the current fiscal year. (1991 Code, § 3-203, modified)

**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 city judge, the judge may in his discretion, issue a summons ordering the alleged offender personally to appear before the city 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 city code or ordinance alleged to have been violated. Upon failure of any person to appear before the city 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. (1991 Code, § 3-302, modified)

**3-302. Issuance of subpoenas.** The city 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. (1991 Code, § 3-303)

## 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 city court against him may, within ten (10) days<sup>1</sup> 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) Pauper's oath. A bond is not required provided the defendant/appellant

(a) Files the following oath of poverty:

I, \_\_\_\_\_, do solemnly swear under penalties of perjury, that owing to my poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief;

(b) Files an accompanying affidavit of indigency.

The affidavit of indigency must be sworn to by the defendant/appellant and the facts therein may be investigated.

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

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

**TITLE 4****MUNICIPAL PERSONNEL****CHAPTER****1. TRAVEL EXPENSE POLICY.****CHAPTER 1****TRAVEL EXPENSE POLICY****SECTION**

- 4-101. Policy purpose and intent.
- 4-102. General policy.
- 4-103. Travel requests.
- 4-104. Advances.
- 4-105. Transportation.
- 4-106. Lodging.
- 4-107. Meals and incidentals.
- 4-108. Entertainment.
- 4-109. Travel reconciliation.

**4-101. Policy purpose and intent.** This policy shall constitute the official policy regarding travel incurred by City of Clinton officials, board or committee members, or employees while in travel status and on official City of Clinton business. Authorization for travel and reimbursement of expenses must be in accordance with the provisions in this policy. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (1991 Code, § 4-301)

**4-102. General policy.** (1) In the interpretation and application of this policy, the term "traveler" or "authorized traveler" means any elected or appointed city officer or employee, including members of city boards and committees appointed by the mayor or the council, and the employees of such boards and committees who are traveling on official city business and whose travel was authorized in accordance with this policy. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this policy.

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

city manager. Expenses considered excessive will not be allowed. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Travel must be necessary to execute official city business or educational objectives. Professional meetings, conferences, or workshops must be directly connected to the individual's duties and role within the city. If attending a conference, supporting documentation showing the dates of the conference must be attached to the travel expense report form. Any dates outside the conference dates must be explained.

(4) When traveling, all individuals should be as conservative as circumstances permit. Reimbursement for travel will be based upon the most direct or expeditious route possible. Employees traveling by an indirect route must assume any extra expense incurred.

(5) A complete reason must be provided to describe the purpose of the travel. Single words such as "meeting," "research," or "conference" do not constitute an adequate reason.

(6) The city manager or his or her designee shall be responsible for the enforcement of these travel regulations. The city manager shall have the authority to grant exception to any part or all of these rules and regulations when deemed appropriate and necessary.

(7) Deliberate disregard of these regulations or filing of an intentionally misleading or fraudulent travel claim is grounds for disciplinary and/or legal action for recovery of fraudulent travel claims and/or advances. (1991 Code, § 4-302)

**4-103. Travel requests.** (1) To ensure reimbursements for official travel, an approved travel authorization and estimated expenses form is required.<sup>1</sup> All travel forms shall be approved by the department head and city manager (city manager forms approved by city mayor). Lack of pre-approval does not prohibit reimbursement, but it does assure reimbursement within the limits of this policy.

(2) All cost associated with the travel should be reasonably estimated and shown on the travel authorization and estimated expenses form.

(3) An travel authorization and estimated expenses form is required before advanced expenses are paid or travel advances are authorized.

(4) If applicable, a copy of the conference or seminar program should be attached to the form. If the program is not available prior to the travel, it should be submitted with the travel expense report. (1991 Code, § 4-303, modified)

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<sup>1</sup>The City of Clinton Authorization for Travel form is of record in the office of the recorder.

**4-104. Advances.** An individual traveling on city business may receive an advance of money to cover expenses to be incurred while traveling.

(1) Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must reimburse the city within ten (10) days.

(2) It will be the responsibility of the finance director to initiate action to recover any undocumented travel advances. If a cash advance is not repaid within thirty (30) days, a deduction may be made from the employee's payroll check. Any person for whom a payroll deduction is made will forfeit future cash advance privileges.

(3) All travel advances must be requested no later than five (5) business days before travel departure date. No travel advances will be issued more than thirty (30) days prior to the travel departure date. (1991 Code, § 4-304, modified)

**4-105. Transportation.** (1) All potential costs should be considered when selecting the mode of transportation. Time away from work should also be considered.

(2) City vehicles may be used for transportation while on official city business unless considerations of time or distance would indicate that such use would be unreasonable. If a city vehicle is used, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable city business. The employee will be reimbursed for expenses directly related to the actual and normal use of the city vehicle when proper documentation is provided.

(3) Use of personal vehicles for travel on city business shall be allowed; however, city owned vehicles shall be used when feasible. Reimbursement shall be at the current rate as established by the Internal Revenue Service Standard Mileage Rate. The miles for reimbursement shall be paid from origin to destination and back by the most direct route. Necessary vicinity travel related to official city business will be reimbursed subject to documented necessity as business-related. If an indirect route is taken, the Rand-McNally or other published mileage table will be used to determine the mileage to be reimbursed.

(4) If a personal vehicle is used by two (2) or more travelers on the same trip, only the traveler who owns or has custody of the vehicle will be reimbursed for mileage. It is the responsibility of the traveler to provide adequate insurance to hold harmless the city for any liability from the use of the personal vehicle. Travelers will not be reimbursed for automobile repair or breakdowns when using their personal vehicle.

(5) Storage or parking charges resulting from the authorized use of either city or personal vehicles shall be at the expense of the city. Fines for traffic or parking violations will not be reimbursed by the city. Reasonable tolls will be allowed when the most direct route requires them.

(6) In no event will mileage reimbursement plus vicinity travel and associated vehicle costs exceed the lowest reasonable air fare and associated air fare travel costs.

(7) When other modes of travel are to be used, the city shall provide or pay for tickets for rail, air or bus transportation and any associated costs such as travel insurance, etc. The city will pay for the lowest available fare for these modes of transportation. When possible, the traveler should make full use of discounts for advance reservations.

(8) When an individual travels by common carrier, reasonable fares will be allowed for necessary ground transportation. Bus or limousine service to and from airports should be used when available and practical. The city will reimburse mileage for travel to and from the local airport and parking fees. The most economical means of transport should be used.

(9) For travel between lodging quarters and meetings, conferences, or meals, reasonable taxi fares will be allowed. Transportation to and from personal trips (e.g. entertainment, shopping) will not be reimbursed.

(10) Use of a rental car is not permitted unless it is less expensive or otherwise more practical than public transportation. Approval of car rental is required in advance by the city manager. Anyone who uses a rental car for out-of-state travel must obtain liability coverage from the vendor.

(11) If necessary to accommodate meeting times and travel arrangements, expenses will be covered for one (1) day before and after meeting dates.

(12) The traveler will be required to take annual leave for any additional time taken beyond the day before and after the meeting dates unless the traveler extends the trip to take advantage of discount fares. Additional authorized travel days must be pre-approved by the city manager. (1991 Code, § 4-305, modified)

**4-106. Lodging.** (1) Reimbursement for lodging will be based upon the locality, purpose of travel, and availability of accommodations. Reasonableness and economy should be exercised by the traveler in all instances. Hotels that offer government rates should be used when available.

(2) Actual cost of single occupancy of hotel or motel room shall be at the expense of the city. When a room is occupied by more than one (1) person and the additional occupant(s) is not on official city business, reimbursement will be made in the amount charged for single occupancy.

(3) The city's tax exempt status should be used for all in-state lodging. It is the traveler's responsibility to provide the necessary documentation and payment method required by the vendor in order to avoid sales tax charges. Sales tax charges will not be reimbursed by the city.

(4) A detailed receipt showing itemized room charges and taxes (if applicable) is required for all authorized travel. (1991 Code, § 4-306)

**4-107. Meals and incidentals.** (1) The authorized traveler will be reimbursed a daily amount of fifty-five dollars (\$55.00) as per diem. The per diem amount is expected to cover meals, tips, porters, and incidental expenses. The traveler will not be reimbursed more than the per diem amount. Receipts are not required for meals and incidentals.

(2) On the first day of travel, the traveler will be reimbursed seventy-five percent (75%) of the per-diem rate for each day.

(3) If a meal is included as part of a conference or seminar fee, the daily per diem rate shall be reduced as follows:

Breakfast--thirteen dollars (\$13.00)

Lunch--fourteen dollars (\$14.00)

Dinner--twenty-three dollars (\$23.00)

(4) For travel that does not require an overnight stay, per diem will be reimbursed at fifty percent (50%) of the established daily rate only if the traveler is required by city business to be outside a fifty (50) mile area of city hall and is in travel status for eight (8) hours or longer. (1991 Code, § 4-307, modified)

**4-108. Entertainment.** (1) The city may pay for certain entertainment expenses provided that:

(a) The entertainment is appropriate in the conduct of city business;

(b) The entertainment is approved in advance by the city manager;

(c) The group or individuals involved are identified; and

(d) Documentation is attached to the expense form to support the entertainment expense claims.

(2) Necessary meal expenses for group meetings will be allowed for city business subject to city manager approval prior to the meeting.

(3) The request for reimbursement for authorized entertainment expenses must include:

(a) Original receipts from the vendor (restaurant, caterer, ticket office, etc.). Only reasonable tips and gratuities included on the receipt by the vendor are reimbursable.

(b) A disclosure and explanation statement explaining the purpose of the entertainment and identifying the group and the number of people entertained (or individual names listed if not a recognized group). (1991 Code, § 4-308)

**4-109. Travel reconciliation.** (1) Within ten (10) day of return from travel, the traveler is expected to complete and file the travel expense report

form.<sup>1</sup> It must be certified by the traveler that the amount due is true and accurate. Original receipts must be provided for all expenses in excess of five dollars (\$5.00).

(2) If the city provided a travel advance, the traveler should include that information on the expense form. The balance due the traveler or the refund due the city should be clearly indicated on the travel expense report form. If the city is due a refund, the traveler should attach a check made payable to the city.

(3) The traveler is responsible for providing the city with original paid receipts for any payments made by the city directly to travel related vendors (e.g. hotels, conferences). (1991 Code, § 4-309)

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<sup>1</sup>The City of Clinton Travel Expense Report form is of record in the office of the recorder.

**TITLE 5****MUNICIPAL FINANCE AND TAXATION****CHAPTER**

1. REAL AND PERSONAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.
4. HOTEL/MOTEL TAX.
5. PURCHASING.

**CHAPTER 1****REAL AND PERSONAL PROPERTY TAXES<sup>1</sup>****SECTION**

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

**5-101. When due and payable.** Taxes levied by the city against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1991 Code, § 5-101)

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<sup>1</sup>State law reference

Tennessee Code Annotated, sections 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. Apparently, under those same provisions, 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.**<sup>1,2</sup> 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 a penalty of two percent (2%) on the first day of March and on the first day of each succeeding month thereafter. (1991 Code, § 5-102)

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<sup>1</sup>State law reference

Tennessee Code Annotated, section 67-1-801(c) provides that if the county trustee collects the municipality's property taxes, a penalty of one half of one percent (1/2 of 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.

<sup>2</sup>State law reference

A municipality has the option of collecting delinquent property taxes any one (1) of three (3) 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, § 67-5-205.

## 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 (hereafter known as "Business") tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act"<sup>1</sup> are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (1991 Code, § 5-201, modified)

**5-202. License required.** No person shall exercise any such privilege within the city without a currently effective business license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate business tax. (1991 Code, § 5-202)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 67, chapter 4, part 7.

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

5-301. To be collected.

**5-301. To be collected.** The city manager is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1991 Code, § 5-401)

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<sup>1</sup>State 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 reference

Alcohol and beer regulations: title 8.

## CHAPTER 4

### HOTEL/MOTEL TAX

#### SECTION

- 5-401. Definitions.
- 5-402. Levy of tax.
- 5-403. Tax added to invoice.
- 5-404. Remittance to city treasurer.
- 5-405. Method of reporting taxes.
- 5-406. Offer to absorb tax prohibited.
- 5-407. Penalties and interest for delinquency.
- 5-408. Records.
- 5-409. Administration.
- 5-410. Collection of tax.
- 5-411. Allocation of proceeds.
- 5-412. Applicability.
- 5-413. Severability.

**5-401. Definitions.** As used in this chapter unless the context otherwise requires the following words and phrases shall have the meanings attributed to them:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction there from whatsoever; provided, however, nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" or "motel" mean any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, motel, inn, tourist camp, tourist cabin, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to use or possession, of any room, lodgings or accommodations in any hotel or motel.

(4) "Operator" means the person operating the hotel or motel whether as owner, lessee or otherwise.

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel or motel for a period of less than thirty (30) continuous days. (1991 Code, § 5-501)

**5-402. Levy of tax.** The amount of the privilege tax upon the privilege of occupancy in any hotel or motel on each transient shall be three percent (3%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this chapter. (1991 Code, § 5-502)

**5-403. Tax added to invoice.** Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel or motel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the city.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid for reported to the City of Clinton. (1991 Code, § 5-503)

**5-404. Remittance to city treasurer.** (1) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels or motels within the city to the city treasurer, such tax to be remitted to such officer not later than the 20<sup>th</sup> day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city entitled to such tax shall be that of the operator.

(2) For the purposes of compensating the operator for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the city treasurer in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (1991 Code, § 5-504)

**5-405. Method of reporting taxes.** The city treasurer shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the city treasurer by the operator with such number of copies thereof as the city treasurer may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city treasurer and approved by the legislative body prior to use. The city treasurer shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the

legislative body. The legislative body is hereby authorized to adopt ordinances to provide reasonable rules and regulations for the implementation of the provisions of this chapter. (1991 Code, § 5-505)

**5-406. Offer to absorb tax prohibited.** No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (1991 Code, §5-506)

**5-407. Penalties and interest for delinquency.** Taxes collected by an operator which are not remitted to the city treasurer on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and as liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (1991 Code, § 5-507)

**5-408. Records.** It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of the payment to the city, which records the city treasurer shall have the right to inspect at all reasonable times. (1991 Code, § 5-508)

**5-409. Administration.** The city treasurer in administering and enforcing the provisions of this chapter shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, title 67, or otherwise provided by the law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, title 67, chapter 18, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The city treasurer shall also possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707, for the county clerks with respect to the adjustment and refunds of such tax.

With respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this act shall be refunded by the city. The city treasurer shall have the authority to direct the refunding of same. Notice of any tax paid under protest shall be given to the city treasurer and suit may be brought against the mayor, but only in his or her capacity as the chief

executive officer of the city, for the recovery of any such taxes paid under protest. (1991 Code, § 5-509)

**5-410. Collection of tax.** The city treasurer is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in an account as designated in accordance with § 5-411. (1991 Code, § 5-510)

**5-411. Allocation of proceeds.** The proceeds received by the city from the tax shall be retained by the city and deposited in the general fund to be designated and used for such purposes as specified by the legislative body. (1991 Code, § 5-511)

**5-412. Applicability.** The tax levied pursuant to the provisions of this chapter shall only apply in accordance with the provisions of Tennessee Code Annotated, §§ 67-4-1401 through 1411. (1991 Code, § 5-512)

**5-413. Severability.** The provisions of this chapter are severable. If any of its sections, provisions, exceptions, or parts are held unconstitutional or void, the remainder of the chapter shall continue to be in full force and effect, it being the declared legislative intent that this act would have been adopted even if such unconstitutional or void material had not been included herein. (1991 Code, § 5-513)

**CHAPTER 5****PURCHASING****SECTION**

5-501. Maximum amount for purchases without public advertisement and competitive bidding.

**5-501. Maximum amount for purchases without public advertisement and competitive bidding.** (1) Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding twenty-five thousand dollars (\$25,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983.

(2) An invitation to bid shall be published in a newspaper of general circulation and posted on the city's website at a minimum of ten (10) days prior to scheduled bid opening for all bids requiring public advertisement.

(3) All bids subject to subsection (1) will be opened at the time and date as specified on the bid request. All bids will be secured by the city manager or his/her designee and clearly marked with the arrival date and time. All bids will be opened publicly and read aloud, with a tabulation provided to all vendors participating. No bids received after closing time will be accepted and will be returned unopened to the vendor.

(4) All exceptions from competitive bidding shall be in compliance with Tennessee Code Annotated, § 6-56-304, except in regards to dollar amount limits.

(5) All purchases of twenty-five thousand dollars (\$25,000.00) or less, but more than ten thousand dollars (\$10,000.00), shall not require public advertisement, but shall whenever possible, be based on at least three (3) competitive bids. (Ord. #605, March 2015)

**TITLE 6****LAW ENFORCEMENT<sup>1</sup>****CHAPTER**

1. ARREST PROCEDURES.
2. CITATIONS, WARRANTS, AND SUMMONSES.

**CHAPTER 1****ARREST PROCEDURES****SECTION**

- 6-101. When police officers to make arrests.  
6-102. Disposition of persons arrested.

**6-101. When police officers to make arrests.**<sup>2</sup> Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer 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. (1991 Code, § 6-201, modified)

**6-102. Disposition of persons arrested.** (1) For code or ordinance violations. Unless otherwise provided by law, a person who violates this code or other city ordinance shall be issued a citation to appear in city court.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and

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<sup>1</sup>Municipal code reference

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

Also, see the resolution dated September 6, 1962, of record in the recorder's office, for additional regulations governing the internal operation of the police department.

<sup>2</sup>Municipal code reference

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

state law and the rules of the court which has jurisdiction over the offender.  
(1991 Code, § 6-202, modified)

## CHAPTER 2

### CITATIONS, WARRANTS, AND SUMMONSES

#### SECTION

6-201. Citations in lieu of arrest in non-traffic cases.

6-202. Summonses in lieu of arrest.

**6-201. Citations in lieu of arrest in non-traffic cases.**<sup>1</sup> Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the city council appoints the fire chief in the fire department and the codes enforcement officer as special police officers having the authority to issue citations in lieu of arrest. The fire chief 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 codes enforcement officer shall have the authority to issue citations in lieu of arrest for violations of the building, utility, fire and residential codes adopted in titles 7 and 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. (1991 Code, § 6-301, modified)

**6-202. Summonses in lieu of arrest.** Pursuant to Tennessee Code Annotated, § 7-63-201, et seq., which authorizes the city council to designate certain city enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the council designates the codes enforcement officer to issue ordinance summonses in those areas. This enforcement officer may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

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<sup>1</sup>Municipal code reference

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

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 city 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 § 6-201 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. (1991 Code, § 6-302)

## TITLE 7

### FIRE PROTECTION AND FIREWORKS<sup>1</sup>

#### CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIRE KEY BOXES.
6. MISCELLANEOUS.

#### CHAPTER 1

### FIRE DISTRICT

#### SECTION

- 7-101. Fire district described.
- 7-102. Fire district significance.

**7-101. Fire district described.** The corporate fire district shall be as follows:

All of that area bounded by a line beginning at the intersection of the Bush Brothers eastern property line and the Clinch River, thence along said property line in a northerly direction to the intersection of such line and Eagle Bend Road; thence in a westerly direction along Eagle Bend Road to a point 200 feet east of the intersection of Eagle Bend Road and North Charles Seivers Blvd; thence along a line, parallel to and 200 feet northeast and southeast of the center line of North Charles Seivers Blvd, in a northwesterly and northeasterly direction to the intersection of such line and Weaver Avenue; thence along Weaver Avenue in a northwesterly direction to the intersection of Weaver Avenue and North Charles Seivers Blvd; thence northeast along North Charles Seivers Blvd to the intersection of North Charles Seivers Blvd and Washington Avenue; thence northwest along Washington Avenue to the intersection of Washington Avenue and Baxter Street; thence south along Baxter Street to the intersection of Baxter Street and West Weaver Avenue; thence northwest along Weaver Avenue to the intersection of Weaver Avenue and North Main Street; thence south along North Main Street to the intersection of North Main Street and W Avenue; thence west along W Avenue to the intersection of W Avenue and Marshall Street; thence south along Marshall Street to the intersection of

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<sup>1</sup>Municipal code references

Building, utility and residential codes: title 12.

Marshall Street and West Shipe Street; thence east along an extension of the center line of West Shipe Street crossing the Southern Railway tracks to East Shipe Street; thence east along East Shipe Street to the intersection of East Shipe Street and Main Street; thence south along Main Street to the intersection of North Main Street and West Lamar Avenue; thence west along West Lamar Avenue to the intersection of West Lamar Avenue and North Hicks Street; thence south along North Hicks Street and West Church Street; thence west along West Church Street to the intersection of West Church Street and Marshall Street; thence south along Marshall Street to the intersection of Marshall Street and Broad Street; thence east along Broad Street to the intersection of South Bowling Street; thence south along an extension of the center line of South Bowling Street, and being parallel to and approximately 300 feet west of the center line of Main Street, to the intersection of said line and Timothy Avenue; thence east along Timothy Avenue to the intersection of Timothy Avenue and Main Street and, continuing along Meadowbrook Street, to a point 200 feet to the east of Main Street; thence north along a line, lying parallel to and 200 feet east of Main Street, to the intersection of said line and Clinch Avenue; thence east along Clinch Avenue to the intersection of Clinch Avenue and the Clinch River; thence north along the west bank of the Clinch River to the point of beginning. (1991 Code, § 7-101)

**7-102. Fire district significance.** The significance of the fire district is that chapter 3 of the building code, applicable to the City of Clinton through title 12 of this code, imposes certain construction, modification and other requirements peculiar to buildings located within the fire district, and prohibits hazardous (group H) occupancies (as defined in the currently adopted building code and fire code within the fire district). (1991 Code, § 7-102, modified)

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Gasoline trucks.
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Variances.
- 7-206. Violations and penalty.

**7-201. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of 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,<sup>2</sup> 2018 edition, and all the appendices and references listed herein as recommended by the International Code Council, is hereby adopted by reference and included as a part of this code, and is hereinafter referred to as the fire code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been filed with the city recorder and is available for public use and inspection. The fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1991 Code, § 7-201, modified)

**7-202. 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. (1991 Code, § 7-202)

**7-203. 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. (1991 Code, § 7-203)

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<sup>1</sup>Municipal code reference

Building, utility and residential codes: title 12.

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

**7-204. Storage of explosives, flammable liquids, etc.** (1) The district referred to in chapter 33 of the International Fire Code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(2) The district referred to in chapter 34 of the fire code, in which storage of flammable liquids in outside above ground tanks is prohibited, is declared to be the fire district as set out in § 7-101 of this code.

(3) The district referred to in chapter 34 of the fire code, in which bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(4) The district referred to in chapter 38 of the fire code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire district as set out in § 7-101 of this code. (1991 Code, § 7-204)

**7-205. Variances.** The chief of the fire department may recommend to the city council 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 city council. (1991 Code, § 7-205)

**7-206. Violations 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 city council 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 of fines not less than fifty dollars (\$50.00) and cost for each separate violation. 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. (1991 Code, § 7-206, modified)

## CHAPTER 3

### FIRE DEPARTMENT<sup>1</sup>

#### SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Chief responsible for training and maintenance.

7-306. Chief to be assistant to state officer.

**7-301. Establishment, equipment, and membership.** There is hereby established a fire department to be supported and equipped from appropriations by the city council. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and fire fighters as the city manager shall appoint. (1991 Code, § 7-301, modified)

**7-302. Objectives.** The 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. (1991 Code, § 7-302)

**7-303. Organization, rules, and regulations.** The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department, under the direction of the director of operations. (1991 Code, § 7-303)

**7-304. Records and reports.** The chief of the 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 city manager as the city manager requires. The city manager shall submit

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<sup>1</sup>Municipal code reference

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

a report on those matters to the city council as the city council requires. (1991 Code, § 7-304)

**7-305. Chief responsible for training and maintenance.** The chief of the fire department, shall be fully responsible for the training of the fire fighters and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the city manager. (1991 Code, § 7-305, modified)

**7-306. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-17-108, the fire chief is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 17, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1991 Code, § 7-306)

## CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

## SECTION

7-401. Restrictions on fire service outside city limits.

**7-401. Restrictions on fire service outside city limits.** No personnel or equipment of the fire department shall be used for fighting any fire outside the city limits unless the fire is on city property or, in the opinion of the city manager or fire chief, is in such hazardous proximity to property owned or located within the city as to endanger the city property, or unless the city council has developed policies for providing emergency services outside of the city limits or entered into a contract or mutual aid agreement pursuant to the authority of:

(1) Tennessee Code Annotated, § 12-9-101, et seq.<sup>1</sup>

(2) Tennessee Code Annotated, § 6-54-601.<sup>2</sup>

(1991 Code, § 7-401, modified)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 6-54-601 authorizes municipalities (1) To 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. (2) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance. (3) Provide fire protection outside their city 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.)

<sup>2</sup>State law reference

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

## CHAPTER 5

### FIRE KEY BOXES

#### SECTION

- 7-501. Mandatory key boxes for fire suppression and standpipe systems.
- 7-502. Mandatory key boxes for automatic alarm systems.
- 7-503. Key tamper box switch.
- 7-504. Security padlocks.
- 7-505. Security caps.
- 7-506. Non-applicability to certain dwellings.
- 7-507. Rapid response key boxes.
- 7-508. Time for compliance.

**7-501. Mandatory key boxes for fire suppression and standpipe systems.** When a building within the city is protected by an automatic fire suppression or standpipe system it shall be equipped with a key box. The key box shall be at a location approved by the City of Clinton Fire Marshal. The key box shall be a UL type and size approved by the Fire Marshal. The cost of purchasing and installing, along with any cost associated with implementation of the program at a specific property, will be the responsibility of the property owner.

**7-502. Mandatory key boxes for automatic alarm systems.** When a building is protected by an automatic alarm system and/or access to or within a building, or an area within that building, is unduly difficult because of secured openings, and where immediate access is necessary for life saving or firefighting purposes, the City of Clinton Fire Marshal may require a key box to be installed at a location approved by him/her. The key box shall be a UL type and size approved by the fire marshal. The cost of purchasing and installing, along with any cost associated with implementation of the program at a specific property, will be the responsibility of the property owner.

**7-503. Key tamper box switch.** The fire marshal may require a key box tamper switch connected to the building's fire alarm system. The cost of purchasing and installing, along with any cost associated with implementation of the program at a specific property, will be the responsibility of the property owner.

**7-504. Security padlocks.** When a property is protected by a locked fence or gate and where immediate access to the property is necessary for life saving or firefighting purposes, the fire marshal may require a security padlock to be installed at a location approved by him/her. The padlock shall be a UL type and size approved by the fire marshal. The cost of purchasing and installing,

along with any cost associated with implementation of the program at a specific property, will be the responsibility of the property owner.

**7-505. Security caps.** When a building is protected by an automatic sprinkler system or standpipe system and the fire department connection is exposed to undue vandalism the fire marshal may require that a fire department connection security cap(s) be installed. The fire department connection security cap(s) shall be a type approved by the fire marshal. The cost of purchasing and installing, along with any cost associated with implementation of the program at a specific property, will be the responsibility of the property owner.

**7-506. Non-applicability to certain dwellings.** The term "building" used herein means any building or structure located in the City of Clinton, whether privately or publicly owned, including, without limitation, any building owned by the City of Clinton, or any other public, quasi-public, or private entity or person provided however that this chapter shall not apply to owner occupied one- or two-family dwellings.

**7-507. Rapid response key boxes.** The rapid key boxes shall contain the following:

- (1) Keys to locked points of egress, whether in interior or exterior of such buildings;
- (2) Keys to the locked mechanical rooms;
- (3) Keys to the locked elevator rooms;
- (4) Keys to the elevator controls;
- (5) Keys to any fence or secured areas;
- (6) Keys to any other areas that may be required by the fire marshal;
- (7) A card containing the emergency contact people and phone numbers for such building;
- (8) In addition, floor plans of the rooms within the building may be required.

**7-508. Time for compliance.** All existing buildings shall comply with this chapter one (1) year from its effective date. All newly constructed buildings, not yet occupied or buildings currently under construction and all buildings or businesses applying for a certificate of occupancy, shall comply immediately.

**CHAPTER 6**

**MISCELLANEOUS**

**SECTION**

7-601. Outside open fires restricted.

7-602. Fireworks.

**7-601. Outside open fires restricted.** It shall be unlawful for any person to make, permit, or add to any outside open fire within the fire district.

An "outside open fire" is any fire on the outside of a building except a fire in an incinerator which is so constructed as to prevent the escape of burning materials. (1991 Code, § 7-501)

**7-602. Fireworks.** The use of fireworks is prohibited, except as provided under *Tennessee Code Annotated*, § 68-104-201.

**TITLE 8****ALCOHOLIC BEVERAGES****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE IN RETAIL FOOD STORES.

**CHAPTER 1****INTOXICATING LIQUORS<sup>1</sup>****SECTION**

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before mayor and city council duty to give information.
- 8-105. Action on application.
- 8-106. Applicants for certificate who have criminal record.
- 8-107. Number of retail licenses to be held by retailer.
- 8-108. Where establishments may be located.
- 8-109. Retail stores to be on ground floor; entrances.
- 8-110. Limitation on number of retailers.
- 8-111. Sales for consumption on-premises.
- 8-112. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-113. Inspection fee.
- 8-114. Consumption of alcoholic beverages on-premises
- 8-115. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-116. Annual privilege tax to be paid to the recorder.
- 8-117. Concurrent sales of liquor by the drink and beer.
- 8-118. Advertisement of alcoholic beverages.
- 8-119. Violations and penalty.

**8.101. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, manufacturing, storing,

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<sup>1</sup>State law reference

Employee and server permits: Tennessee Code Annotated, § 57-3-701, et seq.

transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the City of Clinton except as provided by Tennessee Code Annotated, title 57.

**8-102. Application for certificate.**<sup>1</sup> Before any certificate, as required by Tennessee Code Annotated, § 57-3-208, shall be signed by the mayor, a request in writing shall be filed with the recorder, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
- (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

**8-103. Applicant to agree to comply with laws.** The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the City of Clinton and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages.

**8-104. Applicant to appear before mayor and city council; duty to give information.** An applicant for a certificate of good moral character may be required to appear in person before the mayor and city council for such reasonable examination as may be desired by council.

**8-105. Action on application.** Every application for a certificate of good moral character shall be referred to the chief of police for investigation and who shall submit his findings to the mayor and city council within thirty (30) days of the date each application was filed. The mayor and city council may issue a certificate of good moral character to any applicant, which shall be signed by the mayor or by a majority of the city council. (modified)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-208.

**8-106. Applicants for certificate who have a criminal record.** No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.

**8-107. Number of retail licenses to be held by retailer.**<sup>1</sup> No retail licensee shall, directly or indirectly, hold more than two (2) retail licenses. In no event shall a retail licensee, directly or indirectly hold more than fifty percent (50%) of the licenses authorized for issuance in such municipality or county.

**8-108. Where establishments may be located.** It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the City of Clinton except at locations zoned B-2 or B-4.

**8-109. Retail stores to be on ground floor; entrances.** No retail store shall be located anywhere on premises in the City of Clinton except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.<sup>2</sup>

**8-110. Limitation on number of retailers.**<sup>3</sup> No limitation of retail licenses for the sale of alcoholic beverages shall be issued under this chapter.

**8-111. Sales for consumption on premises.** No alcoholic beverages shall be sold for consumption on the premises of a retail seller.

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 57-3-406

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 57-3-404(f)

<sup>3</sup>State law reference  
Tennessee Code Annotated, § 57-3-208(c)

**8-112. Radios, amusement devices and seating facilities prohibited in retail establishments.** No radios, pinball machines, slot machines or other devices which tend to cause person to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

**8-113. Inspection fee.** The City of Clinton hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city.

**8-114. Consumption of alcoholic beverages on-premises.** Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of the City of Clinton. It is the intent of the city council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the City of Clinton, the same as if said code sections were copied herein verbatim.

**8-115. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, § 301,) for the City of Clinton to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Clinton of alcoholic beverages for consumption on the premises where sold.

**8-116. Annual privilege tax to be paid to the recorder.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Clinton shall remit annually to the recorder the appropriate tax described in § 8-115. Such payments shall be remitted not less than thirty (30) days following the end of such twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.

**8-117. Concurrent sales of liquor by the drink and beer.** Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Clinton, pursuant

to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding § 8-218 of the ordinances of the City of Clinton, qualify to receive a beer permit from the city upon compliance of all City of Clinton beer permit requirements.

**8-118. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission.

**8-119. Violations and penalty.** 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. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

## CHAPTER 2

### BEER<sup>1</sup>

#### 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. Classes of permits.
- 8-211. Sale of beer permitted only in specified zones.
- 8-212. Revocation or suspension of beer permits.
- 8-213. Temporary permit; application issued by city recorder.
- 8-214. Civil penalties in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.
- 8-216. Violations and penalty.

**8-201. Beer board established.** There is hereby established a beer board to be composed of mayor and council. The mayor shall act as chairman of the beer board. All members of the beer board shall serve without compensation. (1991 Code, § 8-201)

**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 city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1991 Code, § 8-202)

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<sup>1</sup>Municipal code references

Public drunkenness, minors in beer places, etc.: title 11, chapter 2.

Tax provisions: title 5.

State law reference

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

**8-203. 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 members thereon; and the provisions of beer permit issued by the board. (1991 Code, § 8-203)

**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. (1991 Code, § 8-204)

**8-205. Powers and duties of the beer board.**<sup>1</sup> 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. (1991 Code, § 8-205)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101. (1991 Code, § 8-206, modified)

**8-207. Permit required for engaging in beer business.**<sup>2</sup> 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). 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. (1991 Code, § 8-207, modified)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, 57-5-103.

<sup>2</sup>State law reference  
Tennessee Code Annotated, 57-5-103.

**8-208. Privilege tax.**<sup>1</sup> 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 City of Clinton, 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 may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. 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.<sup>2</sup>

**8-210. Classes of permits.** There shall be five (5) classes of permits issued by the beer board, as follows:

(1) Class "A" a manufacturer's permit to a manufacturer of beer for the manufacture, possession, storage, sale, distribution and transportation of the product of such manufacturer, not to be consumed by the purchaser upon or near the premises of such manufacturer. A manufacturer may also operate as

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-104(b).

<sup>2</sup>State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders not 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 (10) years. Under Tennessee Code Annotated, § 5-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated, § 57-5-301(a) a local offense.

a retailer at the manufacturer's location or a site contiguous thereto for sales of not more than twenty-five thousand (25,000) barrels of beer or high alcohol content beer or both annually for consumption on or off the premises under this chapter as long as the requirements of this chapter concerning the licensing of such retail establishments are met.

(2) Class "B" An "off-site" permit to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser or other persons upon or near the premises of such seller.

(3) Class "C" An "on-site" permit to any person or legal organization engaged in the operation of a restaurant or food truck park wherein the sale of beer is for consumption on the premises. A restaurant shall be defined as a business establishment whose primary business is the sale of prepared food to be consumed on the premises. A food truck park shall be defined as one or more permitted mobile food trucks parked on the premises selling prepared food for consumption on the premises.

(4) Class "D" An "on-site" permit to any person or legal organization engaged in the operation of any hotel/motel that does not sell food or beverages and that receives ninety percent (90%) of its revenue from the sale of room rentals may serve beer to patrons of such hotel/motel without a charge.

(5) Class "E" A special event permit to any bona fide charitable, nonprofit, political or governmental organization engaged in a city-sanctioned and/or sponsored festival, celebration, or event. Special event beer permits must comply with all other regulations found in title 8, chapter 2, with the exception of §§ 8-203 and 8-208. For the purposes of this section, bona fide charitable or nonprofit organization means any corporation or legal entity which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code. Bona fide political organization means any political campaign committee as defined in Tennessee Code Annotated, § 2-13-101. Special event beer permits are permissible in the City of Clinton with the following requirements:

(a) Permits are valid for seventy-two (72) hours during city sanctioned and/or sponsored festivals, celebrations and events.

(b) The legal hours of sale or consumption at authorized events shall be the following:

Monday through Saturday 8:00 A.M. to 10:00 P.M.

Sunday 12:00 noon to 10:00 P.M.

(c) No organization may be granted more than two (2) Class E special event permits within a calendar year.

(d) Permit applications must be submitted sixty (60) days prior to the start of the event for which a permit is requested.

(e) In addition to the permit application requirement described in § 8-207 the following information must be submitted with an application for a Class E special event permit:

- (i) The organization applying for the special event permit, contact person, address and phone number.
  - (ii) Date(s) and time(s) of event.
  - (iii) The event manager's name, address and phone number. For the purposes of this section, event manager means the individual(s) responsible for the oversight and/or dispensing of such alcoholic beverages.
  - (iv) The specific location where beer is sold or served.
  - (v) Plans for security and policing the area(s) where beer is to be sold.
  - (vi) If the event covered by the permit will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the special event application.
- (6) Permit applications are valid only for on premise consumption inside an enclosed and/or fenced area with restricted ingress/egress points.
- (7) Any signs or other displays promoting the sale of beer in general, or of a specific beer or beers must be within the enclosed and/or fenced area restricted for consumption.
- (8) The applicant shall send a representative(s) to such City of Clinton Beer Board meeting to address any questions or issues arising out of the proposed special event.
- (9) If approved the Class E special event permit shall have affixed on its face the name of the proposed vendor(s) of beer, the specified location(s) and date(s) where such vendor is permitted to sell beer under the permit. (1991 Code, § 8-210, modified)

**8-211. Sale of beer permitted only in specified zones.** It shall hereafter be lawful to sell, store for resale, distribute or manufacture beer in the City of Clinton, Tennessee, provided that permits authorized by this chapter shall be issued for locations that are now zoned or may be in the future zoned as follows:

- (1) Class "A" Permits: Zoning Districts B-1, B-2, B-4, M-1 and M-2.
- (2) Class "B" Permits: Zoning Districts B-1, B-2, and B-4.
- (3) Class "C" Permits: Zoning Districts B-1, B-2, B-4 and P-1.
- (4) Class "D" Permits: Zoning Districts B-1, B-2, B-4 and P-1.
- (5) Class "E" Permits: All Zoning Districts. (1991 Code, § 8-211, modified)

**8-212. 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. (1991 Code, § 8-217)

**8-213. Temporary permit; application issued by city recorder.** In the event a proposed buyer or transferee acquires the business operated under this permit, and such transfer is to become final upon condition that the buyer or transferee obtains a regular beer permit, the buyer or transferee may obtain a temporary permit from the city recorder upon the determination of the city recorder that the buyer or transferee is about to comply with this chapter. Such temporary permit shall be valid for twenty-one (21) days from the date of issuance or until the next beer board meeting. The holder of a temporary permit shall be subject to all restrictions and penalties provided for regular permit holders by this chapter. Temporary permits shall not be issued, except for premises for which the beer permit has been issued to another owner or operator at the time application is made for such temporary permit. (1991 Code, § 8-219, modified)

**8-214. Civil penalties 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 city may impose. (1991 Code, § 8-221, modified)

**8-215. Loss of clerk's certification for sale to minor.**<sup>1</sup> 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. (1991 Code, § 8-222)

**8-216. Violations and penalty.** 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. (1991 Code, § 8-223, modified)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-607.

## CHAPTER 3

### WINE IN RETAIL FOOD STORES

#### SECTION

8-301. Inspection fee on retail food store wine licensees.

8-302. Application for certificate.

**8-301. Inspection fee on retail food store wine licensees.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-3-501 et seq., there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in Tennessee Code Annotated, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee.

**8-302. Application for certificate.** Before any certificate, as required by Tennessee Code Annotated, § 57-3-806, shall be signed by the mayor, or by any councilmember, a request in writing shall be filed with the recorder giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
- (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. (modified)

## TITLE 9

### BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

#### CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. POOL ROOMS.
3. ADULT-ORIENTED ESTABLISHMENTS.
4. CABLE TELEVISION.
5. MOBILE FOOD VENDING.

#### CHAPTER 1

### PEDDLERS, SOLICITORS, ETC.<sup>2</sup>

#### SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violations and penalty.

**9-101. Definitions.** Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler," means any person, firm or corporation, either a resident or a nonresident of the city, who has no permanent regular place of business and

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<sup>1</sup>Municipal code references

Building, plumbing, wiring and residential regulations: title 12.

Cable television: title 20, chapter 1.

Liquor and beer regulations: title 8

Noise reductions: title 11, chapter 4.

Zoning: title 14.

<sup>2</sup>Municipal code references

Privilege taxes: title 6.

Trespass by peddlers, etc.: § 10-801.

who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor," means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(3) "Solicitor for subscriptions," means any person who solicits subscriptions from the public, either on the streets of the city, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(4) "Street barker," means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(5) "Transient vendor,"<sup>1</sup> means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public.

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<sup>1</sup>State law references

Tennessee Code Annotated, § 62-30-101, *et seq.*, contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from Tennessee Code Annotated, § 67-4-709(a)(19). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each fourteen (14) day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, § 67-4-709(b).

Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (1991 Code, § 9-101, modified)

**9-102. Exemptions.** The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys delivering newspaper subscriptions, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold, nor to religious, charitable and civic organizations of Anderson County, Tennessee that solicit no more than four (4) times per year, or vendors at Anderson County Chamber sponsored festivals approved by the city manager. (1991 Code, § 9-102, modified)

**9-103. Permit required.** No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. (1991 Code, § 9-103, modified)

**9-104. Permit procedure.** (1) Application form. A sworn application shall be completed and filed with the city recorder by each applicant for a permit, providing the following information:

(a) Applicants for a permit as a peddler, transient vendor, solicitor or street barker, and as a solicitor for subscriptions, shall provide the following information:

(i) Complete name of applicant, date of birth, social security or other identification number, and physical description.

(ii) Applicant's permanent home address and telephone number.

(iii) Applicant's current address and telephone number.

(iv) Applicant's current business address and telephone number.

(v) A copy of the applicant's current photo identification (driver's license or other acceptable photo identification).

(vi) A list of all persons, including the name, date of birth, social security or other identification number, and driver's license or other acceptable photo identification of all persons who will make sales or solicitations in conjunction with the permit.

(vii) A list of all vehicles, vehicle description, vehicle license and registration information of all vehicles (whether or not the vehicle is owned individually by the person making the sales or solicitations, by the business or organization itself, or rented or

borrowed) that will be used in conjunction with the sales or solicitations in conjunction with this permit.

(viii) A brief description of the type of business and the goods to be sold.

(ix) A statement as to whether or not the applicant (and all persons associated with the permit) has been convicted of any felony within the past ten (10) years, or any misdemeanor other than a minor traffic violation within the past three (3) years, the date and place of any conviction, the nature of the offense, and the punishment or penalty imposed.

(x) A list of the last three (3) cities, towns or other political subdivisions (if that many) where the applicant has engaged in business or conduct similar to that proposed in this application, immediately preceding the date of this application.

(b) Applicant's for a permit as a solicitor for charitable purposes shall provide the following information:

(i) Applicant's (organization's) name, permanent address, and telephone number.

(ii) Applicant's (organization's) contact person and telephone number.

(iii) Reason/purpose for the solicitation.

(c) The date(s) for which the applicant intends to do business or make solicitations.

(d) The location(s) in which the applicant proposes to do business or make solicitations.

(e) Tennessee state sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, or solicitor shall submit with his application a nonrefundable fee of one hundred dollars (\$100.00). Each applicant for a permit as a street barker or solicitor for subscriptions shall submit a nonrefundable fee of fifty dollars (\$50.00). There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes.

(3) Issuance or refusal of permit. (a) The city recorder shall refer each application for permit to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(b) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory, the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(c) If as a result of such investigation the chief reports the applicant's moral reputation and business responsibility are satisfactory, the city recorder shall issue the permit, and provide a copy of the permit to the applicant and the chief of police. (1991 Code, § 9-104, modified)

**9-105. Restrictions on peddlers, street barkers and solicitors.** No peddler, street barker, for charitable purposes, or solicitor for subscriptions shall:

- (1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city.
- (2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.
- (3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.
- (4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.
- (5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (1991 Code, § 9-105)

**9-106. Restrictions on transient vendors.** A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (1991 Code, § 9-106)

**9-107. Display of permit.** Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (1991 Code, § 9-107)

**9-108. Suspension or revocation of permit.** (1) Suspension or revocation by the recorder. The permit issued to any person or organization under this chapter may be suspended by the city recorder for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained or omitted in the application for permit, or made in the course of carrying out the business as defined in the permit application.
- (b) Any violation of this chapter.
- (c) Conviction of any crime or misdemeanor.

(d) Conducting the business as defined in the permit application in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Appeal of suspension or revocation. Any applicant whose permit has been issued in accordance with the requirements under this chapter which has been suspended or revoked by the city recorder may appeal such suspension or revocation to the city council. Upon such appeal and after notice thereof, city council shall schedule a hearing to hear testimony on behalf of the permit holder and the city in regard to said suspension or revocation. Notice of the hearing shall include the grounds for which the permit application, at least five (5) business days prior to the date set for the hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) business days prior to the date set for the hearing.

(3) Action of city council. The city council, at the hearing as defined in § 9-108(2) shall have the authority to uphold the actions of the city recorder, or reinstate the suspended or revoked permit as deemed appropriate by a majority vote of council. Such action of city council shall be final. (1991 Code, § 9-108)

**9-109. Expiration and renewal of permit.** The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for three (3) months. The permit of street barkers shall be issued for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for subscriptions shall expire thirty (30) days after issuance. The permit for solicitors for charitable purposes shall expire at the conclusion of the event/occasion for which the permit is issued. (1991 Code, § 9-109, modified)

**9-110. Violations and penalty.** In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (1991 Code, § 9-110)

## CHAPTER 2

### POOL ROOMS<sup>1</sup>

#### SECTION

9-201. Prohibited in residential areas.

9-202. Hours of operation regulated.

9-203. Minors to be kept out; exception.

9-204. Gambling, etc., not to be allowed.

**9-201. Prohibited in residential areas.** It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1991 Code, § 9-301)

**9-202. Hours of operation regulated.** It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time except as follows: Monday through Thursday 9:00 A.M. through 11:00 P.M. Friday and Saturday 9:00 A.M. through 12:00 midnight; Sunday 1:00 P.M. through 6:00 P.M. (1991 Code, § 9-302)

**9-203. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residence. (1991 Code, § 9-303)

**9-204. Gambling, etc., not to be allowed.** It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire, to permit any gambling or other unlawful or immoral conduct on such premises. (1991 Code, § 9-304)

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<sup>1</sup>Municipal code reference  
Privilege tax provisions, etc.: title 5.

## CHAPTER 3

### ADULT-ORIENTED ESTABLISHMENTS

#### SECTION

- 9-301. Definitions.
- 9-302. License required.
- 9-303. Application for license.
- 9-304. Standards for issuance of license.
- 9-305. Permit required.
- 9-306. Application for permit.
- 9-307. Standards for issuance of permit.
- 9-308. Fees.
- 9-309. Display of license or permit.
- 9-310. Renewal of license or permit.
- 9-311. Revocation of license or permit.
- 9-312. Hours of operation.
- 9-313. Responsibilities of the operator.
- 9-314. Prohibitions and unlawful sexual acts.
- 9-315. Penalties and prosecution.
- 9-316. Location of adult-oriented establishments restricted.
- 9-317. Invalidity of part.

**9-301. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment receiving at least twenty percent (20%) of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVDs, films and other electronic media which are

distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. "Adult bookstore" shall not include video stores whose primary business is the rental and sale of videos which are not distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(3) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

(4) "Adult entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(5) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.

(6) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

(7) "City council" means the City Council of the City of Clinton, Tennessee.

(8) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(9) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not

a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

(12) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (1991 Code, § 9-501)

**9-302. License required.** (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Clinton without first obtaining a license to operate issued by the City of Clinton.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this article must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on third and final reading. If a license is not issued within said one hundred twenty (20) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (1991 Code, § 9-502)

**9-303. Application for license.** (1) Any person, partnership, or corporation desiring to secure a license shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Clinton Police Department and to the applicant.

(2) The application for a license shall be upon a form provided by the city manager. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited company) shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past three (3) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time each applicant has been a resident of the City of Clinton, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Clinton Police Department, the city manager shall notify the applicant that his application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the city manager shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the city council.

(4) Whenever an application is denied or held for further investigation, the city manager shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the city council at which time the applicant may present evidence as to why his license should not be denied. The city council shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the city council and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Anderson County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he

or she is ineligible for such license and shall be grounds for denial thereof by the city manager. (1991 Code, § 9-503)

**9-304. Standards for issuance of license.** (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

(i) The applicant shall be at least eighteen (18) years of age.

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-402 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-402 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Clinton Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the city manager no later than twenty (20) days after the date of the application. (1991 Code, § 9-504)

**9-305. Permit required.** In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the city manager. (1991 Code, § 9-505)

**9-306. Application for permit.** (1) Any person desiring to secure a permit shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Clinton Police Department and to the applicant.

(2) The application for a permit shall be upon a form provided by the city manager. An applicant for a permit shall furnish the following information under oath:

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes, and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.
- (i) The length of time the applicant has been a resident of the City of Clinton, or its environs, immediately preceding the date of the application.
- (j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Clinton Police Department, the city manager shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of

such additional investigations, the city manager shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city manager shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the city council at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the board. (1991 Code, § 9-506)

**9-307. Standards for issuance of permit.** (1) To receive a permit as an employer or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Clinton Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city manager not later than twenty (20) days after the date of the application. (1991 Code, § 9-507)

**9-308. Fees.** (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (½) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (½) of the fee shall be returned. (1991 Code, § 9-508)

**9-309. Display of license or permit.** (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any

member of the Clinton Police Department, or any person designated by the city council. (1991 Code, § 9-509)

**9-310. Renewal of license or permit.** (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the city manager. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Clinton Police Department and to the operator. The application for renewal shall be a form provided by the city manager and shall contain such information and data, given under oath or affirmation, as may be required by the city council.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the Clinton Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the city manager.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the city manager. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and date by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Clinton Police Department and to the employee. The application for renewal shall be upon a form provided by the city manager and shall contain such information and data, given under oath or affirmation, as may be required by the city manager.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the Clinton Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the city manager. (1991 Code, § 9-510)

**9-311. Revocation of license or permit.** (1) The city manager shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the city council pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the city council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented establishment is permitted or to any portion of the licensed premises where adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Anderson County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The city manager, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before

the city council, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (1991 Code, § 9-511)

**9-312. Hours of operation.** (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. on weekdays and between the hours of 1:00 A.M. and 12:00 noon on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Clinton Police Department, the Anderson County Sheriff's Department, or such other persons as the city council may designate. (1991 Code, § 9-512)

**9-313. Responsibilities of the operator.** (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city council. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Clinton Police Department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of

determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Clinton Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by Clinton City Code.  
Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (1991 Code, § 9-513)

**9-314. Prohibitions and unlawful sexual acts.** (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals of any other person.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (1991 Code, § 9-514)

**9-315. Penalties and prosecution.** (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (1991 Code, § 9-515)

**9-316. Location of adult-oriented establishments restricted.** (1) It shall be unlawful to establish, operate, or maintain any adult-oriented business establishment, that is, adult bookstore, adult motion picture theater, adult mini motion picture theater, or adult cabaret, within the city, if the proposed location is within one-thousand feet (1,000') of:

- (a) A residentially zoned district;
- (b) Any area of amusement which caters to family entertainment;
- (c) Any area which is devoted in part or exclusively to recreational activity;
- (d) Any school, park, church, mortuary, or hospital;
- (e) Any adult-oriented business establishment as defined by this section; or
- (f) Any other regulated uses, including but not limited to establishments authorized to sell any alcoholic beverages for on or off premises consumption. Any location selling beverages that contain less than five percent (5%) alcohol are not to be considered with regard to the required spacing. (1991 Code, § 9-516)

**9-317. Invalidity of part.** Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared

unconstitutional, and shall not affect any other section, clause or provision of this chapter. (1991 Code, § 9-517)

## CHAPTER 4

### CABLE TELEVISION

#### SECTION

9-401. To be furnished under franchise.

**9-401. To be furnished under franchise.** Cable television shall be furnished to the City of Clinton and its inhabitants under franchise granted to by the City Council of the City of Clinton, Tennessee. The rights, powers, duties and obligations of the City of Clinton and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.<sup>1</sup> (1991 Code, § 20-101)

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<sup>1</sup>The complete details relating to the cable television franchise agreement (and any amendments thereto) are available in the office of the city recorder.

## CHAPTER 5

### MOBILE FOOD VENDING

#### SECTION

- 9-501. Purpose.
- 9-502. Definitions.
- 9-503. Permit fee.
- 9-504. Mobile food preparation vehicles.
- 9-505. Operational requirements.
- 9-506. Health department requirements.

**9-501. Purpose.** To recognize the unique physical and operational characteristics of mobile food vending and establish standards for the typical range of activities and mitigate or prohibit practices that are contrary to the health, safety, and welfare of the public.

**9-502. Definitions.** Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Mobile food preparation vehicle." A mobile food preparation vehicle is any motorized vehicle that includes a self-contained or attached trailer kitchen in which food is prepared, processed or stored and used to sell and dispense food to the ultimate consumer. Mobile units must be mobile at all times during operation. The unit must be on wheels at all times. Any mobile food unit that removes such wheels or becomes stationary must meet Tennessee Department of Health Regulations 1200-23-1, et seq. in their entirety. This definition does not include vehicles from which only ice cream and other frozen non-hazardous food products are sold, or vehicles operating under a special event permit.

(2) "Private property." Property with a legal designation of the ownership of property by non-governmental legal entities. Private property is distinguishable from public property, which is owned and maintained by a state entity, including a municipality.

(3) "Public property." Any real property owned, leased, operated, maintained, or controlled by the city other than a street, alley, parkway, sidewalk, or other area dedicated, identified or used as a public right-of-way.

(4) "Public right-of-way." Any public street, road, avenue, highway, named or unnamed alley, lane court, place, trail, parkway, sidewalk, or other public way, operated and/or controlled by the city or other public entity, or subject to an easement owned by or dedicated or granted to the city.

(5) "Event." Any event held by an organization other than the city that has been sanctioned by the city and approved in advance by the city manager.

**9-503. Permit fee.** Owners of mobile food preparation vehicles shall pay an annual permit fee of twenty-five dollars (\$25.00) per mobile food unit vehicle.

**9-504. Mobile food preparation vehicles.** Mobile food preparation vehicles shall meet all applicable requirements of this chapter in addition to the requirements outlined as follows:

(1) No person shall engage in the business of a mobile food preparation vehicle within the municipal limits without first having a valid applicable business license for the company's base operation.

(2) A mobile food preparation vehicle license, as authorized by the State of Tennessee and local ordinances, will not be issued to a person unless the following conditions are met:

(a) The vehicle must be specially designed as defined as a mobile food preparation vehicle and be approved by the health department.

(b) No person shall engage in the business of a mobile food preparation vehicle without having a valid commissary license issued by the health department.

(c) Each mobile food preparation vehicle must display its business name and state and local permit numbers, in a prominent and visible location on the vehicle.

(d) The driver of the truck must have a current Tennessee driver's license, current auto insurance (including liability insurance) and a current vehicle registration as required by Tennessee law and enforced by law enforcement authorities.

(e) For private property, the vehicle can only operate in locations where the operation of motorized vehicles are permitted under city ordinances, and areas as specified below:

- (i) B-1 (Central Business District)
- (ii) B-2 (General Business District)
- (iii) B-4 (Interstate Business District)
- (iv) M-1 (Light Industrial District)
- (v) M-2 (Heavy Industrial District)
- (vi) P-1 (Mixed Use Park District)

(f) For public property, the vehicle can only operate in locations where the operation of motorized vehicles are permitted under city ordinances, and areas as specified below:

- (i) JC Park, within designated area
- (ii) Lakefront Park, within designated area
- (iii) South Clinton Park, within designated area
- (iv) Gilliam Street public parking lot, within designated area
- (v) Commerce Street public parking lot, within designated area

(vi) Any other public property is subject to approval by city manager

(g) Setup in a metered parking space or public right-of-way shall be prohibited unless approved in advance by the city manager and subject to street closure by the Clinton Police Department. (modified)

**9-505. Operational requirements.** (1) When parked on private property with permission of the property owner, a mobile food preparation vehicle may operate at the times and for the duration provided in its permission by the property owner, but shall not exceed seventy-two (72) hours.

(2) When proposed, operation on public property site locations must be approved in advance during the permit process. Public areas may be restricted due to safety concerns and may not be approved when proposed by the applicant. Liability insurance in the amount of one million dollars (\$1,000,000.00) naming City of Clinton as additionally insured is required (a certificate of insurance must be provided with application).

(3) No mobile food preparation vehicle shall be equipped with any external electronic sound-amplifying device.

(4) Cooking shall not be conducted while the vehicle is in motion.

(5) Mobile food preparation vehicle shall be parked only in locations that do not violate this chapter or any other municipal ordinance.

(6) No detached signs are permitted. All signs used must be permanently affixed to, or painted on, the mobile food preparation vehicle and shall extend no more than six inches (6") from the vehicle. No sign shall flash, cause interference with radio, telephone, television or other communication transmissions; produce or reflect motion pictures; be animated; or produce any rotation or motion.

(7) Vendor must provide for the sanitary collection of all refuse, litter and garbage generated by the patrons using that service and remove all such waste materials daily.

(8) City sponsored or co-sponsored events are exempt from the regulations.

**9-506. Health department requirements.** All mobile food preparation vehicles and food handlers shall meet all applicable standards of the Tennessee Department of Health.

**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. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Removal of animal waste required.

**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. (1991 Code, § 10-101)

**10-102. Keeping near a residence or business restricted.** No person shall keep or allow within the corporate limits any animal or fowl enumerated in the preceding section except as allowed under the provisions of Title 14 of the Clinton Municipal Code Swine are prohibited without exception within the corporate limits.

**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. (1991 Code, § 10-103)

**10-104. Adequate food, water, and shelter, etc., to be provided.** No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1991 Code, § 10-104)

**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. (1991 Code, § 10-105)

**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 facility provided or designated by the city council. 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 or the same will be humanely destroyed or sold as determined by the chief of police. (1991 Code, § 10-107, modified)

**10-107. Removal of animal waste required.** The owner or custodian of any animal shall be responsible for the immediate removal of any excreta deposited by his/her animal(s) on any public walks, streets, alleys, rights-of-way, recreational areas, parks, and ball fields, or on any private property not belonging to the owner/custodian of such animal.

(1) Voluntary removal and disposal of such excreta shall not constitute a violation of this section.

(2) This section shall be enforced under the provisions of § 6-202 of the Clinton Municipal Code.

## CHAPTER 2

### DOGS AND CATS

#### SECTION

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

**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"<sup>1</sup> or other applicable law. (1991 Code, § 10-201)

**10-202. Dogs and cats to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1991 Code, § 10-202)

**10-203. Running at large prohibited.**<sup>2</sup> It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits.

Any person knowingly permitting a dog or cat to run at large, including the owner of the dog or cat, may be prosecuted under this section even if the dog or cat is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1991 Code, § 10-203)

**10-204. Vicious dogs and cats to be securely restrained.** It shall be unlawful for any person to own or keep any dog or cat known to be vicious or

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<sup>1</sup>State law reference

Tennessee Code Annotated, §§ 68-8-101 through 68-8-114.

<sup>2</sup>State law reference

Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

dangerous unless such dog or cat is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1991 Code, § 10-204)

**10-205. Noisy dogs and cats prohibited.** No person shall own, keep, or harbor any dog or cat which, by loud and frequent barking, meowing, whining, or howling, disturbs the peace and quiet of any neighborhood. (1991 Code, § 10-205)

**10-206. Confinement of dogs and cats suspected of being rabid.** If any dog or cat 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 or cat to be confined or isolated for such time as he deems reasonably necessary to determine if such dog or cat is rabid. (1991 Code, § 10-206)

**10-207. Seizure and disposition of dogs and cats.** Any dog or cat found running at large may be seized by any police officer or other properly designated officer or official and placed in an animal shelter provided or designated by the city council. The process of notifying owners and/or the disposition of unclaimed dogs or cats will be per the animal shelter's policies. (1991 Code, § 10-207, modified)

**10-208. Destruction of vicious or infected dogs and cats running at large.** When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be safely impounded it may be summarily destroyed by any police officer<sup>1</sup> or other properly designated officer. (1991 Code, § 10-208)

**10-209. Removal of animal waste required.** The owner or custodian of any dog or cat shall be responsible for the immediate removal of any excreta deposited by his/her animal(s) on any public walks, streets, alleys, right-of-way, recreational areas, parks and ball fields, or on any private property not belonging to the owner/custodian of such animal.

(1) Voluntary removal and disposal of such excreta shall not constitute a violation of this section.

(2) The provisions of this section shall not apply to guide dogs under the control of a disabled person, not to dogs used in police activities of the city.

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<sup>1</sup>State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see the case of Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1927).

(3) This section shall be enforced under the provisions of § 6-202 of the Clinton Municipal Code. (1991 Code, § 10-209)

**TITLE 11**

**MUNICIPAL OFFENSES**

**CHAPTER**

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. FIREARMS, WEAPONS AND MISSILES.
4. OTHER OFFENSES.

**CHAPTER 1**

**ALCOHOL<sup>1</sup>**

**SECTION**

11-101. Drinking alcoholic beverages in public, etc.

**11-101. Drinking alcoholic beverages in public, etc.** It shall be unlawful for any person to drink, consume or have an open container of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place with the exception of:

(1) Special events that have been sanctioned and approved by the city.

(2) Any areas specifically designated for use under title 8 of the Clinton Municipal Code when an appropriate permit and/or license for on-premises consumption has been obtained. (1991 Code, § 11-202, modified)

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<sup>1</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

## CHAPTER 2

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-201. Disorderly conduct.

11-202. Anti-noise regulations.

**11-201. Disorderly conduct.** 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. (1991 Code, § 11-401, modified)

**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 person 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 city 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 weekdays, 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) City vehicles. Any vehicle of the city 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 city, 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 city council. 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.

(d) Events sanctioned by the City of Clinton Schools and the Anderson County Schools, any Anderson County sanctioned event, Clinch River Antiques Festival and the Anderson County Fair. Including, but not limited to: athletic events, parades, fairs, festivals, firework celebrations, band practices and performances. (1991 Code, § 11-402, modified)

**CHAPTER 3****FIREARMS, WEAPONS AND MISSILES****SECTION**

11-301. Air rifles, etc.

11-302. Discharge of firearms.

**11-301. Air rifles, etc.** It shall be unlawful for any person in the city to discharge recklessly any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1991 Code, § 11-601, modified)

**11-302. Discharge of firearms.** It may be unlawful for any unauthorized person to discharge a firearm within the corporate limits except when or where the discharge of a firearm is expressly authorized or permitted by state law. (1991 Code, § 11-603, modified)

**CHAPTER 4****OTHER OFFENSES****SECTION**

11-401. Interference with traffic.

11-402. Use of tobacco or vapor products prohibited.

**11-401. Interference with traffic.** It shall be unlawful for any person to stand, sit, or engage in any activity whatsoever 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. (1991 Code, § 11-703)

**11-402. Use of tobacco or vapor products prohibited.** (1) It shall be unlawful for any person to use tobacco products or vapor products on the grounds of any city-owned or controlled playground, park, greenway, or property that is accessible to use by youth. This prohibition contained in this section does not apply to buildings, sidewalks, or roads.

(2) As used in this section:

(a) "Playground" is any indoor or outdoor facility that is intended for recreation of children.

(b) "Greenway" is

(i) An open-space area following a natural or man-made linear feature designed to be used for recreation, transportation, and conservation, and to link services and facilities; or

(ii) A paved, gravel-covered, woodchip-covered, or wood-covered path that connects one greenway entrance with another greenway entrance.

(c) "Tobacco product" means any product that contains tobacco and is intended for human use.

(d) "Youth" means persons under twenty-one (21) years of age.

**TITLE 12****BUILDING, UTILITY, ETC. CODES<sup>1</sup>****CHAPTER**

1. BUILDING CODE.
2. RESIDENTIAL CODE.
3. EXISTING BUILDING CODE.
4. PROPERTY MAINTENANCE CODE.
5. PLUMBING CODE.
6. ELECTRICAL CODE.
7. FUEL GAS CODE.
8. MECHANICAL CODE.
9. 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,<sup>2</sup> 2018 edition, including all Appendices and Reference Standards as prepared and adopted by the International Code

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<sup>1</sup>Municipal code references

Fair housing: title 20, chapter 1.

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Property maintenance regulations: title 13.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

Council, excluding Appendix A and H, is hereby adopted and incorporated by reference as part of this code, and is hereinafter referred to as the building code. (1991 Code; § 12-101, modified)

**12-102. Modifications.** (1) Definitions. Whenever in the building code when reference is made to the duties of a certain official named therein, that designated official of the City of Clinton 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.

(2) Permit fees. The schedule of permit fees shall be as follows: Structure building classification is determined from the building code and the square footage of the structure is multiplied by the appropriate multiplier from the Building Valuation Data Sheet (Attachment 1)<sup>1</sup> to determine a total cost for the structure. The actual permit fee will be taken from the Building Permit Fee Chart (Attachment 2)<sup>2</sup> and applied to the permit.

(3) Attachment 2. The schedule of permit fees set forth in Attachment 2 is amended so that a maximum building inspection fee of one thousand dollars (\$1,000.00) shall be charged for the construction, alteration, etc., of any church building which is used or to be used exclusively for worship or church services or meetings, provided the construction, alteration, etc., of said church building has been designated by a duly qualified architect or engineer.

(4) IBC Chapter 33 section 3303. The following texts additions to this section in the building code will be applied as additional code sections pertaining to demolition.

(a) 3303.8 All demolitions within the City of Clinton related to buildings and/or structures shall be in accordance with the building code adopted by the city. The standards set forth in this section shall apply to demolition of all buildings and structures. Where the demolition of a non-residential building or structure exceeds five thousand square feet (5,000 sq ft), the city must issue a building permit before the activity can commence.

(b) 3303.9 DEMOLITION, the act of razing, dismantling or removal of a building or structure that exceeds five thousand square feet (5,000 sq ft), or portion thereof, to the ground level. Renovations to non-residential buildings or structures, which exceed five thousand square feet (5,000 sq ft). The five thousand square feet (5,000 sq ft) is the total area to be impacted within a three (3) year period regardless of whether the project is phased.

(c) 3303.10 Where demolition of a non-residential building or structure requires the issuance of a permit, and where the structure was constructed prior to 1978, the city can request a copy of a Phase 1

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<sup>1</sup>Attachments 1 and 2 are of record in the office of the recorder.

Environmental Assessment for the building or structure. The assessment shall be prepared in accordance with current ASTM requirements, and the expense of the same shall be the sole responsibility of the permittee. In the event that a recognized environmental condition is identified as part of the assessment, the permittee will be required to undertake additional sampling and/or testing as is warranted. In addition, the permittee must submit a remediation plan, including the location of where such material is to be disposed, as part of the permit application.

(d) 3303.11 In the event that a demolition permit is required by section IBC 105.1 and the demolition takes place without a permit having been issued, the City of Clinton reserves the right to cause the work to cease in accordance with its legal authority. In addition, if an environmental hazard exists in connection with the work and which is not being properly addressed in accordance with federal and state guidelines, the City of Clinton reserves the right to remediate the environmental condition with the cost associated with the same to be borne by the property owner. (1991 Code, § 12-102, modified)

**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. (1991 Code, § 12-103)

**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. The penalty for violations of the building code shall be punishable by fines not less than fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 12-104, modified)

## CHAPTER 2

### RESIDENTIAL CODE

#### SECTION

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

**12-201. 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,<sup>1</sup> 2018 edition, and all appendices and reference standards as prepared and adopted by the International Code Council, excluding IRC Section P2904 Dwelling Unit Fire Sprinkler Systems and IRC Section N1102.4.2.1 Testing Option, is hereby adopted and incorporated by reference as part of this code, and is hereinafter referred to as the residential code. (1991 Code, § 12-301, modified)

**12-202. Modifications.** (1) Permit fees for residential structures shall be evaluated from the residential building using (Attachment 1), as described in § 12-102(2) and permit fees assigned from (Attachment 2), in accordance with § 12-102(2).

(2) R313.1 text amended to read as: Townhouse Automatic fire sprinkler system. An automatic residential fire sprinkler system shall be installed in townhouses; however, an automatic fire sprinkler system shall not be required in a three (3) unit townhouse with less than five thousand (5,000) gross square and three (3) or fewer stories if each unit is separated by a two (2) hour fire wall.

(3) Delete section R313.2 One and two-family dwellings automatic fire sprinkler systems.

(4) R105.2 (2) Text amendment to read as: Fences not over 6 feet high.

(5) R105.2 (1) R105.2 (9), and R105.2(10) sections to be deleted.

(6) Table N1102.1.2 climate zone 4 except marine text amendment under ceiling R-Value to read 38.

(7) Table N1102.1.2 climate zone 4 except marine text amendment under wood frame wall R-value to read 13.

(8) N1102.2.10 Slab on grade floors requirements amended to be optional due to the possibility of termite infestation.

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

**12-203. Available in recorder's office.** Pursuant to the requirements of the 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. (1991 Code, § 12-303)

**12-204. 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. The penalty for violations of the building code shall be punishable by fines not less than fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 12-304, modified)

## CHAPTER 3

### EXISTING BUILDING CODE

#### SECTION

- 12-301. Existing building code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violations and penalty.

**12-301. Existing building 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 alteration, repair, use, change of occupancy, location, maintenance, relocation, removal, and demolition of existing buildings or structures or any appurtenance connected or attached to any existing building or premises, structures, equipment and facilities, life safety, or to provide safeguards for the public health, safety and welfare, the International Existing Building Code,<sup>1</sup> 2018 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 existing building code. (1991 Code, § 12-201, modified)

**12-302. Modifications.** Whenever in the existing building code when reference is made to the duties of a certain official named therein, that designated official of the City of Clinton 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 existing building code are concerned. (1991 Code, § 12-202)

**12-303. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the existing 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. Administrative regulations adopting amendments to the existing building code will be placed on file when they are published by the building inspector, and at least fifteen (15) days before their effective date. (1991 Code, § 12-203)

**12-304. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the existing building code as herein adopted by reference and modified. The violation of any section of this

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

chapter shall be punishable by a penalty under the general penalty provision of this code. The penalty for violations of the building code shall be punishable by fines not less than fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 12-204, modified)

## CHAPTER 4

### PROPERTY MAINTENANCE CODE<sup>1</sup>

#### SECTION

- 12-401. Property maintenance code adopted.
- 12-402. Modifications.
- 12-403. Available in recorder's office.
- 12-404. Violations and penalty.

**12-401. 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,<sup>2</sup> 2018 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. (1991 Code, § 12-501, modified)

**12-402. Modifications.** (1) Whenever in the property maintenance code when reference is made to the duties of a certain official named therein, that designated official of the City of Clinton 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.

(2) Section 101.1 Title text to be inserted to read "City of Clinton" in prompted location.

(3) Section 302.4 Weeds text to be inserted to read "twelve (12) inches" in prompted location. (1991 Code, § 12-502, modified)

**12-403. 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. Administrative regulations adopting amendments to the property maintenance code will be placed on file

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<sup>1</sup>Municipal code reference

Fair housing: title 9, chapter 4.

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

when they are published by the building inspector, and at least fifteen (15) days before their effective date. (1991 Code, § 12-503)

**12-404. 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 on this code. The penalty for violations of the building code shall be punishable by fines not less than fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 12-504, modified)

## CHAPTER 5

### PLUMBING CODE

#### SECTION

- 12-501. Plumbing code adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Violations and penalty.

**12-501. 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 city, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code,<sup>1</sup> 2018 edition, including all Appendices and Reference Standards 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. (1991 Code, § 12-601, modified)

**12-502. 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 city council.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referenced to, it shall mean the person appointed or designated by the city council to administer and enforce the provisions of the international plumbing code.

(2) Permit fees. The schedule of permit fees as recommended in "Appendix "A" of the plumbing code is hereby amended so that the fees to be collected shall be as follows: A multiplier of 2.1 for the total number of fixture units in a structure, plus a ten dollar (\$10.00) review fee will be calculated for the total plumbing permit fee. (1991 Code, § 12-602, modified)

**12-503. 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. (1991 Code, § 12-603)

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<sup>1</sup>Copies 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 plumbing 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. The penalty for violations of the building code shall be punishable by fines not less than fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 12-604, modified)

## CHAPTER 6

### ELECTRICAL CODE<sup>1</sup>

#### SECTION

12-601. Electrical code adopted.

12-602. Permits required for doing electrical work.

12-603. Available in recorder's office.

12-604. Violations and penalty.

**12-601. Electrical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing minimum regulations for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity, the National Electrical Code,<sup>2</sup> 2017 edition, and all Appendices and Reference Standards as prepared and adopted by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1991 Code, § 12-701, modified)

**12-602. Permits required for doing electrical work.** No electrical work shall be done within this city until a permit therefor has been issued by the Clinton Utilities Board. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1991 Code, § 12-702)

**12-603. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (1991 Code, § 12-703)

**12-604. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provisions of the electrical code as herein adopted by reference and modified. The penalty for violations of the electrical code shall be punishable by fines not less than fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 12-704, modified)

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<sup>1</sup>Municipal code reference

Fire protection, fireworks and explosives: title 7.

<sup>2</sup>Copies of this code may be purchased from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

## CHAPTER 7

### FUEL GAS CODE

#### SECTION

- 12-701. Fuel gas code adopted.
- 12-702. Modifications.
- 12-703. Available in the recorder's office.
- 12-704. Violations and penalty.

**12-701. Fuel gas code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing regulations for fuel gas systems and gas-fired appliances using prescriptive and performance-related provisions, the International Fuel Gas Code, 2018<sup>1</sup> edition, and all Appendices and Reference Standards 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 fuel gas code. (1991 Code, § 12-801, modified)

**12-702. Modifications.** (1) Definitions. Whenever in the fuel gas code when reference is made to the duties of a certain official named therein, that designated official of the City of Clinton 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 fuel gas code are concerned.

(2) Permit fees. The schedule of permit fees shall be as follows: A fee of fifteen dollars (\$15.00) shall be assessed on all permits and/or permit request that require the installation, repair, or alteration in accordance with the fuel gas code. (1991 Code, § 12-802, modified)

**12-703. Available in the recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the fuel gas code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1991 Code, § 12-803)

**12-704. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the fuel gas 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. The penalty for violations of the building code shall be punishable by fines not less

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

than fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 12-804, modified)

## CHAPTER 8

### MECHANICAL CODE

#### SECTION

- 12-801. Mechanical code adopted.
- 12-802. Modifications.
- 12-803. Available in recorder's office.
- 12-804. Violations and penalty.

**12-801. Mechanical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing minimum regulations for mechanical systems using prescriptive and performance-related provisions, the International Mechanical Code<sup>1</sup>, 2018 edition, and all Appendices and Reference Standards as prepared and adopted by the International Code Council, excluding Appendix B Permit Fees, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (1991 Code, § 12-901, modified)

**12-802. Modifications.** Permit fees, the schedule of permit fees shall be as follows: A fee of fifty dollars (\$50.00) shall be assessed on all permits and/or permit request that require the installation, repair, or alteration in accordance with the mechanical code. (1991 Code, § 12-902, modified)

**12-803. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (1991 Code, § 12-903)

**12-804. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified. The penalty for violations of the building code shall be punishable by fines not less than fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 12-904, modified)

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

## CHAPTER 9

### ENERGY CONSERVATION CODE

#### SECTION

- 12-901. Energy conservation code adopted.
- 12-902. Available in recorder's office.
- 12-903. Violations and penalty.

**12-901. Energy conservation code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing minimum regulations for the design of energy efficient building envelopes and installation of energy efficient mechanical, lighting, and power systems through requirements emphasizing performance using new materials, new energy efficient designs, and performance related provisions, the International Energy Conservation Code,<sup>1</sup> 2018 edition, and all Appendices and Reference Standards 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 energy conservation code. (1991 Code, § 12-1001, modified)

**12-902. 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 city recorder's office and shall be kept there for the use and inspection of the public. (1991 Code, § 12-1002)

**12-903. 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 penalty for violations of the building code shall be punishable by fines not less than fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1991 Code, § 12-1003, modified)

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

## TITLE 13

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

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKED MOTOR VEHICLES.
3. DUST CONTROL.
4. SLUM CLEARANCE.

#### 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. (1991 Code, § 13-101)

**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. (1991 Code, § 13-102)

**13-103. Weeds and grass.** Every owner, tenant or occupant 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 order of the city manager to cut such vegetation when it has reached a height of over one foot (1'). (1991 Code, § 13-103)

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<sup>1</sup>Municipal code references

Building and related codes: title 12.

Refuse storage and collection: title 17.

**13-104. Overgrown and dirty lots.**<sup>1</sup> (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 or the accumulation 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 responsible for enforcement. The provisions of this section shall be enforced by the building official for the City of Clinton.

(3) Notice to property owner. It shall be the duty of the building official to serve notice upon the owner of record in violation of this section to remedy the condition immediately. The notice shall state in plain language that the owner of record must 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 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 this section and that the property of such owner may be cleaned up by the city 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 city;

(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. (a) 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

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<sup>1</sup>Municipal code reference

Section 13-103 applies to cases where the city wishes to prosecute the offender in city court. Section 13-104 can be used when the city seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up, but not to prosecute the owner in city court.

communications, electricity, gas, liquids, steam, sewage, or other materials), then the building official may immediately cause the condition to be remedied or removed at a cost that shall be in conformity with reasonable standards prevailing in the city, and the cost shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Anderson County, the costs shall be a lien on the property in favor of the city, second only to liens of the state, county, and city for taxes, any lien of the city 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 city as a lien and shall be added to property tax bills to 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.

(b) The provisions of subsection (a) above, shall apply to all real property, including owner-occupied residential property. However, in the case of owner-occupied residential property, the building official shall 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 the cost for which the lien attached are collectable as provided herein.

(5) Action for debt. In the addition to the other remedies provided herein, the city may collect the cost assessed against the property owner or owners through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all owners of the properties against whom such cost 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.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the building official may appeal the determination and order to the city council. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued by the building official. 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 city council under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of the 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 city 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 grass, weeds, underbrush and/or the elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1991 Code, § 13-104)

**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 city recorder and dispose of such animal in such manner as the city recorder shall direct. (1991 Code, § 13-105)

**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. (1991 Code, § 13-106)

**13-107. Violations and penalty.** It shall be unlawful for any person to violate any provision of this chapter. Violations shall be punished in accordance with the general penalty provisions of this municipal code of ordinances, except violations of § 13-104, which shall be disposed of in accordance with the procedure and remedy therein described. (1991 Code, § 13-107)

## CHAPTER 2

### JUNKED MOTOR VEHICLES

#### SECTION

13-201. Definitions.

13-202. Presence of junked motor vehicles a public nuisance.

13-203. Order to remove junked motor vehicles.

13-204. Removal by city of junked motor vehicles.

**13-201. Definitions.** A motor vehicle, for all purposes hereunder, is defined as any vehicle which is self-propelled and any device in, upon or by which any person or property is or may be transported or drawn from one (1) location to another, except devices moved only by human power or used exclusively upon stationary rails or tracks. A junked motor vehicle is any motor vehicle the condition of which is any one (1) or more of the following:

- (1) Wrecked;
- (2) Dismantled;
- (3) Inoperative;
- (4) Abandoned;
- (5) Discarded. (1991 Code, § 13-201)

**13-202. Presence of junked motor vehicles a public nuisance.** The location or presence of any junked motor vehicle on a lot, tract, or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the City of Clinton, Tennessee, shall be deemed a public nuisance, and it shall be unlawful for any person or other legal entity to cause, maintain, or permit such public nuisance by wrecking, dismantling, rendering inoperable, abandoning, or discarding a motor vehicle or vehicles on the property of another, or to suffer, permit, or allow the same to be placed, located, maintained, or to exist upon real property belonging to such party. However, this section shall not apply to the following:

- (1) Any junked motor vehicle in a completely enclosed building.
- (2) Any junked motor vehicle in an appropriate storage place or depository maintained in an officially designated place and manner by the City of Clinton. (1991 Code, § 13-202)

**13-203. Order to remove junked motor vehicles.** Whenever any junked motor vehicle is found within the City of Clinton in violation of this chapter, the city manager or his duly authorized representative shall cause the owner or occupant of the premises on which such vehicle is located to be served with an order to remove such vehicle within ten (10) days after service of such order. It shall be unlawful for the owner or occupant of the premises to fail,

neglect, or refuse to obey such order within ten (10) days after service of same. (1991 Code, § 13-203)

**13-204. Removal by city of junked motor vehicles.** If the premises on which a junked motor vehicle is located contrary to this chapter are unoccupied and the owner or agent thereof cannot be found, or by permission of the owner of the premises, the city manager or his duly authorized representative shall abate such public nuisance by entering upon the property and impounding and taking into custody the motor vehicle in question, and disposing of same in accordance with and as authorized by Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. Such impoundment and disposition shall not relieve any person or party from liability for penalty upon conviction for violating other provisions of this municipal code, but is in addition to any other penalty. (1991 Code, § 13-204)

## CHAPTER 3

### DUST CONTROL

#### SECTION

13-301. Findings.

13-302. Definitions.

13-303. Discharge of fugitive dust unlawful.

13-304. Initial determination, notice, and abatement.

13-305. Failure to abate; abatement by city.

**13-301. Findings.** The city council hereby finds that fugitive dust and the dispersal on the public right-of-way of dust, sawdust, mud, dirt, coal and crushed rock resulting from the industrial or commercial use of real property constitutes a hazard to the public health, causes the depreciation of real estate values, reduces tax receipts by impairing the tax base, causes blight, imposes costs for additional public services and maintenance of public rights of way, creates traffic hazards and is otherwise a public nuisance. (1991 Code, § 13-301)

**13-302. Definitions.** The following words and phrases, which shall apply in the interpretation of this chapter, are defined as follows:

(1) "All-weather surface" is that base treatment or surface material which in the opinion of the city council upon competent evidence thereof, will prevent the entrainment of fugitive dust from the source.

(2) "Fugitive dust" shall mean solid particulate matter emitted from any source other than a stack or chimney and created by natural forces, construction work, mechanical processes or movements of motor vehicles.

(3) "Particulate matter" shall mean any material, except unadulterated water, that exists in an finely divided form as a liquid or solid.

(4) "Source" shall mean that real property which is the point of entrainment of fugitive dust. (1991 Code, § 13-302)

**13-303. Discharge of fugitive dust unlawful.** It shall be unlawful for any person owning, leasing, occupying or having charge of any premises in the City of Clinton to conduct any enterprise on such premises in such manner which in the determination of the codes enforcement officer is directly resulting in fugitive dust, sawdust, mud, dirt, coal, crushed rock or other similar material being discharged, carried or entrained from the property to the extent that any of the following conditions result:

- (1) Injury, detriment or nuisance or annoyance to the public;
- (2) Danger to the comfort, repose, health or safety of the public;
- (3) Injury or damage to business or property;
- (4) Hazardous conditions on the public right-of-way;
- (5) Blight or the impairment of property values;

- (6) Increased costs for the maintenance of the public right-of-way; or
- (7) Any condition set forth in § 13-301. (1991 Code, § 13-303)

**13-304. Initial determination, notice, and abatement.** Whenever the codes enforcement officer has inspected or caused to be inspected any premises and has found and determined there is reasonable cause to believe that such premises are in violation of § 13-303, he shall give written notice to the owner of record of the premises, containing:

- (a) The street address and such other description as is required to identify the source;
- (b) A statement describing the conditions believed to be in existence in violation of § 13-303;
- (c) A statement of the action required to be taken to abate the conditions; and
- (d) A request to the owner to, within ten (10) days, meet with or communicate with the codes enforcement officer, or his designee, to discuss abatement.

The above notice shall be sent certified mail to the owner of record. (1991 Code, § 13-304)

**13-305. Failure to abate; abatement by city.** In the event the owner shall fail, neglect or refuse to abate the conditions in violation of § 13-303 within thirty (30) days of written notice, the city council may direct the abatement of the conditions on the subject property by the city manager or his designee. Such abatement may be effected by city employees or by private contract, and the city manager and his designees are expressly authorized to enter upon the property for such purposes. The cost of such abatement may be assessed against the owner and/or the property involved. (1991 Code, § 13-305)

## CHAPTER 4

### SLUM CLEARANCE

#### SECTION

- 13-401. Findings of board.
- 13-402. Definitions.
- 13-403. Public officer designated; powers.
- 13-404. Initiation of proceedings; hearings.
- 13-405. Orders to owners of unfit structures.
- 13-406. When public officer may repair, etc.
- 13-407. When public officer may remove or demolish.
- 13-408. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-409. Basis for a finding of unfitness.
- 13-410. Service of complaints or orders.
- 13-411. Enjoining enforcement of orders.
- 13-412. Additional powers of public officer.
- 13-413. Powers conferred are supplemental.
- 13-414. Structures unfit for human habitation deemed unlawful.

**13-401. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council finds that there exists in the city 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 city. (1991 Code, § 13-401)

**13-402. 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" means the city council, charged with governing the city.

(3) "Municipality" means the City of Clinton, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

(5) "Parties in interest" means all individuals, associations, corporations and others who have interests of record in a structure 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" means any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(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 an dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (1991 Code, § 13-402)

**13-403. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," to be the code enforcement officer of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the code enforcement officer. (1991 Code, § 13-403)

**13-404. 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 city charging that any structure is unfit for human occupation 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 charge 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 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. (1991 Code, § 13-404)

**13-405. 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. (1991 Code, § 13-405)

**13-406. When public officer may repair, etc.** If the owner fails to comply with an 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." (1991 Code, § 13-406)

**13-407. 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 or demolished. (1991 Code, § 13-407)

**13-408. Lien for expenses; sale of salvaged 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 (1) 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 Anderson 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 City of Clinton to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1991 Code, § 13-408)

**13-409. 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 City of Clinton. 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 uncleanliness. (1991 Code, § 13-409)

**13-410. Service of complaints or orders.** Complaints or orders issued by a public officer pursuant to an ordinance adopted under this part 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 municipality, or in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the structures are located. 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 Anderson County Register's Office, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (1991 Code, § 13-410)

**13-411. 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. (1991 Code, § 13-411)

**13-412. 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 city 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. (1991 Code, § 13-412)

**13-413. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the city 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. (1991 Code, § 13-413)

**13-414. 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 city structures which are unfit for human occupation or use 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 city. 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. (1991 Code, § 13-414)

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. STORMWATER MANAGEMENT.

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

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.
- 14-104. Fees for application for planning, zoning, building, fire, grading, codes, and/or appearing before the Clinton Municipal/Regional Planning Commission, Board of Zoning Appeals, and Historic Zoning Commission.

**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 seven (7) members; two (2) of these shall be the mayor and another member of the governing body selected by the governing body the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The term of the mayor and the member selected by the governing body shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1991 Code, § 14-101)

**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. (1991 Code, § 14-102)

**14-103. Additional powers.** Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1991 Code, § 14-103)

**14-104. Fees for application for planning, zoning, building, fire, grading, codes and/or appearing before the Clinton Municipal/Regional Planning Commission, Board of Zoning Appeals, and Historic Zoning Commission.** The following fees, entitled “City of Clinton Comprehensive Development Fee Schedule (FY24-FY26)” attached as APPENDIX E<sup>1</sup> of the Clinton Zoning Ordinance, as amended, from the adopted construction codes and current fee schedules, shall be charged to individuals or entities requesting planning, zoning, building, fire, grading and codes permits or services.

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<sup>1</sup>Exhibit E, and any amendments thereto, may be found in the building official's office.

**CHAPTER 2<sup>1</sup>****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 within the City of Clinton shall be governed by Ordinance No. 680, titled "Zoning Code of the City of Clinton, Tennessee", and any amendments thereto.

**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.

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<sup>1</sup>Ordinance No. 680, and any amendments thereto, are published as separate documents and are of record in the office of the city codes department and the city recorder.

## CHAPTER 3

### STORMWATER MANAGEMENT

#### SECTION

- 14-301. General provisions.
- 14-302. Definitions.
- 14-303. Waivers.
- 14-304. Stormwater system design: construction and permanent stormwater management.
- 14-305. Permanent stormwater management: operation, maintenance, and inspection.
- 14-306. Existing locations and ongoing developments.
- 14-307. Illicit discharges.
- 14-308. Enforcement.
- 14-309. Appeals.
- 14-310. Modifications.
- 14-311. Violations and penalty.

**14-301. General provisions.** (1) Purpose. It is the purpose of this chapter to:

(a) Protect, maintain, and enhance the environment of the city and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city;

(b) Enable the city to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges;

(c) Allow the city to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the city, whether or not owned and operated by the city;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The city's stormwater administrator shall administer the provisions of this chapter.

(3) Stormwater management ordinance. The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater. This ordinance supersedes and replaces Stormwater requirements in the City of Clinton Subdivision Regulations adopted December 1991.

**14-302. Definitions.** For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Administrative or civil penalties." Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(2) "As built plans" means drawings depicting conditions as they were actually constructed.

(3) "Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures,

and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(4) "Borrow pit" is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

(5) "Buffer zone" means a setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') feet minimum. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. The MS4 must develop and apply criteria for determining the circumstances under which these averages will be available. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. If water quality buffer widths as defined above cannot be fully accomplished on-site, the MS4 must develop and apply criteria for determining the circumstances under which alternative buffer widths will be available. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices.

(6) "Buffer zone requirements." (a) "Construction" applies to all streams adjacent to construction sites, with an exception for streams designated as impaired or exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation. A thirty foot (30') natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology

from Standard Operating Procedures for Hydrologic Determinations (see rules to implement a certification program for Qualified Hydrologic Professionals, TN Rules Chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The thirty feet (30') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than fifteen feet (15') at any measured location.

(b) Buffer zone requirements for discharges into impaired or exceptional waters: A sixty foot (60') natural riparian buffer zone adjacent to the receiving stream designated as impaired or exceptional waters shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a 7.5-minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than twenty-five feet (25') at any measured location.

(c) "Permanent" new development and significant redevelopment sites are required to preserve water quality buffers along waters within the MS4. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') feet minimum. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

(7) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(8) "Common plan of development or sale" is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

(9) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility. The estimated design rainfall amounts, for any return period interval (i.e., 2-yr, 5-yr, 25-yr, etc.) in terms of either twenty-four (24) depths or intensities for any duration, can be found by accessing the following NOAA National Weather Service Atlas 14 data for Tennessee: <http://hdsc.nws.noaa.gov/hdsc/pfds/pfds.map.cont.html.bkmrk=tn>. Other data sources may be acceptable with prior written approval by TDEC Water Pollution Control.

(10) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(11) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(12) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, city or other legal entity has in the land of another.

(13) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

(14) "Erosion prevention and sediment control plan (EPSCP)" means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.

(15) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:

- (a) Vehicle salvage yards and recycling facilities
- (b) Vehicle service and maintenance facilities
- (c) Vehicle and equipment cleaning facilities

- (d) Fleet storage areas (bus, truck, etc.)
- (e) Industrial sites (included on Standard Industrial Classification code list)
- (f) Marinas (service and maintenance)
- (g) Public works storage areas
- (h) Facilities that generate or store hazardous waste materials
- (i) Commercial container nursery
- (j) Restaurants and food service facilities
- (k) Other land uses and activities as designated by an appropriate review authority

(16) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(17) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under §14-307(2).

(18) "Improved sinkhole" is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

(19) "Inspector" An inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level I" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

- (a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state;
- (b) Update field SWPPP's;
- (c) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
- (d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

(20) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities

include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(21) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(22) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(23) "Municipal separate storm sewer system (MS4)" means the conveyances owned or operated by the city for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.

(24) "National Pollutant Discharge Elimination System permit" or a "NPDES" permit means a permit issued pursuant to 33 U.S.C. 1342.

(25) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(26) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(27) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(28) "Person" means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(29) "Priority Construction Activity" means construction activities discharging directly into, or immediately upstream of, waters the state recognizes as having unavailable parameters (for siltation or habitat alteration) or exceptional Tennessee waters.

(30) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

(31) "Sediment" means solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(32) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.

(33) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.

(34) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(35) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(36) "Stormwater entity" means the entity designated by the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the city.

(37) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(38) "Stormwater management facilities" means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(39) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(40) "Stormwater Pollution Prevention Plan (SWPPP)" means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPP's shall be prepared and updated in accordance with the current General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

(41) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(42) "Structural BMPs" means facilities that are constructed to provide control of stormwater runoff.

(43) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(44) "Waste site" means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.

(45) "Water Quality Buffer" see "Buffer."

(46) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(47) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.)

(48) "Waters" or "waters of the state" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

(49) "Wetland(s)" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

(50) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Rules and Regulations of the State of Tennessee, Chapter 1200-4-3-.04(3)).

**14-303. Waivers.** (1) General. No waivers will be granted any construction or site work project. All construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the 2010 NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems primary requirement for on-site permanent stormwater management may be considered, if:

(a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must

be one hundred percent (100%) managed with no discharge to surface waters.

(b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the city.

(2) Downstream damage, etc. prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the stormwater administrator that the proposed alternative will not lead to any of the following conditions downstream:

- (a) Deterioration of existing culverts, bridges, dams, and other structures;
- (b) Degradation of biological functions or habitat;
- (c) Accelerated streambank or streambed erosion or siltation;
- (d) Increased threat of flood damage to public health, life or property.

(3) Grading permit not to be issued where alternatives requested. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management.

**14-304. Stormwater system design: construction and permanent stormwater management.** (1) MS4 Stormwater design or BMP manuals.

(a) Adoption. The city adopts as its MS4 stormwater design and Best Management Practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:

- (i) TDEC Erosion Prevention and Sediment Control Handbook; most current edition.
- (ii) Best Management Practices (BMP) Manual, City of Knoxville Engineering Department Stormwater Engineering Division (most current edition).
- (iii) A collection of MS4 approved BMPs developed or collected by the MS4 that comply with the goals of the MS4 permit and/or the CGP.

(b) The city's BMP manual(s) include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include city approved BMPs for permanent stormwater management including green infrastructure BMPs.

(c) The city manual(s) may be updated and expanded from time to time, at the discretion of the governing body of the city, upon the recommendation of the stormwater administrator, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) Land development. This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications. These standards apply to any new development or redevelopment site that meets one (1) or more of the following criteria:

(a) One (1) acre or more;

(i) New development that involves land development activities of one (1) acre or more;

(ii) Redevelopment that involves other land development activity of one (1) acre or more;

(b) Projects or developments of less than one (1) acre of total land disturbance may also be required to obtain authorization under this ordinance if:

(i) The stormwater administrator has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;

(ii) The stormwater administrator has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;

(iii) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit;

(iv) Any new development or redevelopment, regardless of size, that is defined by the stormwater administrator to be a hotspot land use; or

(v) If the activities are part of a larger common plan of development that may take place at different times on different schedules.

Note: Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, Chapter 1200-4-6.

(3) Submittal of a copy of the NOC, SWPPP and NOT to the local MS4. Permittees who discharge stormwater through an NPDES-permitted municipal

separate storm sewer system (MS4) who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed Notice of Termination (NOT) to the stormwater administrator. Permitting status of all permittees covered (or previously covered) under this general permit as well as the most current list of all MS4 permits is available at the TDEC's dataviewer web site.

Copies of additional applicable local, state or federal permits (i.e.: ARAP, etc.) must also be provided upon request. If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

(4) Stormwater Pollution Prevention Plan (SWPPP) for construction stormwater management. The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with subsection (5) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(5) Stormwater pollution prevention plan requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the state of Tennessee. The plan shall also conform to the requirements found in the MS4 BMP manual, and shall include at least the following:

(a) Project description - briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) Identification of receiving waters, including designation of fully supporting, unavailable parameters, or exceptional Tennessee waters.

(d) Priority construction activity designation if applicable; receiving waters designated as having unavailable parameters or as exceptional Tennessee waters in accordance with current TDEC waterbody assessment data.

(e) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(f) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(g) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(h) Approximate limits of proposed clearing, grading and filling.

(i) Approximate flows of existing stormwater leaving any portion of the site.

(j) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(k) Location, size and layout of proposed stormwater and sedimentation control improvements.

(l) Existing and proposed drainage network.

(m) Proposed drain tile or waterway sizes.

(n) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(o) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMPs.

(p) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(q) Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the city. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the workday to the satisfaction of the city. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(r) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.

(s) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.

(t) Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.

(6) General design performance criteria for permanent stormwater management. The following performance criteria shall be addressed for permanent stormwater management at all development sites:

(a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters.

(b) Limitations to the application of runoff reduction requirements include, but are not limited to:

(i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;

(ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;

(iii) Presence of sinkholes or other karst features.

(c) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

(d) Incentive Standards for re-developed sites: a ten percent (10%) reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of fifty percent (50%) of the standard in the paragraph above is possible for a project that meets all five (5) criteria:

- (i) Redevelopment;
- (ii) Brownfield redevelopment;
- (iii) High density (>7 units per acre);
- (iv) Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and
- (v) Mixed use and transit oriented development (within one-half (1/2) mile of transit).

(e) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove eighty percent (80%) Total Suspended Solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

(f) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirements, the stormwater administrator may allow runoff reduction measures to be implemented at another location within the same USGS twelve (12) Hydrologic Unit Code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the twelve (12) digit HUC) and runoff reduction measures must be approved by the stormwater administrator. The stormwater administrator shall identify priority areas within the watershed in which mitigation projects can be completed. The stormwater administrator must create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

(g) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the MS4 BMP manual.

(h) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(i) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.

(j) Prior to or during the site design process, applicants for land disturbance permits shall consult with the stormwater administrator to

determine if they are subject to additional stormwater design requirements.

(k) The calculations for determining peak flows as found in the MS4 BMP manual shall be used for sizing all stormwater facilities.

(7) Minimum volume control requirements. (Note: the volume control requirements are by the MS4 and not the TDEC MS4 permit) in accordance with § 14-301(1)(c)(iii) the MS4 may establish standards to regulate the quantity of stormwater discharged, therefore:

(a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the MS4 BMP manual.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the stormwater administrator may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(8) Permanent stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the stormwater administrator to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic base map: Topographic base map of the site which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.

(b) Proposed structural and non-structural BMPs;

(c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;

(d) Calculations: Hydrologic and hydraulic design calculations for the pre- development and post-development conditions for the design storms specified in the MS4 BMP manual. These calculations must show

that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the MS4 BMP manual. Such calculations shall include:

- (i) A description of the design storm frequency, duration, and intensity where applicable;
- (ii) Time of concentration;
- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Data on the increase in rate and volume of runoff for the design storms referenced in the MS4 BMP manual; and
- (ix) Documentation of sources for all computation methods and field test results.

(e) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(9) Maintenance and repair plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(10) Buffers and buffer zones. Buffer and buffer zones shall be those buffers and buffer zones as those terms are defined in § 14-302(5) and (6), above, and shall meet the requirements contained in those provisions.

(a) Construction

(i) Construction requires buffer zone widths of a minimum of thirty (30) feet. The thirty (30) foot criterion for the width of the buffer zone can be established on an average width basis. As long as the minimum width of the buffer zone is fifteen feet (15'). The buffer zone shall meet all the other applicable requirements of § 14-302 (5) and (6).

(ii) Construction on impaired or exceptional waters. The width of the buffer zone shall be a minimum of sixty feet (60'). The sixty feet (60') criterion for the width of the buffer zone can be established on an average basis at a project as long as the minimum width of the buffer is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of § 14-302(5) and (6).

(b) Permanent:

(i) More than one (1) square mile drainage area will require buffer zones of a minimum of sixty feet (60') . The sixty foot (60') criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

(ii) Less than one (1) square mile drainage area. Less than one (1) square mile drainage area will require buffer zones of a minimum of thirty feet (30'). The thirty foot (30') criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of § 14-302(5) and (6).

**14-305. Permanent stormwater management: operation, maintenance, and inspection.** (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the city is required before any performance security or performance bond will be released. The city shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the city.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall stabilize. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.

(b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles), or crusher runs will not be considered a non-eroding surface.

(c) The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in §14-306.

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at

least three (3) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party.

**14-306. Existing locations and ongoing developments.** (1) On-site stormwater management facilities maintenance agreement:

(a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.

(b) The maintenance agreement shall:

(i) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(ii) Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (5) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the stormwater administrator. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and

other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.

(iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the stormwater administrator.

(v) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Clinton shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the cost of performing the maintenance shall be a lien against the property.

(2) Existing problem locations - no maintenance agreement. (a) The stormwater administrator shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(b) Inspection of existing facilities. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(3) Owner/operator inspections - generally. The owners and/or the operators of stormwater management practices shall:

(a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The stormwater administrator may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five (5) year inspections shall include:

- (i) Facility type,
- (ii) Inspection date,
- (iii) Latitude and longitude and nearest street address,
- (iv) BMP owner information (e.g., name, address, phone number, fax, and email),

(v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,

- (vi) Photographic documentation of BMPs, and
- (vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The stormwater administrator may require submittal of this documentation.

(4) Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 14-305(2)(c)(i), (ii), (iii) and on a schedule acceptable to the stormwater administrator.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with riprap, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall, at the discretion of the stormwater administrator be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

- (i) Ponds:
  - (A) Detention pond
  - (B) Extended detention pond
  - (C) Wet pond
  - (D) Alternative storage measures
- (ii) Constructed wetlands.
- (iii) Infiltration systems:
  - (A) Infiltration/percolation trench
  - (B) Infiltration basin
  - (C) Drainage (recharge) well
  - (D) Porous pavement
- (iv) Filtering systems:
  - (A) Catch basin inserts/media filter
  - (B) Sand filter
  - (C) Filter/absorption bed
  - (D) Filter and buffer strips
- (v) Open channel:
  - (A) Swale

(5) Corrections of problems subject to appeal. Corrective measures imposed by the stormwater administrator under this section are subject to appeal under § 14-310 of this chapter.

**14-307. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the city's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with § 14-306 shall be an illicit discharge. Nonstormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non- stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
  - (i) Water line flushing or other potable water sources;
  - (ii) Landscape irrigation or lawn watering with potable water;

- (iii) Diverted stream flows;
- (iv) Rising ground water;
- (v) Groundwater infiltration to storm drains;
- (vi) Pumped groundwater;
- (vii) Foundation or footing drains;
- (viii) Crawl space pumps;
- (ix) Air conditioning condensation;
- (x) Springs;
- (xi) Non-commercial washing of vehicles;
- (xii) Natural riparian habitat or wetland flows;
- (xiii) Swimming pools (if dechlorinated - typically less than one (1) PPM chlorine);
- (xiv) Firefighting activities;
- (xv) Any other uncontaminated water source.
- (xvi) Street wash water

(b) Discharges specified in writing by the city as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the city has so specified in writing.

(d) Discharges authorized by the Construction General Permit (CGP), which comply with section 3.5.9 of the same:

(i) Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);

(ii) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;

(iii) Water used to control dust in accordance with CGP section 3.5.5;

(iv) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;

(v) Routine external building washdown that does not use detergents or other chemicals;

(vi) uncontaminated groundwater or spring water; and

(vii) foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether

the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an onsite written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city.

**14-308. Enforcement.** (1) Enforcement authority. The stormwater administrator shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:

(a) Verbal warnings – at a minimum, verbal warnings must specify the nature of the violation and required corrective action.

(b) Written notices – written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

(c) Citations with administrative penalties – The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.

(d) Stop work orders – stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

(e) Withholding of plan approvals or other authorizations – where a facility is in noncompliance, the MS4's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

(f) Additional measures – the MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) Notification of violation. (a) Verbal warning. Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

(b) Written notice. Whenever the stormwater administrator finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the stormwater administrator may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the stormwater administrator. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(c) Consent orders. The stormwater administrator is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (d) and (e) below.

(d) Show cause hearing. The stormwater administrator may order any person who violates this chapter or permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons

for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(e) Compliance order. When the stormwater administrator finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(f) Cease and desist and stop work orders. When the stormwater administrator finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the stormwater administrator may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.

(g) Suspension, revocation or modification of permit. The stormwater administrator may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the city. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the stormwater administrator may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(h) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the city under this ordinance, the strictest standard shall prevail.

**14-309. Appeals.** Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the city's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the city's governing body, or other appeals board established by the city's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the city shall be final.

(3) Appealing decisions of the city's governing body. Any alleged violator may appeal a decision of the city's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

**14-310. Modifications.** Being necessary for the public good, health, safety and welfare and required by the State of Tennessee this ordinance shall become effective upon adoption with the exception of the provisions requiring permanent stormwater controls retaining one hundred (100%) percent of the first inch of a rainfall event (i.e., 14-304(6)). Provisions shall become effective on May 4, 2018. (forty-eight (48) months after NOC), Until such time permanent stormwater controls shall be designed and constructed such that post development flows are less than or equal to predeveloped flows.

**14-311. Violations and penalty.** (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the stormwater administrator, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of Clinton of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the stormwater administrator may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the city;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the city may recover:

(a) All damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.

(b) The costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) Referral to TDEC. Where the city has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the city has not been successful, the city may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

(a) Construction project or industrial facility location;

(b) Name of owner or operator;

(c) Estimated construction project or size or type of industrial activity (including SIC code, if known);

(d) Records of communications with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.

(6) Other remedies. The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

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

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### 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. Presumption with respect to traffic control signs, etc.
- 15-111. School safety patrols.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16, chapter 2.

<sup>2</sup>State law references

Under *Tennessee Code Annotated*, § 55-10-307(b), 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 where death or injury occurs, 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.

- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-121. Delivery of vehicle to unlicensed driver, etc.
- 15-122. Truck routes.
- 15-123. Truck traffic.
- 15-124. Compliance with financial responsibility law required.
- 15-125. 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. (1991 Code, § 15-101)

**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. (1991 Code, § 15-102)

**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. (1991 Code, § 15-105)

**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 sign posted by the city 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. (1991 Code, § 15-106)

**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. (1991 Code, § 15-107)

**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. (1991 Code, § 15-108)

**15-107. Miscellaneous traffic control signs, etc.**<sup>1</sup> 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 city 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*,<sup>2</sup> and shall be uniform as to type and location throughout the city.

**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

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<sup>1</sup>Municipal code references

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

<sup>2</sup>For 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.*

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 official traffic control sign, signal, marking, or device or any railroad sign or signal. (1991 Code, § 15-111)

**15-110. Presumption with respect to traffic control signs, etc.** When a traffic control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper city authority. (1991 Code, § 15-112)

**15-111. 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. (1991 Code, § 15-113)

**15-112. 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. (1991 Code, § 15-114)

**15-113. 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. (1991 Code, § 15-115)

**15-114. 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. (1991 Code, § 15-116)

**15-115. 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. (1991 Code, § 15-117)

**15-116. 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. (1991 Code, § 15-118)

**15-117. 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. (1991 Code, § 15-119)

**15-118. 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."

**15-119. 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. (1991 Code, § 15-121)

**15-120. 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 pounds (1,500 lbs.), 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 cubic centimeters (125cc);

(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, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city 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)(ii)-(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 Memorial Foundation, Inc.

(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 pounds (1,500 lbs.) 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.

**15-121. Delivery of vehicle to unlicensed driver, etc.**

(1) Definitions. (a) "Adult" shall mean any person eighteen (18) 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 City of Clinton 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 city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.

**15-122. Truck routes.** (1) For the purposes of this section a truck is defined to be any vehicle designed or operated for the transportation of property and whose gross vehicle weight exceeds ten thousand (10,000) pounds.

(2) Any truck over ten thousand (10,000) pounds gross vehicle weight shall be prohibited from using streets except those designated as state highway system streets.

(3) Exceptions:

(a) The operation of trucks upon any street where necessary to the conduct of a business at a destination point within the city provided streets designated as truck routes are used until reaching the intersection nearest the destination point.

(b) The operation of emergency vehicles upon any street in the city.

(c) The operation of trucks owned or operated by the city, any contractor or materialman, while engaged in the repair, maintenance, or construction of streets, street improvements, or street utilities within the city.

(d) The operation of trucks for which escort service has been arranged in advance with and provided by the Clinton Police Department. (1991 Code, § 15-124)

**15-123. Truck traffic.** Any truck, or other motor vehicle, with an open bed which is operated on any highway, street or road open for public use in this city which is transporting loose material shall cover such loose material in a manner that the loose material will not spill, drop off or blow away from the open bed when the vehicle is operated. Loose material includes sand, gravel, coal, rock, stone and any other material which could spill, drop off or blow away from the open bed when the vehicle is operated. Loose material shall not include materials such as sand or salt which are purposely discharged from truck beds to clear roadways of snow and ice or improve traction, and shall not include water sprayed on streets for purposes of sanitation.

The provisions of this section shall not apply to motor vehicles which transport crushed stone, fill dirt and rock, sand, soil, coal, phosphate, muck, asphalt, concrete, other building materials, forest products, unfinished lumber, agricultural lime and agricultural products and which are loaded in compliance with the four inch (4") requirement of Tennessee Code Annotated, § 55-7-109. Such exemption shall not apply to any load if any law enforcement officer sees any part of such material blowing off such vehicle. If any part of such material blows off, the operator of such vehicle may be cited for a violation of this section by the law enforcement officer who observed the incident. (1991 Code, § 15-125)

**15-124. 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" shall be defined by *Tennessee Code Annotated*, § 55-12-139:

(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 the 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 the

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 that is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.

**15-125. Adoption of state traffic statutes.** By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the city 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 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the city adopts *Tennessee Code Annotated*, § 55-4-101 through 55-4-135, §§ 55-8-181 to 55-8-193, §§ 55-8-199, 55-8-204, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351 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. (1991 Code, § 15-201)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(2) 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.

(3) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1991 Code, § 15-202)

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<sup>1</sup>Municipal code reference

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

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1991 Code, § 15-203)

**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 police officer. (1991 Code, § 15-204)

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

**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. (1991 Code, § 15-301)

**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. (1991 Code, § 15-302)

**15-303. In school zones.** Pursuant to Tennessee Code Annotated, § 55-8-152, the city 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 section.

In school zones where the city council 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. (1991 Code, § 15-303, modified)

**15-304. In congested areas.** It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1991 Code, § 15-304)

## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Signals.

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. Signals.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1991 Code, § 15-401)

**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. (1991 Code, § 15-402)

**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 the intersection of the center lines of the two (2) roadways. (1991 Code, § 15-403)

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme 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. (1991 Code, § 15-404)

**15-405. U-turns.** U-turns are prohibited. (1991 Code, § 15-405)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1991 Code, § 15-501)

**15-502. 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 any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1991 Code, § 15-502)

**15-503. 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. (1991 Code, § 15-503)

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<sup>1</sup>Municipal code references

Emergency vehicles: title 15, chapter 2.

**15-504. At railroad crossings.** Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1991 Code, § 15-504)

**15-505. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1991 Code, § 15-505)

**15-506. At "yield" signs.** The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1991 Code, § 15-506)

**15-507. At traffic control signals generally.** Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall 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 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) Steady yellow alone, or "Caution":

(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 such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady 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. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn shall not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(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) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(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 a vehicle length short of the signal. (1991 Code, § 15-507)

**15-508. At flashing traffic control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) "Flashing red (stop signal)." When a red lens is illuminated with intermittent flashes, 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 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. (1991 Code, § 15-508)

**15-509. At pedestrian control signals.** Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal 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 his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1991 Code, § 15-509)

**15-510. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (1991 Code, § 15-510)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## 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.
- 15-606. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Handicapped parking spaces.
- 15-613. Emergency parking regulations.
- 15-614. Exceptions.
- 15-615. Presumption with respect to illegal parking.
- 15-616. Violations and penalty.

**15-601. Generally.**<sup>1</sup> (1) Definitions. For the purposes of this chapter, the following definitions shall apply:

- (a) "Park" shall mean to stop, stand, park, or leave parked, attended or unattended, a vehicle, either motorized or non-motorized, except as otherwise provided.
- (b) "Person" shall mean an individual, corporation, firm, partnership, association, organization, or any other group acting as a unit.
- (c) "Vehicle" shall mean any device in, upon or by which any person or property is or may be transported or drawn, including a bicycle.
- (d) "Street" shall mean the entire width between the boundary lines of any public highway, street, or other public thoroughfare maintained by the city, state, or federal government.
- (e) "Parking area" shall mean any public or municipal parking lot or designated parking areas of any public building, school, park, or other public facility within this city.

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<sup>1</sup>Municipal code references

Peddlers, solicitors, etc.: title 9, chapter 1.

Streets and sidewalks, etc.: § 16-101.

(f) "Private property" shall mean the premises of any shopping center, mobile home park, apartment house complex, or any other premises which are generally frequented by the public at large.

(2) It shall be unlawful for any person to park a vehicle, either attended or unattended, in violation of any provision of this chapter of this municipal code of ordinances unless otherwise herein provided. The provisions of this chapter shall apply to parking upon any street or parking area and upon the premises of any private property of any shipping center, mobile home park, apartment house complex, or any other premises which are generally frequented by the public at large.

(3) (a) No person shall park on a street when it is practicable to stop, stand, or park off the street.

(b) No person shall park a vehicle on a street so as to leave less than eighteen feet (18') of unobstructed width of the street for the free passage of other vehicles and a clear view of such vehicle shall be available from a distance of two hundred feet (200') in each direction.

(c) No person shall leave any vehicle unattended without first setting the brake thereon, stopping the motor, and removing the ignition key and, or parked upon any grade, turning the front wheels to the curb or edge of the street.

(d) Except as hereinafter provided, every vehicle parked on a street within the city shall be so parked that its right wheels are approximately parallel to and within twelve inches (12") of the right edge or curb. On one-way streets where the city 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 twelve inches (12") of the left edge or curb.

(e) Notwithstanding anything else in this code to the contrary, no person shall leave a vehicle parked for more than twenty-four (24) consecutive hours on a street or parking area without the prior approval of the chief of police, nor on the premises of any private property without permission of the property owner or agent thereof.

(f) No person shall leave parked a vehicle on a street or parking area after being notified to remove such vehicle upon an order or direction of a police officer, fire official, or other official responsible for enforcement of the municipal code or repair and maintenance of the streets and parking areas, nor on the premises of any private property after being notified to remove such vehicle by the property owner or agent thereof.

(g) No person shall park on private property, other than within designated parking spaces, without permission of the property owner or agent thereof.

(h) No person shall park a vehicle for the purpose of offering or displaying such vehicle for sale or trade unless upon the premises of those places doing lawful business as automobile dealerships or sellers of motor

vehicles except, if on the premises of any private property, by permission of the property owner or agent thereof.

(i) No person shall park a vehicle for the purpose of displaying advertising or commercial messages, nor for the purpose of selling, offering for sale, demonstrating, or giving away any farm produce, food, beverages, goods, or other merchandise unless otherwise provided within this municipal code except, if on the premises of any private property, by permission of the property owner or agent thereof and, then, only after being in compliance with other sections of this municipal code.

(j) No person shall park a vehicle for the purpose of occupying such vehicle for camping, temporary residence, or otherwise sleeping or residing within such vehicle unless upon the premises of those places doing lawful business as campgrounds, trailer parks, or recreational vehicle parks except, if on the premises of any private property, by permission of the property owner or agent thereof or within such areas designated for this purpose by the property owner.

(k) Furthermore, no person shall wash or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a street or parking area. (1991 Code, § 15-601)

**15-602. Angle parking.** On those streets or parking areas which have been sign posted or indicated with pavement markings by the city for angle parking, no person shall park 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'). (1991 Code, § 15-602)

**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 pavement markings on the street, curb, or parking area designating such space. (1991 Code, § 15-603)

**15-604. Where prohibited.**<sup>1</sup> (1) No person shall park in violation of any sign or pavement marking so placed by state or city or, if on the premises of any private property, the property owner or agent thereof which prohibits or restricts such parking or regulates the amount of time parking is allowed. The presumption shall be any such sign or pavement marking was lawfully placed by the state, city, or property owner or agent thereof.

(2) No person shall park:

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<sup>1</sup>Municipal code reference

Zoning and land use control: title 14, appendix B.

- (a) On a sidewalk or curb; 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;
- (b) In front of a public or private driveway or access;
- (c) Within an intersection;
- (d) Within fifteen feet (15') of a fire hydrant;
- (e) Within a pedestrian crosswalk;
- (f) Within twenty feet (20') of a crosswalk at an intersection;
- (g) Within thirty feet (30') upon the approach of any flashing beacon, stop sign, or traffic control signal located at the side of a street;
- (h) Within fifty feet (50') to the nearest rail of a railroad crossing;
- (i) 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 sign posted or indicated by pavement markings;
- (j) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic;
- (k) On the roadway side of any vehicle parked at the edge or curb of a street;
- (l) Upon any bridge, or other elevated structure, or within a tunnel;
- (m) Alongside or at a curb painted red or yellow or at any place where pavement markings or signs indicate parking is not allowed;
- (n) Alongside or within a fire lane provided such fire lane has been properly sign posted or indicated by pavement markings;
- (o) On any paved shoulder which has been separated from the roadway by a solid line marked on the pavement;
- (p) Within the area between roadways of a divided highway, including crossovers or medians;
- (q) On any state or city right-of-way between the roadway curb or edge and the edge of the right-of-way;
- (r) Within the traffic lanes or upon the main traveled portion of any street classified by title 14 of this municipal code as "Level A," "Level B," or "Level C" unless as otherwise provided;
- (s) On any controlled access highway;
- (t) Within an alley or service driveway;
- (u) At any place where such parking will create a hazard or block, impede, or interfere with the normal movement of vehicles, pedestrians, or other traffic. (1991 Code, § 15-604)

**15-605. Loading and unloading zones.** No person shall park for any purpose or period of time other than for the expeditious loading or unloading of

passengers or merchandise where so indicated by sign posting or pavement markings as a loading and unloading zone. (1991 Code, § 15-605)

**15-606. Regulation by parking meters.** In the absence of an official sign to the contrary which has been installed by the city, between the hours of 7:00 A.M. and 7:00 P.M., on all days except Sundays and official holidays as recognized by the city, parking shall be regulated by parking meters where the same have been installed by the city. The presumption shall be that all parking meters were lawfully installed by the city. (1991 Code, § 15-606)

**15-607. Lawful parking in parking meter spaces.** Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin or coins have been deposited in the parking meter and the said meter has been activated or placed into operation in accordance with the instructions printed thereon. (1991 Code, § 15-607, modified)

**15-608. Unlawful parking in parking meter spaces.** (1) It shall be unlawful for any person to park in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one (1) time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

(2) No person shall park in such a space when the parking meter therefor indicates no parking time allowed or indicates a violation, whether such indication is the result of a failure to deposit a coin or coins or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing the coin or coins therein at the time the vehicle was parked. (1991 Code, § 15-608, modified)

**15-609. Unlawful to occupy more than one parking meter space.** It shall be unlawful for any person to park across any line or pavement marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space, provided, however, vehicles which are too large to park within one (1) space may occupy two (2) adjoining spaces provided proper coins are placed in both meters. (1991 Code, § 15-609)

**15-610. Unlawful to deface or tamper with meters.** It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1991 Code, § 15-610)

**15-611. Unlawful to deposit slugs in meters.** It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1991 Code, § 15-611)

**15-612. Handicapped parking spaces.** (1) Definitions. For the purposes of interpreting and enforcing this section, the following definitions shall apply:

(a) "Handicapped driver" is one who is disabled by paraplegia, amputation of leg or foot or both hands, or is disabled by loss of use of a leg, foot or both hands, or other condition, certified to by a physician duly licensed to practice medicine, resulting in an equal degree of disability (specifying the particular condition) so as not to be able to get about without great difficulty, including impairments that, regardless of cause or manifestation, confine such person to a wheelchair or cause such person to walk with difficulty or insecurity and includes, but is not limited to, those persons using braces or crutches, arthritics, spastics and those with pulmonary or cardiac illness who may be semi-ambulatory;

(b) "Handicapped driver" also includes the owner of a motor vehicle with a vision of not more than 20/200 with correcting glasses; and

(c) "Handicapped parking space" is parking space clearly marked with the stylized wheelchair symbol designated and authorized by Tennessee Code Annotated, §§ 55-21-105 and 55-21-106. The marking shall at a minimum include a sign on a pole. After July 1, 1991, signs designating handicapped parking shall indicate that unauthorized or improperly parked vehicles may be towed and the driver fined two hundred dollars (\$200.00), and shall also provide the names and phone number of the towing company or the name and phone number of the property owner, lessee or agent in control of the property. However, nonconforming markings or signs shall be acceptable during the useful life of such markings or signs, which may not be extended by other than normal maintenance, as long as such markings or signs provide reasonable notice of the specially marked parking space.

(d) "Handicapped passenger" is a person who meets the requirements for handicapped drivers established in (a) and (b) above.

(2) Parking in handicapped parking spaces restricted. No person shall park a vehicle of any kind or description in a handicapped parking space unless he or she meets both of the following conditions:

(a) The person driving the vehicle is a handicapped driver, or is parking such vehicle for the benefit of a handicapped passenger; and

(b) The vehicle parking in a handicapped parking space displays at least one (1) of the three (3) following forms of identification:

(i) The distinctive license plates bearing the stylized wheelchair symbol prescribed by Tennessee Code Annotated, § 55-21-104 and officially issued by the Tennessee Department of Revenue under the authority of Tennessee Code Annotated, § 55-21-103;

(ii) The distinctive license plates bearing the words "Disabled Veteran" and a license number composed of the prefix

"DV" and the unique identifying number, as prescribed by Tennessee Code Annotated, §§ 55-21-104 and 55-4-237, and officially issued by the Tennessee Department of Revenue under the authority of Tennessee Code Annotated, § 55-21-103;

(iii) The distinguishing placard prescribed, and issued by the Tennessee Department of Revenue, under the authority of Tennessee Code Annotated, § 55-21-103, which shall be displayed on the dashboard of the vehicle on the driver's side.

(3) No person shall park a vehicle so that a portion of such vehicle encroaches into a handicapped parking space in a manner which restricts, or reasonably could restrict, a person confined to a wheelchair from exiting or entering a motor vehicle property parked within such handicapped parking space.

(4) No person shall park a vehicle as to block or impede access to a ramp or walkway designated for use by a handicapped person.

(5) Placard subject to confiscation. If a law enforcement officer observed a violation of subsection (2) above, the officer may confiscate the handicapped placard. To recover the placard, a driver must demonstrate by a preponderance of the evidence that he or she was in compliance with subsection (2) at the time of the confiscation. (1991 Code, § 15-612, modified)

**15-613. Emergency parking regulations.** Whenever any traffic congestion is likely to result from the holding of public or private assemblages, gatherings or functions, when necessary to preserve public welfare or safety, or when necessary to preserve the peace and order of the city, the chief of police is hereby authorized to post temporary signs or place temporary restrictions on parking upon any street or parking area within this city provided, however, such temporary signs or restrictions shall remain in effect only during the emergency and shall be removed thereafter. (1991 Code, § 15-613)

**15-614. Exceptions.** (1) The provisions of this chapter shall not apply to any vehicle of the city, county, state, public utility, or agent thereof while necessarily in use for the construction or repair of the streets, parking areas, or utilities.

(2) The provisions of this chapter shall not apply to police, fire, or other emergency vehicles while necessarily in use during the execution of official duties.

(3) Any provision of this chapter may be temporarily suspended by the chief of police under conditions constituting a danger to the public welfare or safety or when necessary to preserve the peace and order of the city provided, however, such suspensions are in effect only during such emergency and shall be removed thereafter. (1991 Code, § 15-614)

**15-615. Presumption with respect to illegal parking.** When any unattended vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking except, if the vehicle is rented or leased, such owner provides sworn evidence to the chief of police that the vehicle was, at the time of the parking violation, rented or leased to another person. In such instances, the owner of the vehicle shall, within thirty (30) days after notification of the parking violation, furnish the name, address, and driver license number of the person who rented or leased the vehicle to the chief of police. If the owner fails to provide such information within the thirty (30) day period, then the owner shall become liable for the violation. (1991 Code, § 15-615)

**15-616. Violations and penalty.** (1) It shall be unlawful for any person to violate any provision of this chapter. Violations of this chapter shall be punished according to the general penalty provision of this municipal code of ordinances except as otherwise provided by this code.

(2) In addition, a vehicle which does not display a disabled license plate or placard as prescribed by § 15-613(2) above, and which is parked in a handicapped parking space designated with the wheelchair disabled sign, is subject to being towed or removed. When such a vehicle has been towed or removed pursuant to this paragraph, it shall be released to its owner, or person in lawful possession, upon demand, provided that such person making demand for return pays all reasonable towing and storage charges and that such demand is made during the operating hours of the towing company. (1991 Code, § 15-616)

## 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.

**15-701. Issuance of traffic citations.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning and continued custody of the person is not required, the name, address, driver license number, other information needed to identify such violator, the description and license number of the vehicle involved, as well as other pertinent information as may be necessary shall be taken and a written citation shall be issued to such violator containing a notice to answer to the charge against such violator in the city court at a specified time. Upon receiving the written promise of the alleged violator to answer as specified in the citation, the officer shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information pertaining to the citation. (1991 Code, § 15-701)

**15-702. Failure to obey citation.** (1) 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 citation, regardless of the disposition of the charge for which the citation was originally issued.

(2) It shall be unlawful for any person issued a citation for illegal parking or the owner of a vehicle of which a citation for any violation of this code in respect to illegal parking was issued to fail to appear to answer the charges at the place specified in the citation or pay the required fine to the city recorder within thirty (30) days of the issuance of the citation. (1991 Code, § 15-702)

**15-703. Illegal parking.** (1) Whenever a vehicle is found parked in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take the license number, vehicle description, or other pertinent information from the vehicle to identify the vehicle or its user and may issue a

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<sup>1</sup>Municipal 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.

written citation to the driver, or if the vehicle is unattended, conspicuously affix to such vehicle the citation, giving notice of the violation for the driver and/or owner of such vehicle to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

(2) If the offense is a parking meter violation, the violator may, within thirty (30) days of receiving the citation, have the charge disposed of by paying to the city recorder a fine of ten dollars (\$10.00) provided the violator waives the right to a judicial hearing. If the violator appears and/or waives the right to a judicial hearing after thirty (30) days, but before a warrant is issued, the fine shall be twenty dollars (\$20.00).

(3) If the offense is a fire lane parking violation of the restrictions imposed on parking at the entrance to a fire station, or a violation of the restrictions imposed on parking at a fire hydrant, the violator may, within thirty days (30) of receiving the citation, have the charge disposed of by paying to the city recorder a fine of fifty dollars (\$50.00) provided the violator waives the right to a judicial hearing.

(4) If the offense is a violation of the restrictions imposed on parking within spaces designated for the physically handicapped or any other provision of § 15-612, the violator may, within thirty (30) days of receiving the citation, have the charge disposed of by paying to the city recorder a fine of two hundred dollars (\$200.00).

(5) For other parking offenses, the violator may, within thirty (30) days of receiving the citation, have the charge disposed of by paying to the city recorder a fine of twenty dollars (\$20.00) provided the violator waives the right to a judicial hearing. If the violator appears and/or waives the right to a judicial hearing after thirty (30) days, but before a warrant is issued, the fine shall be forty dollars (\$40.00).

(6) The violator shall have the right to a judicial hearing in the city court upon receiving the citation for a parking violation by, within thirty (30) days of receiving the citation, giving notice to the city recorder such hearing is requested. Failure to pay the required fine or give notice of a request for a judicial hearing within thirty (30) days shall be prima facie evidence of failure to obey citation under § 15-702. If, after thirty (30) days of receiving the citation, the violator has not waived the right to a judicial hearing and paid the required fine or gave notice of a request for a judicial hearing, a warrant for failure to answer citation may be issued for such violator. (1991 Code, § 15-703, modified)

**15-704. Impoundment of vehicles.**<sup>1</sup> (1) Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to tow or remove any vehicle

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<sup>1</sup>Municipal code reference

Junked vehicles: title 13, chapter 2.

whose operator is arrested, any vehicle which is creating a hazard or blocking, impeding, or interfering with the normal movement of vehicles, pedestrians, or other traffic, any vehicle which is parked illegally with respect to a fire lane, fire hydrant, or distance from the entrance to a fire station, any vehicle parked illegally in a space designated for the physically handicapped, or any vehicle which is 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 citations have been issued and the vehicle not removed.

(2) Any vehicle left parked on any street or parking area for more than twenty-four (24) hours without permission from the chief of police shall be presumed to have been abandoned and may be removed and impounded if the owner cannot be located after a reasonable investigation.

(3) Any impounded vehicle shall be stored until the owner claims such vehicle, provides proof of ownership, pays all applicable fines and costs, and pays all reasonable towing and storage charges to the towing company provided, however, such claim must be made during the operating hours of the towing company. (1991 Code, § 15-704)

**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. (1991 Code, § 15-705)

## TITLE 16

### STREETS AND SIDEWALKS, ETC.<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.
3. RAILROAD GRADE CROSSINGS.

#### 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. Temporary banners and signs across streets and alleys restricted.
- 16-105. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-106. Littering streets, alleys, or sidewalks prohibited.
- 16-107. Obstruction of drainage ditches.
- 16-108. Abutting occupants to keep sidewalks clean, etc.
- 16-109. Overhead bridges, trestles, etc.
- 16-110. Animals and vehicles on sidewalks.
- 16-111. Fires in streets, etc.

**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. (1991 Code, § 16-101)

**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'). (1991 Code, § 16-102)

**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

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<sup>1</sup>Municipal code reference

Related 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. (1991 Code, § 16-103)

**16-104. Temporary banners and signs across streets and alleys restricted.**<sup>1</sup> 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 city manager after a finding that no hazard will be created by such banner or sign. (1991 Code, § 16-104)

**16-105. 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. (1991 Code, § 16-105)

**16-106. 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, grass clippings, yard waste, 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. (1991 Code, § 16-106, modified)

**16-107. 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. (1991 Code, § 16-107)

**16-108. 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. (1991 Code, § 16-108)

**16-109. Overhead bridges, trestles, etc.** It shall be unlawful for any person, firm, or corporation hereafter to construct, maintain or permit any overhead bridge, trestle or other structure on, over above or across any of the public streets or thoroughfares of the City of Clinton unless the city council has issued a permit therefor, and unless same is constructed in such a manner as to leave an unobstructed clearance space above the surface of said street or thoroughfare of at least thirteen feet (13') and unless same is so constructed that no pier, pillar or other support of such bridge, trestle or other structure will be

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<sup>1</sup>Municipal code reference

Comprehensive sign regulations: § 14-309.

placed in or on the traveled portion of such street or thoroughfare. (1991 Code, § 16-109)

**16-110. 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 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. (1919 Code, § 16-110)

**16-111. 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. (1991 Code, § 16-111)

## CHAPTER 2

### EXCAVATIONS<sup>1</sup>

#### 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.

**16-201. 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 city manager is open for business, and the permit shall be retroactive to the date when the work was begun. (1991 Code, § 16-201)

**16-202. Applications.** Applications for such permits shall be made to the city manager, 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

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<sup>1</sup>State law reference

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

approved by the city recorder within twenty-four (24) hours of its filing. (1991 Code, § 16-202)

**16-203. Fee.** The fee for such permits shall be in accordance with the City of Clinton building code fee schedule. (1991 Code, § 16-203, modified)

**16-204. Deposit or bond.** No such permit shall be issued unless and until the applicant therefor has deposited with the city treasury a bond or cash equivalent. The deposit shall be determined based on the project as determined by the city building official and/or the city public works director in order to 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 city manager 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 city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city 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 city recorder a surety bond in such form and amount as the city building official and/or city public works director shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1991 Code, § 16-204, modified)

**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. (1991 Code, § 16-205)

**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 city shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the city 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 city manager shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city 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 city, 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. (1991 Code, § 16-206)

**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 city manager in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each accident, and for property damages not less than twenty-five thousand dollars (\$25,000.00) for any one (1) accident, and a seventy-five thousand dollar (\$75,000.00) aggregate. (1991 Code, § 16-207)

**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 city if the city 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 city manager. (1991 Code, § 16-208)

**16-209. Supervision.** The person designated by the city manager shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city 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. (1991 Code, § 16-209)

## CHAPTER 3

### RAILROAD GRADE CROSSINGS

#### SECTION

- 16-301. Where electrical warning devices required.
- 16-302. Signal to consist of light and gong.
- 16-303. Installation of signals.
- 16-304. Operation of signals.
- 16-305. Responsibility for signals.
- 16-306. Type of grade crossings required.

**16-301. Where electrical warning devices required.** All persons, firms, and corporations operating railroads within the corporate limits of the City of Clinton, Tennessee, shall install and maintain electrical warning devices to signal the approach of trains on all grade crossings where the rail road lines cross any public street in the City of Clinton, Tennessee. (1991 Code, § 16-401, modified)

**16-302. Signal to consist of light and gong.** At each of the above designated grade crossing the signal device shall consist of a flashing red light which shall show the word "STOP" when trains, engines, or rail cars are approaching said crossings. The said flashing light shall be of such size as to be clearly readable and legible at a distance of three hundred feet (300'). The signal device shall also cause a gong to sound concurrently with the flashing signal upon the approach of trains, engines, or cars at said grade crossings. The gong shall be clearly audible to pedestrians and vehicular traffic approaching said crossings to warn them of the approach of engines, trains, and rail cars to said crossing. (1991 Code, § 16-402)

**16-303. Installation of signals.** The warning signal devices provided for in this chapter shall be installed, operated and maintained on each side of each railroad crossing and on the right edge of the street or highway as it approaches the grade crossing. The flashing light signal and the gong shall be affixed to a metal post. The bell or gong shall be at the top of the metal post ten feet (10') above the sidewalk level. The flashing light signal shall be approximately eight and one-half feet (8 1/2') above the sidewalk level. These signals shall be located not further than fifteen feet (15') away from the nearest railroad track. In the event that it is impracticable to install the warning signal in the location as provided in this section at any of the specified crossings, the city council may authorize a different location which will efficiently protect the public in the use of the grade crossing. Such authorization shall be in writing in the form of a resolution and placed upon the minutes of the proceedings of the city council. (1991 Code, § 16-403)

**16-304. Operation of signals.** The signal lights shall commence flashing and the gongs shall commence ringing when the lead engine, train or rail car is not closer than three hundred feet (300') from the center line of the street at the grade crossing. The lights shall continue to flash and the gongs shall continue to ring until the train, engine, or rail cars have completely cleared the grade crossing. (1991 Code, § 16-404)

**16-305. Responsibility for signals.** The installation, erection, and maintenance of the signal devices herein prescribed shall be without expense to the City of Clinton, Tennessee. The signal devices shall be installed and maintained by each railroad where its lines intersect the public streets designated above. The railroad companies shall save the City of Clinton harmless from any and all claims, suits, actions, or other costs, damages, judgments, or losses incident to, or growing out of, or in any wise connected with the erection, maintenance and operation of the signal devices and appurtenances. (1991 Code, § 16-405)

**16-306. Type of grade crossings required.** On any grade crossing where a railroad crosses a public street within the City of Clinton which carries more than four thousand five hundred (4,500) vehicles per day, the grade crossing pad shall be constructed of heavy-duty rubber, polyethylene or similar material. The installation and maintenance of the railroad crossings herein described shall be the responsibility of each railroad, and shall be without expense to the City of Clinton. (1991 Code, § 16-407)

**TITLE 17****REFUSE AND TRASH DISPOSAL****CHAPTER****1. STORAGE AND COLLECTION.****CHAPTER 1****STORAGE AND COLLECTION****SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Residential cart service defined.
- 17-104. Non-residential service defined
- 17-105. Commercial service defined.
- 17-106. Collection service required.
- 17-107. Storage.
- 17-108. Location of containers.
- 17-109. Disturbing containers.
- 17-110. Collection vehicles.
- 17-111. Disposal.
- 17-112. Tires.
- 17-113. Residential brush and leaf collection.
- 17-114. Contractor generated refuse and trash.
- 17-115. Only same-site generated refuse.

**17-101. Refuse defined.** Refuse shall mean and include garbage, rubbish, leaves, brush, grass clippings, yard waste, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, building materials, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1991 Code, § 17-101, modified)

**17-102. Premises to be kept clean.** All persons within the city 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. (1991 Code, § 17-102)

**17-103. Residential cart service defined,** Residential property is defined as any housing unit providing single family occupancy in individual units, up to and including eight (8) units, with each unit requiring separate service for refuse collection. All other property shall be defined as

non-residential or commercial for the purpose of this title. Each residential unit will be provided with one appropriate size container for refuse collection.

**17-104. Non-residential service defined.** (1) Cart service. Non-residential cart service is available for any individual non-residential unit; such as a small business, professional office, church, or non-profit organization; that only produces a small quantity of refuse on a weekly basis that is equivalent to and not greater than a residential unit. All other businesses and uses are considered as commercial units for the purpose of this title.

(2) Bulk service. In the B-1 Central Business District, the city may, at its discretion, offer bulk (dumpster) service in centralized locations in lieu of individual cart service.

**17-105. Commercial service defined.** All businesses and uses not classified in §§ 17-103 and 17-104, including strip malls, shopping centers, office complexes, government offices, commercial Planned Unit Developments (PUDs), educational uses and industrial uses, shall be considered as commercial units for the purpose of this title.

**17-106. Collection service required.** All residential and non-residential units within the corporate limits as defined in this title shall receive refuse collection and disposal service, under the supervision of the city manager or his/her designated representative. Collections shall be made regularly in accordance with an announced schedule.

**17-107. Storage.** (1) Residential and non-residential cart service. Each residential and non-residential premise, as defined in this title, shall be provided with one (1) ninety-six (96) gallon cart for refuse collection and storage, at no cost to the user. Residential and non-residential units requiring an additional cart(s) may obtain said carts directly from the city's collection contractor. Charges for additional carts will be paid directly to the contractor, in accordance with the terms of the city's collection contract in force at such time. All refuse materials shall be placed inside the cart provided. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids.

(2) Commercial service. All commercial service units, as defined in § 17-105 of this title, shall be responsible for their own refuse collection and disposal. The city shall not provide this service to commercial units.

**17-108. Location of containers.** Carts shall be placed at the designated area for collection, no later than 6:00 A.M. on the scheduled day of collection. Where streets are used by the collection vehicles, containers shall be placed adjacent to the curb, or adjacent to the edge of pavement or street line if there is no curb. As soon as practicable after such containers have been emptied, they

shall be removed by the owner or tenant to within, or to the side or rear of the premises and away from the street line, until the next scheduled time for collection.

**17-109. 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.

**17-110. 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.

**17-111. 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 city council and/or city manager is expressly prohibited.

**17-112. Tires.** All individuals, property owners and occupants shall be responsible for the storage and/or disposal of used tires in compliance with applicable federal and state laws related to disposal.

**17-113. Residential brush and leaf collection.** The city shall provide, at no cost to the resident or occupant, residential brush and leaf collection service. Brush collection will be provided in accordance with an established policy and announced schedule. Leaf collection will be provided on a seasonal basis in accordance with an established policy and announced schedule.

**17-114. Contractor generated refuse and trash.** Any resident, tenant property owner or agent of same who hires a licensed commercial contractor to perform work on a property shall require the licensed commercial contractor to remove all refuse and trash, including grass clippings, yard waste and brush, from the property on completion of the work. Small quantities of grass clippings, yard waste and brush, as defined in § 17-113, shall be collected in accordance with the established policy for that service.

**17-115. Only same-site generated refuse.** All refuse, including yard waste, brush leaves and other debris placed at curbside for collection must be generated from the same property where it is placed for collection by the city. No person shall transport refuse, including yard waste, brush, leaves or other debris of any kind from one location to another for the purpose of having it picked up by the city. It shall be a violation of this title to transport refuse,

including yard waste, brush, leaves or other debris to a site other than the property on which it was produced for pickup or disposal by the city.

**TITLE 18**

**WATER AND SEWERS**

**CHAPTER**

**1. CLINTON UTILITIES BOARD.**

**CHAPTER 1**

**CLINTON UTILITIES BOARD<sup>1</sup>**

**SECTION**

- 18-101. Creation and purpose.
- 18-102. Definitions.
- 18-103. Organization of board.
- 18-104. Organization of system.
- 18-105. Powers of board.
- 18-106. Duties of board.
- 18-107. Expenditures and obligations of the system.
- 18-108. General manager.
- 18-109. Other employees.
- 18-110. General provisions.

**18-101. Creation and purpose.** Except as otherwise provided in the general laws of the State of Tennessee and the charter of the City of Clinton, the planning, development, production, transmission, distribution, purchase and sale of electricity and water and the collection of wastewater and other utility and comparable services provided by the City of Clinton, both within and without the limits of the city, and the agencies and facilities used for such purposes, shall be under the jurisdiction, control and management of a board to be known as the "Clinton Utilities Board," to be constituted as provided in this chapter. (1991 Code, § 18-101)

**18-102. Definitions.** The following terms, whenever used or referred to in this chapter, shall have the following respective meanings unless a different meaning clearly applies from the context:

- (1) "Board" shall mean the Clinton Utilities Board.
- (2) "Charter" shall mean the charter of the City of Clinton.

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<sup>1</sup>Charter reference  
art. IX

Municipal code references  
Building, utility and residential codes: title 12.

- (3) "City" shall mean the City of Clinton.
- (4) "City council" shall mean the City Council of the City of Clinton.
- (5) "Director" shall mean an individual member of the board.
- (6) "Division" shall mean that part of the system that includes all of one (1) branch of the operation of the system, such as the branch having charge of the electric power operations or the branch having charge of the water operations.
- (7) "Mayor" shall mean the Mayor of the City of Clinton.
- (8) "System" shall mean and shall include the electric system, the water system, the wastewater system and any other system or services that the board is authorized by law to operate or provide and which is approved by the city council. To the full extent permitted by law, services may be provided to customers that are not physically connected to the facilities of the system and all such service shall be deemed to have been provided by the system. (1991 Code, § 18-102)

**18-103. Organization of board.** (1) Members. The board shall consist of five (5) directors to be appointed by the mayor with the consent and approval of a majority of the members of the city council present and voting. One (1) director of the board shall be appointed from the city council for a term of office that shall correspond with the regular term of office of the city council member appointed as director. The remaining four (4) directors shall be appointed thirty (30) days prior to the expiration of the terms of office of the respective director, and all of such appointments shall be for terms of four (4) years each, beginning July 1<sup>st</sup> of each respective year. In the event of a failure to appoint a successor to any director of the board, the director, whose term has expired, shall continue to serve until his or her successor has been duly appointed as herein provided. In the event of any vacancy in the term of a director that occurs more than three (3) months prior to the end of such term, city council shall fill the vacancy for the remainder of the director's unexpired term as otherwise provided above.

(2) Eligibility. Any person who has resided within the corporate limits of the city for a period of at least one (1) year, immediately preceding his or her appointment, and who is an owner of real property therein, shall be eligible to serve as a director.

(3) Compensation. Each director of the board shall be paid a monthly allowance for attendance at regular meetings of the board that shall not exceed the monthly compensation paid by the city to members of city council, and which shall be fixed from time to time by resolution of the board, to take effect when the next full term of a director begins following the passage of such resolution. In addition thereto, each director shall be reimbursed for all necessary travel and other authorized expenses incurred while engaged in the business of the board in accordance with the travel policies established from time to time by the city.

(4) Board officers. The board shall elect from among its members a chair who shall preside over the meetings of the board, a vice-chair who shall sit for the chair during the chair's absence or disability and such other officers as the board deems necessary. The board may also appoint a secretary who is an employee of the system and who shall serve at the will of the board. The secretary shall keep the minutes of the meetings of the board and shall perform such other duties as the board may prescribe. An election of officers of the board shall be held each year at a regular meeting of the board following the appointment of a director for a full term, but not later than the second regular meeting following such appointment. A director holding an office provided for in this paragraph shall hold office until such officer's successor has been elected, or until such officer ceases to be a director. In the event of any vacancy of an elected office during a director's term, the board may hold an election to fill the vacancy at any regular meeting of the board.

(5) Bylaws. The board shall have the right to adopt bylaws consistent with the provisions of this chapter.

(6) Meetings. The board shall hold regular monthly meetings at such time and place as may be established by resolution of the board or in accordance with the board's bylaws. All meetings of the board shall be open to the public except as otherwise permitted by law. Special meetings can be held as needed following appropriate notice as is required by law. No action shall be taken by the board except by the affirmative vote of at least three (3) directors. Three (3) directors shall constitute a quorum of the board, but a smaller number may adjourn from day to day. The general manager shall be allowed to attend all meetings of the board and shall have a seat and voice but no vote in such meetings. Except as otherwise expressly provided by this chapter, action by the board may be by motion or by resolution passed on a single reading and may be made effective immediately upon passage. (1991 Code, § 18-103)

**18-104. Organization of system.** The board shall adopt and implement an organizational structure for the system to ensure its efficient and effective management. The subdivision of such structure, the detailed separation of duties within the structure and the creation of subordinate offices and positions within the structure shall be as required by the board. The board may alter the system's organization structure as necessary or convenient provided such changes do not violate any general laws, the charter or any of the system's contractual obligations. (1991 Code, § 18-104)

**18-105. Powers of board.** (1) Independent control. Except as expressly provided in this chapter, the board shall have and exercise and is hereby granted all the powers and duties possessed by the city to construct, acquire, expand or operate the system. The board, either by itself or by its duly authorized officers and employees, shall have and maintain full control and complete jurisdiction over the management and operation of the system and

may make all contracts and do any and all acts and things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and business-like administration of the system. The control, supervision and management of the system shall, without limitation, be such as is provided by this chapter, the charter and the general laws of the State of Tennessee. Except as expressly provided in this chapter, the system shall be free from the jurisdiction, direction or control of other city officers and employees and of the city council.

(2) Contracts and suits. The board or its authorized representative may sue and be sued in the name of the city or the board, and may make contracts and incur liabilities in the name of the board.

(3) Surety bonds. The board may require corporate surety bonds from such of the system's officers and employees and in such amounts, as the board shall deem necessary. Premiums for such bonds shall be paid out of the funds of the system.

(4) Rates. The board shall fix rates to be charged for services rendered by the system. Such rates shall be fair, reasonable and uniform for all customers in the same class, but different rate schedules may be applied to different classes of customers, as determined by the board. This paragraph shall also apply to rates charged by subsidiaries that may be acquired or organized by the board.

(5) Contracts, leases and agreements. The board may, in the operation of the system, either by itself or by its duly authorized officers and employees, execute deeds and enter into leases, contracts and agreements, provided the terms of such leases, contracts and agreements shall be limited to the terms of not more than twenty-five (25) years. The time limit prescribed in this paragraph for the duration of contracts and agreements shall not apply to bond issues. The authority given the board by this section shall not be construed to give the board authority to sell or lease all or a major part of any division of the system.

(6) Bonds and notes. The board shall have the power to issue bonds or notes for the benefit of the system or a part thereof when such authority is granted to the board by state law, the charter or by resolution or ordinance of city council. All bonds or notes payable out of the revenues of the system or a part thereof shall be issued in accordance with the requirements of applicable law and shall be approved by a resolution or resolutions of the board, which may be adopted at the same meeting at which introduced and shall take effect immediately upon adoption.

(7) Rules and regulations. The board shall have authority to make and enforce all necessary and desirable rules and regulations for the efficient use, operation and management of the system and shall have the same force and effect as if approved by city council.

(8) Joint use of poles and other property. The board shall have the power to make agreements or contracts with any person, firm or public or

private corporation for the joint use of poles and other property, belonging either to the system or such other person, firm or corporation or belonging jointly to both parties.

(9) Eminent domain. The board shall have the same power and authority to exercise the right of eminent domain on behalf of the system as is now possessed by, or may hereafter be given to, the city council.

(10) Use of rights-of-way for utility installations. The board may use the ground over, under, or along any road, railway, highway, street, sidewalk, thoroughfare, alley, waterway or similar rights-of-way in the operations of the system, but shall in all cases and subject to the applicable general regulations of the city and state cause the surface of the public way to be restored to its usual condition if damaged by such use.

(11) Procurement. The board shall have the power to adopt rules and regulations governing purchasing for the system, which shall require competition and advertising, when practical. In lieu of adopting competitive purchasing rules or regulations, the board may elect to use the competitive bidding and purchasing procedures used by the city.

(12) Security for service charges. The board shall have the right to require reasonable deposits or other security for the payment of charges for services rendered by the system. By and with the consent of the owner of the property served by the system, the board may make such charges for services rendered by the system a lien on the real property served.

(13) Promotion and informational expenditures. The board shall have the power to authorize reasonable expenditures for advertising and otherwise promoting the increased use of the services of the system. The board may also authorize reasonable expenditures to acquaint the public and its customers with the policies, operations, programs and plans of the system.

(14) Discontinuance of service for nonpayment of charges. The board may discontinue all services of the system to any customer whenever such customer fails to pay for any service of the system. All such discontinuances shall be conducted in accordance with the board's rules and regulations therefore and any applicable law.

(15) Acquisitions; subsidiaries. To further the purposes of § 18-101, the board is authorized and empowered to acquire the systems of other municipalities, utility districts, corporations or other entities by merger, acquisition or other lawful means. The board may exercise any of the powers conferred upon it under this chapter through one (1) or more subsidiary corporations or other entities that may be organized or acquired in accordance with applicable law. Each such subsidiary shall be subject to the control of the board. All rates for services charged by any such subsidiary shall be approved by the board and shall be sufficient to pay all expenses and obligations incurred on account of the operation of such subsidiary.

(16) Delegation of powers. The board may from time to time delegate in writing its administrative, financial and operational powers to the officers,

employees and agents of the system responsible to it as necessary to properly discharge its duties and operate the system.

(17) Other powers. The board shall also have such additional powers that are now authorized by law, or which may be authorized by state law in the future; and the enumeration of particular powers in this chapter shall not be construed to be exclusive. (1991 Code, § 18-105)

**18-106. Duties of board.** (1) Separate accounts for separate divisions of the system. The board shall require that separate books and accounts be kept on the electric, the water, the wastewater, and any other division created by the board so that such books and accounts will reflect the financial condition of each division separately, and may require that the monies and securities of each division be placed in separate funds so that each division shall be self-sustaining. Each of the system's divisions shall be operated independent of the others except insofar as the board may be of the opinion that joint operations shall be advisable and economical. In the event of such joint operations, the expenses of such operations shall be prorated between the separate divisions in such manner as the board determines to be reasonable.

(2) Use of utility funds. All utility revenues shall be directed to the provision of utility services and not applied to the general fund of the city, unless the transfers of revenues constitutes a payment in lieu of taxes as authorized under this chapter or by state law. Any shared utility or city funds or services shall be accounted for properly.

(3) Annual budget. The board shall no later than the 1<sup>st</sup> day of June of each year prepare a budget for the proposed operation of the system for the following fiscal year. The budget shall present an estimate of the revenues to be derived from all sources, an estimate of expenses for power costs, salaries and wages, advertising, supplies and inventory, and other items of expenses in as much detail practicable; an estimate of proposed expenditures for extending and repairing services and other capital costs and expenditures; and an estimate of in lieu of tax payments.

(4) Auditing. An independent certified public accountant, not an employee of the city or the system, shall be employed by the board to make an annual audit of the system and such other audits and reports as the board may deem necessary. The board shall provide a copy of the system's annual audit to the city for public inspection.

(5) Sufficient rates. The board shall charge sufficient rates for each of its operating divisions to pay all obligations heretofore or hereafter incurred by the city or the board on account of the ownership and operation respectively of each operating division, including all legal claims or judgments for which the city or the board has heretofore been, or may hereafter be, liable on account of the ownership and operation of the operating division, and including the payments to the city in lieu of taxes as provided in this chapter. Such obligations, whether in the form of bonds or otherwise, shall be provided for in

the respective budgets of the respective operating division and need not be included in the general city budget.

(6) Payments in lieu of taxes on electric properties. From the separate revenues of the electric division, the board shall pay payments in lieu of taxes for its electric properties into the general fund of the city in such amounts as may be required by state law, and may make additional such payments to other governmental jurisdictions where the electric properties are situated when authorized by city council and subject to the requirements of state law.

(7) Retirement system. The board may elect to create or administer a pension plan for employees of the system that is separate and apart from any retirement plan maintained by the city.

(8) Payment of obligations. The board shall cause to be paid as the same come due, all obligations arising or resulting from its or the city's ownership and operation of the system. (1991 Code, § 18-106)

**18-107. Expenditures and obligations of the system.** No money shall be drawn from the treasury of the system nor shall any obligation for the expenditure of money be incurred except in pursuance of appropriations made by the board, and each such appropriation shall constitute authority for the system to make the expenditure and/or incur the obligation so approved. Any obligation incurred or created solely by a division of the system shall be payable only out of the revenues of such division. Obligations incurred or created jointly on account of the electric and of the water and of the wastewater divisions shall be paid from the revenues of the system. All contracts and agreements made by the board or pursuant to authority granted by the board shall contain a provision stating the revenues from which the obligations incurred thereunder are payable, but the failure to include such a provision in any contract shall not prevent the application of the limitation on the system's or city's liability imposed by this subsection. (1991 Code, § 18-107)

**18-108. General manager.** The board shall appoint a general manager of the system who shall have the executive ability and experience necessary to perform the duties of the chief executive officer of the system. The general manager shall be responsible to the board and shall serve at the will of the board. The powers and duties of the general manager shall include:

(1) Executing all resolutions of the board.

(2) Appointing and removing all subordinate officers and employees of the system.

(3) Exercising control over the system and all divisions and operations thereof created under this chapter, or that may hereafter be created by the board, subject to the requirements of this chapter, the charter and other applicable law.

(4) Carrying out and enforcing all contracts of the system for the benefit of the system and its customers.

(5) Attending all meetings of the board with the right to take part in the discussion but having no vote.

(6) Recommending to the board for adoption such measures as the general manager may deem necessary or proper.

(7) Keeping the board advised as to the financial condition and the future needs of the system and preparing and submitting to the board the annual budget estimate.

(8) Performing such other duties as are customarily performed by the chief executive officer or a corporation and as may be prescribed by this chapter or be required of the general manager by general law or by resolution of the board. (1991 Code, § 18-108)

**18-109. Other employees.** There shall be such other officers and employees of the system as may be provided by the board. The officers and employees shall be appointed and removed by the general manager subject to the provisions of applicable law. (1991 Code, § 18-109)

**18-110. General provisions.** (1) Existing obligations. This chapter shall not impair any contracts or obligations relating to the system incurred by the city or the board prior to the effective date of this chapter nor shall it change or alter the obligations of any existing contracts obligating the system, all of which insofar as they apply to the system, shall be binding on the board.

(2) Repeal of prior ordinances. All ordinances and parts of ordinances inconsistent with any provision of this chapter are deemed repealed.

(3) Separability of provisions. The sections and subsections of this chapter are declared to be separate, and in the event any one or more sections, subsections, or parts thereof are declared unconstitutional, it shall not affect the validity of other provisions of this chapter. (1991 Code, § 18-110)

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

**1. GAS.**

**CHAPTER 1**

**GAS<sup>1</sup>**

**SECTION**

19-101. To be furnished under franchise.

**19-101. To be furnished under franchise.** Gas service shall be furnished for the city and its inhabitants under such franchise as the city council shall grant. The rights, powers, duties and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.<sup>2</sup> (1991 Code, § 19-101)

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<sup>1</sup>Municipal code reference  
Plumbing and gas codes: title 12.

<sup>2</sup>The current gas franchise (and any amendments thereto) are of record in the city recorder's office.

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

1. CLINTON FAIR HOUSING OPPORTUNITIES ORDINANCE.
2. SPECIAL EVENTS.
3. ALARM SYSTEMS REGULATIONS.

**CHAPTER 1**

**CLINTON FAIR HOUSING OPPORTUNITIES ORDINANCE**<sup>1</sup>

**SECTION**

- 20-101. Short title.
- 20-102. Definitions.
- 20-103. Scope and application.
- 20-104. Conciliation process.
- 20-105. Fair housing opportunity procedures manual.

**20-101. Short title.** This chapter shall be known as the Clinton Fair Housing Opportunities Ordinance. (1991 Code, § 9-401)

**20-102. Definitions.** As used in this ordinance:

- (1) "Agency" means board of housing appeals.
- (2) "Discriminatory housing practice" means an act that is unlawful under this ordinance.
- (3) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (4) "Family" includes a single individual.
- (5) "Person" includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.
- (6) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (1991 Code, § 9-402)

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<sup>1</sup>Municipal code reference

Residential and other related codes: title 12.

**20-103. Scope and application.** This chapter shall be applicable as follows:

(1) Nothing in this ordinance shall apply to:

(a) Any single-family house sold or rented by an owner, provided, that such private individual owner does not own more than three (3) such single-family houses at any one (1) time; and, provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this section shall apply only with respect to one (1) such sale within any twenty-four (24) month period; and, provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) single-family houses at any one (1) time; and, provided further, the sale or rental of any such single-family house shall be excepted from the application of this section only if such house is sold or rented

(i) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(ii) Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of subsection (4)(c) of this section; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(2) For the purposes of this chapter, a person shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or

(b) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

(3) Nothing in this ordinance shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operated for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, or national origin. Nor shall anything in this ordinance prohibit a private club, not in fact opened to the public, which as an incident to its primary purpose or purposes provided lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(4) Except as exempted by subsections (1) and (3) of this section, it shall be unlawful:

(a) To refuse to sell or rent after making of bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, or national origin.

(c) To make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, or national origin, or an intention to make any such preference, limitation or discrimination.

(d) To represent to any person because of race, color, religion, sex, or national origin, that any dwelling is not available for the inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representatives regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, or national origin.

(5) It shall be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, or national

origin of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of a dwelling or dwellings in relation to which such loan or other financial assistance is made or given; provided, that nothing contained in this section shall impair the scope or effectiveness of the exceptions contained in subsections (1) and (3) of this section.

(6) It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate broker's organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation, on account of race, color, religion, sex, or national origin.

(7) It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of, his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.

(8) It shall be unlawful for anyone, whether or not acting under color of law, to by force or threat of force willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with:

(a) Any person because of his race, color, religion, sex, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwellings, or applying for or participating in any service, organization, or facility related to the business of selling or renting dwellings; or

(b) Any person because he is or has been or in order to intimidate such person or any other person or any class of persons from:

(i) Participating, without discrimination on account of race, color, religion, sex, or national origin, in any act of activities, services, organizations or facilities described in subsection (a) of this section; or

(ii) Affording another person or class of persons opportunity or protection so as to participate.

(c) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination, on account of race, color, religion, sex, or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate. (1991 Code, § 9-403)

**20-104. Conciliation process.** The mayor shall appoint a board of housing appeals with members adequate to effectively assist conciliation. The conciliation procedure is as follows:

(1) **Complaints.** (a) A person who claims that another person has committed a discriminatory housing practice may report that offense to the board and file an informal complaint. An informal complaint may also be filed by the board if he has reasonable evidence to believe that a person has committed a discriminatory housing practice.

(b) The board shall treat a complaint referred by the secretary of Housing and Urban Development or the Attorney General of the United States under the Fair Housing Act of 1968, Public Law 90-284, as an informal complaint filed under subsection (a).

(c) An informal complaint must be in writing, verified and contain the following:

- (i) Identity of the actor;
- (ii) Date of offense and date of filing the informal complaint;
- (iii) General statement of facts of the offense, including the basis of the discrimination (race, color, sex, religion, or national origin);
- (iv) Name and signature of complainant.

(d) Not more than twenty (20) days after the filing of an informal complaint, the board shall notify the actor named in the complaint that:

- (i) An informal complaint alleging the commission of a discriminatory housing practice has been filed against the actor;
- (ii) The actor will be furnished a copy of the complaint upon request; and
- (iii) The actor may file a written, subscribed, informal answer to the informal complaint.

(e) An informal complaint or answer may be amended at any time before the board notifies the city attorney (under subsection (5)) of a discriminatory housing practice upon which the informal complaint is based. The board shall furnish a copy of each amended informal complaint or answer to the actor or complainant, respectively, as promptly as practicable.

(f) Except for an offense based on a complaint referred under subsection (b), a person may not be prosecuted in municipal court for a discriminatory housing practice unless an informal complaint on the offense for which he is charged is filed not more than ninety (90) days after the commission of the offense.

(g) The board may not disclose or permit to be disclosed to the public the identity of the actor before the board notifies the city attorney (under subsection (5)) of a discriminatory housing practice alleged against

the actor in an informal complaint or while the informal complaint is in the process of being investigated and prior to completion of all negotiations.

(2) Investigation. (a) With respect to each discriminatory housing practice alleged in an informal complaint and each discriminatory housing practice determined from reasonable evidence by the board for which no informal complaint has been filed, the board shall conduct as promptly as practicable an investigation to determine whether there is probable cause to believe an offense was committed and the facts of the offense. This subsection does not limit the authority of the board to conduct such other investigations or to use such other enforcement procedures, otherwise lawful, as he considers necessary to enforce this chapter.

(b) If the board determines that there is not probable cause to believe that a particular alleged or suspected discriminatory housing practice has been committed, the board shall take no further action with respect to that alleged or suspected offense.

(3) Conciliation agreement. (a) The board determines that there is probable cause to believe that a discriminatory housing practice alleged in an informal complaint has been committed, the board and the actor, or a person who owns, controls, or manages a housing accommodation involved in the offense, or a person who employs the actor may voluntarily enter into a conciliation agreement.

(b) If a conciliation agreement is executed under this paragraph, a party to the agreement may not be prosecuted in municipal court for an offense specified in the agreement unless the board determines that the agreement has been violated and notifies the city attorney in writing of the violation.

(c) A conciliation agreement must be in writing in the form approved by the city attorney and must be signed and verified by the board and each other party to the agreement. A conciliation agreement that is not executed before the expiration of thirty (30) days after notification to the actor as required under subsection (1)(d) must include the city attorney as a party. If a conciliation agreement is not reached within twenty (20) days after the city attorney is included as a party, the city attorney shall immediately notify all parties of the action the city intends to take. A conciliation agreement is executed upon its signing and verification by all parties to the agreement.

(d) A conciliation agreement executed under this section must contain:

(i) An identification of the discriminatory housing practice and corresponding actor that gives rise to the conciliation agreement under subsection (a) and the identification of any other

discriminatory housing practice and actor that the parties agree to make subject to the limitation on prosecution in subsection (b);

(ii) Identification of the housing accommodation subject to the conciliation agreement; and

(iii) A statement that each party entering into the conciliation agreement with the board agrees:

(A) Not to violate this chapter or the conciliation agreement; and

(B) To file with the board a periodic activity report which states with respect to each person of the specified class (the race, color, sex, religion, or national origin alleged as the basis of discrimination in the informal complaint on the offense) who in person contacts a party to the conciliation agreement concerning either sale, rental, or financing in connection with a housing accommodation or a business relating to selling or renting housing accommodations the name and address or telephone number of the person, the date of each contact, and the result of each contact. The party who prepares the activity report shall sign and verify the report. An activity report must be filed each month on the date specified in the conciliation agreement for a period of not fewer than three (3) nor more than twenty-four (24) months, as required by the conciliation agreement.

(e) In addition to the requirements of this subsection, a conciliation agreement may include any other condition agreed to be the parties.

(f) If the board determines that a conciliation agreement has been violated, the board shall give written notice to all actors subject to the agreement.

(4) Violations of conciliation agreement. (a) A person commits an offense if, after he and the board execute a conciliation agreement he intentionally, knowingly, or recklessly violates the conciliation agreement.

(b) It is no defense to prosecution under this section that, with respect to a discriminatory housing practice that gave rise to the conciliation agreement;

(i) The actor did not commit the offense; or

(ii) The board did not have probable cause to believe the offense was committed.

(5) Notification of the city attorney. (a) Except as otherwise provided in subsection (b), if the board determines that there is probable cause to believe that a discriminatory housing practice alleged in an informal complaint has been committed, he shall promptly notify the city attorney

in writing of the identification of the actor and offense and request prosecution in municipal court.

(b) If the board elects to attempt a conciliation, he may postpone notification for a period of not more than thirty (30) days after notification to the actor of an informal complaint. However, if a conciliation agreement is executed during the period of postponement, the board is not required to notify the city attorney of the identification of the actor or of an offense specified in the conciliation agreement unless the board determines that the agreement has been violated.

(c) Notification required under subsection (a) is not a prerequisite to prosecution for an offense under this chapter. Except for notice prohibited under subsection (b), this section does not limit communications, otherwise lawful, between the board and city attorney.

(6) Dismissal of charges. If, after the city attorney files a charge in the municipal court charging an actor with a discriminatory housing practice, a conciliation agreement is executed before commencement of trial on the offense, the city attorney shall cease prosecution and move for dismissal of the charge. (1991 Code, § 9-404)

**20-105. Fair housing opportunity procedures manual.** A fair housing operating procedures manual, which specifically outlines all the details of the housing discrimination complaint process, including the investigation, the notification, the conciliation, and the monitoring process, shall be used by the board for guidance in the conciliation process. The fair housing operating procedures manual shall be developed by the department of law in consultation with the community development office and shall be made available to the general public. (1991 Code, § 9-405)

## CHAPTER 2

### SPECIAL EVENTS

#### SECTION

- 20-201. Special events defined.
- 20-202. Use of public property restricted.
- 20-203. Application process.
- 20-204. Application fees and facilities charges.
- 20-205. Reimbursement for municipal services.
- 20-206. Compliance with laws.
- 20-207. Cancellation and refunds.
- 20-208. Rescheduled events (rain dates).
- 20-209. Permit non-transferable.
- 20-210. Permit revocation.

**20-201. Special events defined.** Special events shall be defined as any planned event that is intended to attract larger crowds of individuals to one or more locations within the city than would naturally occur in the absence of said event; and, or

(1) Which will require extra assistance from city personnel to successfully conduct the event and to ensure the health and safety of the attendees as well as the general public; or

(2) Which will involve the closure, partial closure or will otherwise interfere with the public use of any road, street, sidewalk, greenway, park or any other publicly owned property or facility.

(a) Special events include but are not limited to organized walks, runs, bicycle tours, motor vehicle rallies, parades, festivals, concerts, fairs, exhibits, trade shows, carnivals, picnics, reunions, weddings, block parties and street or parking lot dances.

(b) Special events shall not include: Events organized solely by local governmental, or quasi-governmental entities.

**20-202. Use of public property restricted.** Special event permits requiring the closure, partial closure or will otherwise interfere with the public use of any road, street, sidewalk, greenway, park or any other public property or facility will only be considered for issuance to individuals or organizations offering attendance or participation in the event to the public free of charge or where entry fees or donations, net of event costs, are designated to one (1) or more bona fide charities or for a specific charitable purpose. Charitable purpose will be determined on a case by case basis by the city manager.

(1) **Permitting generally.** No person or persons shall engage in or conduct a special event unless a permit is issued by the city. No person or persons shall engage in a special event as determined by the city manager

involving the use or disruption of the public right-of-way or other public property within the corporate boundary of the City of Clinton, unless a permit is issued by the city.

(a) There shall be a maximum of four (4) special event permits per entity per year.

(b) The duration of each special event shall not exceed ten (10) calendar days unless granted an exception for cause which shall be determined by the city manager.

(2) Permitting process. A special events permit application and fee shall be submitted to the city recorder's office at least thirty (30) days prior to the commencement of the event. The approved permit and receipt for fees must be in hand prior to holding the event.

(3) Application shall include. All special event permit applications shall include the following information:

(a) Applicant's name, street address, telephone number, and e-mail address.

(b) Name, street address, telephone number, e-mail address and signature of the individual identified who assumes the responsibility of meeting the conditions of the permit.

(c) Location of event.

(d) Nature/name of event.

(e) Date and time of event.

(f) Indication of vendors at special event.

(g) Statement indicating the number of individuals reasonably expected to participate in the special event.

(h) If having tent(s), sidewalk sales, or any other outdoor activities, include a site plan showing location for such activities.

(i) If the event includes group movement such as a race or parade, the applicant shall provide a written diagrammed traffic plan setting forth the route to be utilized by the special event.

**20-203. Application process.** For every type of special event for which a permit is required, the sponsor shall complete an application on a form provided as follows:

(1) Deadline. Applications shall be filed no later than thirty (30) days prior to the date of the special event for events that do not require the closure or partial closure of any public right-of-way and will require no more than minimal or routing support from city personnel. Events involving closure or partial closure of public rights-of-way and/or require dedicated assistance from city personnel either prior to, during or after the event must be filed a minimum of sixty (60) days prior to the requested date. Applications that fail to meet the thirty (30) or sixty (60) day requirement outlined above will be denied unless it is determined that sufficient time is available to process the application. Said determination will be at the sole discretion of the city.

(2) Planning. Depending on the complexity of the proposed event, applicants may be required to attend meetings with city personnel on one (1) or multiple occasions as well as submit supplemental documentation as necessary to adequately plan the event.

(3) Estimated reimbursement charges. Based on the application and any subsequent meetings or supplemental information provided, the city will furnish the applicant with a summary of the reimbursement required to be remitted upon permit approval.

(4) Advertising. Applicants, organizers, or sponsors shall not publicly advertise or announce the date of the event via physical or digital media or by use of the airwaves prior to receiving permit approval.

(5) Conditional approval. Based on review of the application, the city manager may impose certain reasonable requirements as a condition for approval. Failure to comply with those conditions may result in permit revocation by the city prior to or during the event.

(6) Insurance and indemnity agreement. Upon permit approval, applicants must provide any required certificates of insurance and execute an indemnity statement. Insurance requirement shall be determined upon a case by case basis by the city manager.

(a) Applicants shall agree in writing to assume the defense of and indemnify and save harmless the city, its council members, boards, commissions, officers, employees, and agents, from all suits, actions, damages or claims to which the city may be subjected of any kind or nature whatsoever resulting from, caused by, arising out of or as a consequence of special event and the activities permitted in connection therewith.

(b) The applicant must submit a certificate of insurance from a Tennessee state licensed entity prior to the event. Waiver of this requirement is within the discretion of the city manager, and is dependent upon the nature, size, and duration of the event.

**20-204. Application fees and facilities charges**. A schedule of charges for special event application processing as well as use charges for municipal properties available for special events will be established by resolution.

(1) Application fees are required to be remitted at the time of application submission and are non-refundable.

(2) Application fees will be waived for special events sponsored by the local governmental, or quasi-governmental entities, or events co-sponsored or endorsed by the City of Clinton such as the annual Christmas Parade; however, applications will still be required to be filed.

(3) Facilities will be reserved on a first come first serve basis and the appropriate fee shall be remitted upon receiving the approved special event permit.

(4) Special event application fees are in addition to other fees as set forth herein. Application fees under this chapter, policy, etc. are not all-inclusive of other fees or charges such as alcoholic beverage permit fees which may be required based on the needs of the special event. All other fees and charges will be assessed in accordance with the laws, rules or regulations governing those additional permits or services.

**20-205. Reimbursement for municipal services.** Individuals or organizations requesting a special events permit shall reimburse the cost of city personnel, equipment, materials and supplies necessary to conduct the event. Each department will determine the staffing and other costs necessary based on review of the information included in the application and the charges will be calculated based on the rates (on file in the city recorder's office). The total of the costs calculated must be remitted upon receipt of the approved applications. Costs will include but not be limited to:

(1) Law enforcement. The police department will estimate the personnel necessary to provide security, crowd control and traffic control based on the type, size, location and duration of the event. At the sole discretion of the chief or his/her designee, trained traffic control personnel, and/or security personnel provided by the event organizers may be substituted for police officers to assist in satisfying the law enforcement functions.

(2) Fire and EMS. The fire department will determine the need, if any, for firefighters, and fire apparatus to be on-site. Additionally, on-site emergency medical personnel, aid stations, and/or ambulance requirements will be established based on the type, size and location of the event. If ambulance(s) are required, event organizers must supply evidence from the ambulance service provider that ambulance coverage will be provided as required upon receipt of the approved permit.

(3) Public works and recreation. Public works personnel and recreation personnel will be responsible for the closure or partial closure of any road, street, sidewalk, greenway, or other right-of-way along with installing temporary fencing, marking temporary parking spaces or similar tasks as required by the particular event. Barricades, directional signs, or other re-usable in-stock items will be provided at no cost. Any additional items, materials, supplies or custom fabricated signage whether purchased or rented will be added to the event's total reimbursement charges, as well as applicable labor fees. Street sweeping and post event litter clean-up fees will also be assessed if necessary.

**20-206. Compliance with laws.** All applicable ordinances and laws shall be complied with and all required permits and licenses shall be secured in connection with such special event.

(1) Loudspeakers, noise in general. Events requesting the use of any amplified sound must obtain a permit and comply with the restrictions under

§11-202 of the Clinton Municipal Code. Application for a sound permit is contained within the special event permit packet.

(2) Special event vendors. Event organizers may not authorize a vendor offering any product for sale to participants or the general public to conduct business within or near the location of the special event without first referring the vendor to the city for permitting under title 9 chapter 6 of the city municipal code and any applicable state laws.

(3) Signs. All signs shall comply with title 14 of the Clinton Municipal Code. Any sign that is not specifically permitted shall be prohibited.

(4) Animals. Participants and organizers shall adhere to all requirements outlined in title 10 of the Clinton Municipal Code.

(5) Open fires and grills. A permit must be obtained before the use of any open fire or grill as mandated by title 7 of the Clinton Municipal Code.

**20-207. Cancellation and refunds.** Event organizers may cancel an event at any time including the day of the event. For events requiring assistance from public safety personnel, cancellations on the day of the event whether prior to or during the event must be done for good cause and in consultation with the ranking city official assigned to the event. The amount of any unused city cost reimbursements will be calculated by the city and refunded to the event applicant within thirty (30) days of the cancelled event. Cancellations just prior to or during the event may result in additional charges relating to the need for additional personnel or requiring personnel to report earlier than scheduled for barricade removal, crown dispersal, traffic control, or other duties necessary to close the event. These costs will be assessed to the event organizers.

**20-208. Rescheduled events (rain dates).** Event organizers may request an alternate date (rain date) on the special event application form and if approved by the city, may advertise the rain date as part of the event publicity. Exercising a rain date may result in additional city cost reimbursement charges depending on whether costs were incurred by the city in preparing for or conducting the event on the originally scheduled date and those activities must be repeated on the rain date. Those additional charges will be assessed to the event organizers and must be received by the city within fifteen (15) days after the original event date and in any event, prior to the rescheduled event date.

**20-209. Permit non-transferable.** Any issued permit is not transferrable.

**20-210. Permit revocation.** If it becomes apparent prior to or during an event that conditions have developed that impose a risk to maintaining the health, safety and well-being of the attendees or general public, event organizers

must comply with the directives of the city to correct those conditions or in extreme cases, terminate the event.

## CHAPTER 3

### ALARM SYSTEM REGULATIONS

#### SECTION

- 20-301. Definitions.
- 20-302. Automatic telephone dialing alarm system.
- 20-303. Alarm requirements.
- 20-304. False alarms.
- 20-305. Fee assessment.
- 20-306. Violations and penalty.

**20-301. Definitions.** Unless it is apparent from the context that another meaning is intended, the following words when used in this chapter shall have the meanings indicated herein:

(1) "Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the police and/or fire department by any means that an emergency exists or that the services of either or both of those departments are needed. "Alarm system" shall also mean any alarm device which automatically emits an audible, visual, or other response upon the occurrence of any hazard or emergency and is intended to alert persons outside the building to the existence of said hazard or emergency.

(2) "Alarm user" means the person, firm partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility or portion thereof wherein an alarm system is maintained.

(3) "Answering service" refers to a telephone answering service providing among its services the receiving on a continuous basis emergency signals from alarm systems and thereafter relaying the message to the central dispatch facility.

(4) "Automatic telephone dialing alarm system" means any alarm system which is a device which automatically or electronically transmits by telephone or telephone line connected to the central dispatch facility a recorded message or code signal indicating a need for emergency response; or a system which, upon activation, connects to an answering service whose function it is to transmit to the police and/or fire department a need for emergency response.

(5) "Central dispatch facility" means the central communications center designated to receive, route, and otherwise handle all incoming police, fire, or other emergency service communications traffic.

(6) "False alarm" means an alarm signal eliciting a response by the police and/or fire department when a situation requiring a response by the police and/or fire department does not in fact exist; but this definition does not include an alarm signal caused by unusually violent conditions of nature nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user. Also, this definition does not include an alarm signal caused by

a situation that may have been brought under control prior to the arrival of the responding police and/or fire department, that otherwise would have required a response.

**20-302. Automatic telephone dialing alarm system.** It shall be unlawful for any person, natural or corporate, to operate an automatic telephone dialing alarm system over any telephone lines exclusively used by the public to directly request emergency services from the fire and/or police department.

**20-303. Alarm requirements.** (1) It will be the responsibility of the alarm user to provide the central dispatch facility with current emergency telephone numbers of the user and two (2) representatives to permit prompt notification of alarm calls and prompt response of key holder to assist police and/or fire personnel in the inspection of the property.

(2) All alarm systems will have an automatic reset which silences the annunciator within thirty (30) minutes after activation and which will not sound again as a result of the same event that resulted in the original activation.

**20-304. False alarms.** (1) Whenever an alarm is activated in the city, thereby requiring an emergency response to the location by police and/or fire personnel, a police and/or fire supervisor shall determine whether the emergency response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.

(2) If the police or fire supervisor, determines the alarm to be false and no emergency seems necessary, then said supervisor shall submit a report of the false alarm to the respective chief. A written notification of emergency response and determination of the response shall be mailed or delivered to the alarm user at the address where the alarm was activated. The alarm user upon receipt of the notification shall be entitled to a hearing before the respective chief or his designee and the alarm user desiring a hearing shall request said hearing within ten (10) days of date of notification.

(3) In occupancies where fire alarm systems are a requirement of the adopted fire code, said alarm systems shall be restored to proper working order in a timely manner.

(4) It shall be a violation of this chapter to intentionally cause a false alarm, and any person who intentionally causes a false alarm shall be subject to the penalty provisions hereof.

(5) There shall be provided to the alarm user, a ten (10) day grace period during the initial installation of the alarm system.

(6) It shall be required and provided that any alarm business testing or servicing any alarm system notify the police and/or fire departments and instruct said departments of the location and time of said testing and servicing.

This section will not apply to the alarm user if prior notice of said testing has been made to the respective departments as outlined in this section.

**20-305. Fee assessment.** It is hereby found and determined that more than five (5) false alarms within a calendar year are excessive and constitute a public nuisance. The activation of six (6) or more false alarms within a calendar year will be handled in the following manner: A service charge shall be automatically levied against the alarm user of twenty-five dollars (\$25.00) each upon the occurrence of the sixth (6th) up to the ninth (9th) false alarm and a service charge of fifty dollars (\$50.00) for each false alarm in excess of nine (9). All service charges levied shall be paid to the city by the alarm user within thirty (30) days of the date of the written notice of said charges.

**20-306. Violations and penalty.** Any person who violates any provisions of this chapter shall be guilty of a violation, and upon conviction in city court, shall be subject to a fine not to exceed fifty dollars (\$50.00). Each occurrence shall constitute a separate offense.

**ORDINANCE NO. 679**

**AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE  
CODIFICATION AND REVISION OF THE ORDINANCES  
OF THE CITY OF CLINTON, TENNESSEE**

**WHEREAS,** some of the ordinances of the City of Clinton are obsolete; and

**WHEREAS,** some of the other ordinances of the City are inconsistent with each other or are otherwise inadequate; and

**WHEREAS,** the City Council of the City of Clinton, 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 "Clinton Municipal Code; and

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Clinton, Tennessee that:

**SECTION 1.** Ordinances codified. The ordinances of the City of Clinton 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 "Clinton Municipal Code", hereinafter referred to as the "Municipal Code".

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

**SECTION 3.** Ordinances saved from repeal. The repeal provided for in section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the City or authorizing the issuance of any bonds or other evidence of said City's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing 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; an 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; not 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 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 work “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.<sup>1</sup>

**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 City Council, 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 provision, and such references shall be cumulative if a

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<sup>1</sup>State law reference

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

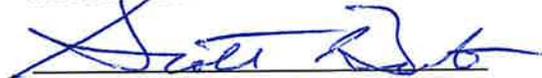
section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the 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.

APPROVED:



Scott Burton, Mayor



Regina Ridenour, City Recorder

Passed First Reading: August 28, 2023

Passed Second Reading: September 25, 2023

