

**THE  
GATLINBURG  
MUNICIPAL  
CODE**

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

March 2000

*Change 14*  
*March 23, 2022*

**CITY OF GATLINBURG, TENNESSEE**

**MAYOR**

Mike Werner

**VICE MAYOR**

Mark McCown

**COMMISSIONERS**

Ryan DeSear  
Chad Reagan  
Kirby Smith

**CITY MANAGER**

Cindy Cameron Ogle

**CITY ATTORNEY**

Ronald E. Sharp

## **PREFACE**

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

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

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

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

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

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

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

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

Steve Lobertini  
Codification Specialist

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

SECTION 6. Be it further enacted, That the affirmative vote of a majority of members elected to the Board of Commissioners shall be necessary to adopt any ordinance or resolution. The vote upon the passage of all ordinances and for the adoption of such resolutions as the Board by its rules shall prescribe, shall be taken by yeas and nays and entered upon the minutes. Each and every ordinance or resolution passed by the Board shall be signed by the presiding officer or two members and filed with the Recorder who shall also sign same and record same in a book to be kept for that purpose.

Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, which shall be clearly stated in the title; but the general appropriation ordinance may contain the various subjects and accounts for which money is to be appropriated. The enacting clause of all ordinances passed by the Board shall be: 'Be It Ordained by the City of Gatlinburg'. All ordinances shall conclude with the provision that 'This ordinance shall take effect fifteen days from and after its passage, the public welfare requiring it'; provided that the closing of an emergency ordinance shall read: 'This ordinance shall take effect from and after its passage, the public welfare requiring it.'

No ordinance, unless it be an emergency measure, shall be passed until it has been read at two (2) regular meetings not less than two (2) weeks apart; provided, however, that if any ordinance is amended on the second reading, a third reading of that ordinance shall be required prior to adoption and final passage.

All ordinances passed by the Board shall be in effect from and after fifteen days from the date of final passage, except that the Board may, by an affirmative vote of four of its members, pass, upon one reading, emergency ordinances to take effect at the time of passage.

To meet a public emergency affecting life, health, public peace or property, the Board may adopt one or more emergency ordinances. An emergency ordinance may not be enacted to make a grant, to levy taxes, renew or extend a franchise or regulate the rates to be charged by any public utility. An emergency ordinance may be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance shall become effective immediately upon its adoption or at such other time as designated within the ordinance itself. Every

emergency ordinance shall automatically stand repealed as of the sixty-first day following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the form of a regular ordinance; however emergency ordinances which appropriate emergency or supplemental appropriations, or transfer of funds shall not be repealed but shall continue in full force and effect unless specifically repealed by an additional ordinance.

Every ordinance of a general or permanent nature shall be published once within ten days after its final passage; provided that if it appears to the Board that a newspaper publication is unnecessarily expensive and unjustified in any particular case, such other means of securing due publicity may be resorted to in lieu of newspaper publication as the Board by informal resolution may designate.

The publication of ordinances, as well as other publications mentioned in this Charter, shall be made in a newspaper of general circulation in the City and County in body type of the paper and under headlines in twelve point type. [As replaced by Priv. Acts 1949, ch. 811, § 1(k), and amended by Priv. Acts 1977, ch. 150, § 4]

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## **TITLE 1**

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

#### **CHAPTER**

1. BOARD OF COMMISSIONERS.
2. CITY MANAGER.
3. RECORDER.
4. CODE OF ETHICS.
5. PUBLIC RECORDS.

#### **CHAPTER 1**

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

#### **SECTION**

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

**1-101. Time and place of regular meetings.** The board of commissioners shall hold regular monthly meetings at 6:00 P.M. on the first Tuesday after the first of each month and on the first Tuesday after the fifteenth of each month at regular designated city offices. (1976 Code, § 1-101, as amended by Ord. #2198, Jan. 2000)

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<sup>1</sup>Charter references

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.

<sup>2</sup>Charter references

Compensation: § 5.

Qualifications: § 5.

Removal from office: § 5.

Term of office: § 3.

Vacancy in office: § 5.

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

- (1) Call to order.
- (2) Approval of the minutes.
- (3) Petitions and communications from the public and items from the audience.
- (4) Reports of boards and committees.
- (5) City manager's report.
- (6) Old business.
- (7) New business.
- (8) Unscheduled items.
- (9) Adjournment. (1976 Code, § 1-102, as amended by Ord. #2156, Aug. 1997)

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, 1990 (9th) Edition, shall govern the transaction of business by and before the board of commissioners 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. (1976 Code, § 1-103, modified)

## CHAPTER 2

### CITY MANAGER<sup>1</sup>

#### SECTION

1-201. Generally supervises municipality's affairs.

1-202. Executes municipality's contracts.

**1-201. Generally supervises municipality's affairs.** The city manager shall have general supervision of all municipal affairs, perform the duties of the recorder in his absence and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1976 Code, § 1-201)

**1-202. Executes municipality's contracts.** The city manager shall execute all contracts authorized by the board of commissioners. (1976 Code, § 1-202)

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<sup>1</sup>Charter references

Appointment: § 8.

Bond: § 8.

Compensation: § 8.

Powers and duties: § 9.

Vacancy in office: § 9.

## CHAPTER 3

### RECORDER<sup>1</sup>

#### SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

**1-301. To be bonded.** The recorder shall be bonded in the sum of ten thousand dollars (\$10,000.00), with surety acceptable to the board of commissioners, before assuming the duties of his office. (1976 Code, § 1-301)

**1-302. To keep minutes, etc.** The recorder shall keep the minutes of all meetings of the board of commissioners and shall preserve the original copy of all ordinances in a separate ordinance book. (1976 Code, § 1-302)

**1-303. To perform general administrative duties, etc.** The recorder shall perform all administrative duties for the board of commissioners and for the City of Gatlinburg which are not expressly assigned by the charter or this code to another corporate officer. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1976 Code, § 1-303)

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<sup>1</sup>Charter reference: § 12.

## CHAPTER 4

### CODE OF ETHICS

#### SECTION

- 1-401. Applicability
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in non-voting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

**1-401. Applicability.** This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #2371, June 2007)

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

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #2371, June 2007)

**1-403. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #2371, June 2007)

**1-404. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the 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. (as added by Ord. #2371, June 2007)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #2371, June 2007)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #2371, June 2007)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #2371, June 2007)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #2371, June 2007)

**1-409. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #2371, June 2007)

**1-410. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the 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 any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #2371, June 2007)

**1-411. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #2371, June 2007)

## CHAPTER 5

### PUBLIC RECORDS

#### SECTION

1-501. Procedures regarding access to and inspection of public records.

1-501. Procedures regarding access to and inspection of public records.

(1) Consistent with the Public Records Act of the State of Tennessee, personnel of the City of Gatlinburg shall provide full access and assistance in a timely and efficient manner to Tennessee residents who request access to public documents.

(2) Employees of the City of Gatlinburg shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of the records custodian or designee. All copying of public records must be performed by employees of the city, or, in the event that city personnel are unable to copy the records, by an entity or person designated by the records custodian.

(3) To prevent excessive disruptions of the work, essential functions, and duties of employees of the City of Gatlinburg, persons requesting inspection and/or inspection and/or copying of public records are requested to complete a records request form to be furnished by the city. If the requesting party refuses to complete a request form, a city employee shall complete the form with the information provided by the requesting party. Persons requesting access to open public records shall describe the records with specificity so that the records may be located and made available for public inspection or duplication, as provided in subsection (2) above. All requests for public records shall be directed to the records custodian.

(4) When records are requested for inspection or copying, the records custodian has up to seven (7) business days to determine whether the city can retrieve the records requested and whether the requested records contain any confidential information, and the estimated charge for copying based upon the number of copies and amount of time required. Within seven (7) business days of a request for records, the records custodian shall:

(a) Produce the records requested;

(b) Deny the records in writing, giving explanation for denial;

or,

(c) In the case of voluminous requests, provide, in writing, the requestor with an estimated time frame for production and an estimation of duplication costs.

(5) There is no charge assessed to a requester for inspecting a public record. Charges for physical copies of records, in accordance with the Office of Public Records Counsel (OORC) schedule of reasonable charges, are as follows:

(a) Standard 8 1/2 x 11 or 8 1/2 x 14 black and white copy - fifteen cents (\$0.15) per page for each produced.

(b) Standard 8 1/2 x 11 or 8 1/2 x 14 color copy - fifteen cents (\$0.15) per page for each produced.

(c) Accident reports - fifteen cents (\$0.15) per page for each standard 8 1/2 x 11 or 8 1/2 x 14 black and white copy produced.

(d) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual costs to the city.

(6) Requests requiring less than one (1) hour of municipal employee labor for research, retrieval, redaction and duplication will not result in an assessment of labor charges to the requester. Employee labor in excess of one (1) hour may be charged to the requestor, in addition to the cost per copy, as provided in subsection (5). The city may require payment in advance of producing any request. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour.

(a) For a request requiring more than one (1) employee to complete, labor charges will be assessed based on the following formula: In calculating the charge for labor, a department head shall determine the number of hours each employee spent in producing a request. The department head shall then subtract the one (1) hour threshold from the number of hours of highest paid employee(s) spent producing the request. The department head will then multiply total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the department head will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

(b) When the total number of requests made by a requestor within a calendar month exceeds four (4), the requests will be aggregated, and the requester shall be charged a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requester that the aggregation limit has been met. Request for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month, shall not be counted in the aggregated requests.

(7) If the city is assessed a charge to retrieve the requested records from archives or any other entity having possession of requested records, the records custodian may access the requestor the cost assessed to the city.

(8) Upon completion of a records request, the requestor may pick up the copies of records at the office of the records custodian. Alternatively, the requester may choose to have the copies of records delivered via United States Postal Service; provided that the requestor pays all related expenses in advance.

(9) The police chief shall maintain in his office records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in the office of the records custodian. Requests for personnel records, other than for undercover investigators, shall be made to the records custodian, who shall promptly notify the police chief of such request. The police chief shall make the final determination as to the release of information requested. In the event that the police chief refuses to release the information, he shall provide a written explanation of his reasons for not releasing the information.

(10) If the public records requested are frail due to age or other conditions, and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection. (as added by Ord. #2473, March 2014)

## TITLE 2

### **BOARDS AND COMMISSIONS, ETC.**

#### **CHAPTER**

1. RECREATIONAL BOARD.
2. CITY TREE BOARD.
3. ENVIRONMENTAL DESIGN REVIEW BOARD.

#### **CHAPTER 1**

### **RECREATIONAL BOARD**

#### **SECTION**

- 2-101. Creation and terms.
- 2-102. Duties and responsibilities.
- 2-103. Meetings.
- 2-104. Cooperation with board of commissioners.
- 2-105. Board review and recommendation.

**2-101. Creation and terms.** The Gatlinburg Recreational Board shall consist of eleven (11) members appointed by the board of commissioners. The members of the recreation board shall serve two (2) year terms, with the terms staggered so that a portion of the board shall be appointed or reappointed each year. Any vacancy occurring before the expiration of a term shall be filled for the remaining portion of said term only. (Ord. #2151, June 1997, as amended by Ord. #2390, June 2008)

**2-102. Duties and responsibilities.** The members of the Gatlinburg Recreational Board shall serve in an advisory capacity to the board of commissioners on matters relating to the recreational facilities of the city including planning, construction, supervision, and maintenance, and any other matter relating to the recreational facility of the city. (1976 Code, § 1-1002)

**2-103. Meetings.** The Gatlinburg Recreational Board shall meet monthly at city hall or at such other time as the board may establish. (1976 Code, § 1-1003)

**2-104. Cooperation with board of commissioners.** It is the purpose of this section to provide the residents of the city with suitable persons selected by the board of commissioners to advise in such matters of recreation; that there will exist a spirit of cooperation in bringing matters relating to recreation to the attention of the board of commissioners to the end that all residents of the city and its visitors will be provided with excellent recreational facilities. (1976 Code, § 1-1004)

**2-105. Board review and recommendation.** The recreational board shall review all capital improvement projects on any proposed and/or existing city park or recreational facilities prior to said proposals being presented to the board of commissioners, if it is to be presented to the board of commissioners. The recreational board shall make recommendations on such projects and present same to the board of commissioners. (1976 Code, § 1-1005)

## CHAPTER 2

### CITY TREE BOARD

#### SECTION

- 2-201. Definitions.
- 2-202. Creation and establishment of a city tree board.
- 2-203. Term of office.
- 2-204. Compensation.
- 2-205. Duties and responsibilities.
- 2-206. Operation.
- 2-207. Street tree species to be planted.
- 2-208. Spacing.
- 2-209. Distance from curb and sidewalk.
- 2-210. Distance from street corners and fireplugs.
- 2-211. Utilities.
- 2-212. Public tree care.
- 2-213. Tree topping.
- 2-214. Dead or diseased tree removal on private property.
- 2-215. Interference with city tree board.
- 2-216. Arborists license and bond.
- 2-217. Review by city commission.
- 2-218. Penalty.

**2-201. Definitions.** (1) “Street trees” are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying within the right-of-way of all streets, avenues, or ways within the city.

(2) “Park trees” are herein defined as trees, shrubs, bushes and all other woods vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park. (1976 Code, § 12-301)

**2-202. Creation and establishment of a city tree board.** There is hereby created and established a City Tree Board for the City of Gatlinburg, Tennessee, which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the board of commissioners. (1976 Code, § 12-302)

**2-203. Term of office.** The term of the five persons to be appointed by the mayor shall be three (3) years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. (1976 Code, § 12-303)

**2-204. Compensation.** Members of the board shall serve without compensation. (1976 Code, § 12-304)

**2-205. Duties and responsibilities.** It shall be the responsibility of the board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the board of commissioners and upon their acceptance and approval, shall constitute the official comprehensive city tree plan for the City of Gatlinburg. The tree board shall consider, investigate, make findings, report and recommend upon any special matter or question coming with the scope of its work. (1976 Code, § 12-305)

**2-206. Operation.** The board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (1976 Code, § 12-306)

**2-207. Street tree species to be planted.** The following list constitutes the official street tree species for Gatlinburg, Tennessee. No species other than those included in this list may be planted as street trees without written permission of the city tree board.

<b><u>Small Trees</u></b>	<b><u>Medium Trees</u></b>	<b><u>Large Trees</u></b>
Cherry, Flowering	Ash	Beech
Crab Apple,	Basswood	Coffeetree,
Flowering	Birch	Kentucky
Dogwood	Hackberry	Ginkgo
Fringe Tree	Honey Locust	Magnolia,
Golden Rain Tree	(thornless)	Cucumber Tree
Hawthorne	Mulberry, Red	Maple
Holly, Foster	(fruitless male)	Oak
Lilac, Japanese	Pagodatree,	Poplar, Tulip
Magnolia, Sauder	(Japanese)	Sweetgum
Maple, Japanese	Persimmon	Sycamore
Pear, Bradford	Sassafras	
Plum	Yellowwood	
Redbud		
Service Berry		
Sourwood		
Rhododendron		

**Small Trees (cont.)**

Azaleas  
 Juniper (Ground  
 Cover)  
 Mountain Laurel

(1976 Code, § 12-307)

**2-208. Spacing.** The spacing of street trees will be in accordance with the three species size classes listed in § 2-207 above and no trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; Large Trees, 50 feet, except in special plantings designed or approved by a landscape architect. (1976 Code, § 12-308)

**2-209. Distance from curb and sidewalk.** The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in § 2-207 and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet. (1976 Code, § 12-309)

**2-210. Distance from street corners and fireplugs.** No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 10 feet from any fireplug. (1976 Code, § 12-310)

**2-211. Utilities.** No street trees other than those species listed as small trees in § 2-207 may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility. (1976 Code, § 12-311)

**2-212. Public tree care.** The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the 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.

The city tree board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners on public property providing that the selection and location of said trees in accordance with § 2-207 of this chapter. (1976 Code, § 12-312)

**2-213. 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 tree inches 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 chapter at the determination of the city manager. (1976 Code, § 12-313)

**2-214. Dead or diseased tree removal on private property.** The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of receipt of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice. (1976 Code, § 12-314)

**2-215. Interference with city tree board.** It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in or about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this section. (1976 Code, § 12-315)

**2-216. Arborists license and bond.** It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be \$25 annually in advance; provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (1976 Code, § 12-316)

**2-217. Review by city commission.** The city commission shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the board of commissioners who may hear the matter and make a final decision. (1976 Code, § 12-317)

**2-218. Penalty.** Any person violating any provision of this section shall be, upon conviction or a plea of guilty, subject to a civil penalty of up to five hundred dollars (\$500.00) per offense. (1976 Code, § 12-318, modified)

## CHAPTER 3

### **ENVIRONMENTAL DESIGN REVIEW BOARD**

#### **SECTION**

- 2-301. Creation.
- 2-302. Membership and qualifications.
- 2-303. Term.
- 2-304. Vacancies and removal.
- 2-305. Officers.
- 2-306. Quorum and voting.
- 2-307. Meetings and records.
- 2-308. Rules.
- 2-309. Jurisdiction and powers of the board.
- 2-310. Goals and objectives.
- 2-311. Hearings.
- 2-312. Time limitation.
- 2-313. Attendance required.

**2-301. Creation.** There is hereby created and established a board in and for the City of Gatlinburg which shall be known as the Environmental Design Review Board. (1976 Code, § 11-201)

**2-302. Membership and qualifications.** The board shall consist of seven (7) members. Each member shall be a qualified, registered voter of the City of Gatlinburg and/or a resident of the planning region who operates or depends upon a business in Gatlinburg for a majority of his/her annual income. Where possible, those individuals who are appointed to the board should include recognized practitioners in the fields of architecture, art, engineering, realty, financing, landscape architecture, and managers or operators representing the motel, restaurant, retailing and recreation industry of the city. (1976 Code, § 11-202)

**2-303. Term.** The members of the Environmental Design Review Board shall be appointed by the board of commissioners. Member terms shall be staggered for the purpose of future appointments so that all terms will not expire in the same calendar year. Each person so appointed shall serve a term of three (3) years. (1976 Code, § 11-203, as replaced by Ord. #2417, Sept. 2009)

**2-304. Vacancies and removal.** Any vacancy on the Environmental Design Review Board shall be filled by the board of commissioners by appointing a temporary member to fill the unexpired term of the seat vacated. The board of commissioners may remove any member or members of the board, for misconduct and/or nonperformance of duty. (1976 Code, § 11-204)

**2-305. Officers.** The Environmental Design Review Board shall elect a chairman from its membership. The chairman shall be counted to determine a quorum and shall have the same rights as other members of the board, including the right to vote. The chairman shall appoint a vice-chairman to serve during his absence, disability or disqualification and said vice-chairman shall exercise and perform all duties and be subject to all the responsibilities of the chairman. In the absence of the chairman and vice-chairman, the remaining board members shall select an acting chairman to serve in that capacity. A member of the city staff, designated by the city manager, shall serve as secretary to the board and also in an advisory capacity. (1976 Code, § 11-205)

**2-306. Quorum and voting.** A quorum shall consist of four (4) members. The concurrence of a majority of the members of the board present and voting shall be necessary to determine any questions before the board. (1976 Code, § 11-206)

**2-307. Meetings and records.** Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Meetings shall be held only after public notice has been given prior to the scheduled meeting date and no action shall be taken except at a meeting duly assembled and open to the public. The board shall keep minutes of its proceedings showing the vote of the board on all matters coming before said board. (1976 Code, § 11-207, as amended by Ord. #2417, Sept. 2009)

**2-308. Rules.** The board may adopt and amend from time to time rules to govern the conduct of its business consistent with the provisions of this chapter. (1976 Code, § 11-208)

**2-309. Jurisdiction and powers of the board.** Except for single family dwellings, no building permit shall be issued for a new building, and no sign permit shall be issued for the erection or construction of a sign relating to such new building, existing structure, or major remodeling, until plans, drawings, sketches and other documents deemed necessary have been reviewed by this board. All building construction, landscaping and/or sign erection undertaken by the City of Gatlinburg shall undergo review by this board regardless of whether the city is legally bound to acquire a permit. For the purposes of this section, the term “major remodeling” shall mean any remodeling that substantially changes the exterior appearance of the building. If permit applicants for single family dwellings so desire, review and advice shall be furnished by the board on any plans, drawings, sketches and other documents the applicant may submit.

Construction, site development and landscaping shall be carried out in substantial accord with the plans, drawings, sketches and other documents approved by this board, unless altered with board approval. Nothing in this

section shall be construed to prevent ordinary repair, maintenance, and replacement of any part of a building or landscaping which does not involve a substantial change in the exterior appearance of the building or the landscape. (1976 Code, § 11-209)

**2-310. Goals and objectives.** The Environmental Design Review Board shall consider the following list of objectives and goals but shall not be bound by any one or all of them and further may consider any other matters which would further the stated objectives of this board. The list of items which may be considered include:

(1) Conserve the city's natural beauty and visual character and charm by insuring that structures, signs and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to the exterior appearance of structures, signs, and other improvements.

(2) Discourage monotonous, drab, unsightly, and inharmonious developments.

(3) Encourage originality, flexibility and innovation in site planning and development, include the architecture, landscaping and graphic design of said development.

(4) Protect and enhance the city's appeal to tourists and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.

(5) Stabilize and improve property values and prevent blighted areas and thereby increase tax revenues.

(6) Achieve the beneficial influence of pleasant environments for living and working and thereby decrease the cost of governmental services.

(7) Foster civic pride and community spirit so as to improve quality and quantity of citizens participation in local government and in community growth change and improvements.

(8) Sustain the comfort, health, tranquility, and contentment of residents and attract new residents and visitors by reason of the city's favorable environment and thereby protect and promote the public health, safety and welfare of the citizens of the City of Gatlinburg.

(9) Submit any recommendations reflecting the majority opinion of said board for the improvement of the overall environment of the City of Gatlinburg.

(10) **Goals and objectives.** Encourage and emphasize the principles of the city's architectural design guidelines in the review and deliberations process of projects. (1976 Code, § 11-210, as amended by Ord. #2417, Sept. 2009)

**2-311. Hearings.** (1) All deliberations and decisions of the board shall be made at a meeting as provided for hereinabove. At said meetings, the

proponent of the development may attend and state his/her opinions and objectives and inform the members of the board of his/her intentions as well as answer questions from the board members. If the members of the board approve the plans and specifications submitted to it, said approval shall be indicated to the proper city official.

(2) In the event the board shall disapprove the application, the applicant shall be notified by proper city staff of the reason for the disapproval and the needed changes before same will be reconsidered by the board.

(3) The meeting minutes shall be maintained in a public place in city hall with a copy forwarded to the applicant upon request. If the applicant desires to re-submit the application, he/she may do so. (1976 Code, § 11-211, as replaced by Ord. #2417, Sept. 2009)

**2-312. Time limitation.** All applications approved by the board must be forwarded to the proper city official within fifteen (15) days from the submitted date of the original request. In the event an application is not acted upon by the board within thirty (30) days of the time filed, then for the purposes of this chapter, the same shall be deemed approved and forwarded to the proper city official for determination of whether or not to issue a building permit. (1976 Code, § 11-212)

**2-313. Attendance required.** Any member shall be automatically removed if he/she misses four (4) consecutive meetings of the board. (1976 Code, § 11-213, as amended by Ord. #2417, Sept. 2009)

**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**

**SECTION**

3-101. City judge.

**3-101. City judge.** The officer designated by the charter to handle judicial matters within the municipality shall preside over the city court and shall be known as the city judge. (1976 Code, § 1-501)

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<sup>1</sup>Charter reference: § 10.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines and costs.
- 3-203. Disposition and report of fines and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.
- 3-206. Contempt of court.

**3-201. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1976 Code, § 1-502)

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

In all cases heard or determined by him, the city judge shall impose court costs in the amount of \$50.00. In cases which are not tried by the city judge but are dismissed upon agreement, the court may impose an administrative clerk's fee in the amount of \$20.00. The court may also impose an administrative fee in the amount of \$26.00 for expungement of records. (1976 Code, § 1-508, modified)

**3-203. Disposition and report of fines and costs.** All funds coming into the hands of the city judge in the form of fines, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the board of commissioners a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1976 Code, § 1-511)

**3-204. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1976 Code, § 1-512)

**3-205. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply

when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1976 Code, § 1-506)

**3-206. Contempt of court.** The city court judge of the City of Gatlinburg shall have contempt powers inherent to that court and shall specifically have the power to punish individuals guilty of contempt of court and also persons who violate § 3-204 above. Any person found in contempt of court shall be fined the sum of \$10.00 for each and every violation. If a defendant willfully refuses to pay the fine authorized by this section, he may be imprisoned for a period not to exceed 48 hours. Any defendant willfully failing to pay fines assessed by this court may be incarcerated for a willful failure to pay. Said defendant shall be given credit against any fines assessed at the rate of \$5.00 per day, the total imprisonment not to exceed 10 days.

Contempt of court shall include, but not be limited to, the following specific acts:

(1) The willful misbehavior of any person in the presence of the court, or so near thereto as to obstruct the administration of justice.

(2) The willful misbehavior of any of the officers of said courts, in their official transactions.

(3) The willful disobedience or resistance of any officer, party, witness, or any other person to any lawful writ, process, order, rule, decree, or command of the court.

(4) Abuse of, or unlawful interference with, the process or proceeding of the court.

(5) Willful failure to pay any fines assessed by the court. (1976 Code, § 1-513)

## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

**3-301. Issuance of arrest warrants.**<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1976 Code, § 1-503)

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally 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 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. (1976 Code, § 1-504)

**3-303. 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. (1976 Code, § 1-505)

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<sup>1</sup>State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

**3-401. Appearance bonds authorized.** When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1976 Code, § 1-507)

**3-402. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1976 Code, § 1-509)

**3-403. Bond amounts, conditions, and forms.** An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1976 Code, § 1-510)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. VACATIONS AND SICK LEAVE.
3. PERSONNEL REGULATIONS.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. TRAVEL REIMBURSEMENT POLICY.

#### CHAPTER 1

### SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

#### SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Part time, etc. employees not covered.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of the City of Gatlinburg to provide for all eligible employees and officials of the municipality, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the municipality shall take such action as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-701)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1976 Code, § 1-702)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1976 Code, § 1-703)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1976 Code, § 1-704)

**4-105. Records and reports to be made.** The municipality recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-705)

**4-106. Part time, etc. employees not covered.** There is excluded from this chapter authority to make any agreement referred to and provided for in § 4-102, with respect to the employees in the following classifications of positions in the City of Gatlinburg, such employees are expressly excluded from coverage under this agreement:

- (1) Employees engaged in rendering service of any emergency nature.
- (2) Employees engaged in rendering service in positions the compensation for which is on a fee basis, such as the city attorney and the city auditor.
- (3) Elective officials engaged in rendering "legislative" services. (1976 Code, § 1-706)

## CHAPTER 2

### VACATIONS AND SICK LEAVE

#### SECTION

- 4-201. Applicability of chapter.
- 4-202. Vacation leave.
- 4-203. Leave records.

**4-201. Applicability of chapter.** This chapter shall apply to all full-time municipal officers and employees except those operating under the jurisdiction of a school, utility, or other separate board or commission. (1976 Code, § 1-801)

**4-202. Vacation leave.** Vacation leave shall conform to the personnel rules and regulations recommended by the city manager and approved by the city commission; sick leave to be evaluated on the same basis. (1976 Code, § 1-802)

**4-203. Leave records.** The city manager shall cause to be kept, for each officer and employee, a record currently up to date at all time showing credits earned and leave taken under this chapter. (1976 Code, § 1-804)

## CHAPTER 3

### PERSONNEL REGULATIONS

#### SECTION

4-301. Personnel rules and regulations.

**4-301. Personnel rules and regulations.** Personnel rules and regulations shall be as adopted by the board of commissioners from time to time in the form of a personnel handbook. Said personnel handbook shall be adopted and may be amended by a resolution of the board of commissioners. (1976 Code, § 1-901)

## CHAPTER 4

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-401. Title.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program plan.
- 4-408. Plan adopted by reference.

**4-401. Title.** This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Gatlinburg. (as added by Ord. #2469, Sept. 2013, and replaced by Ord. #2572, June 2021 *Ch14\_03-23-22*)

**4-402. Purpose.** The City of Gatlinburg, in electing to update their established program plan, will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

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

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

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

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

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

(5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are

considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (as added by Ord. #2469, Sept. 2013, and replaced by Ord. #2572, June 2021 *Ch14\_03-23-22*)

**4-403. Coverage.** The provisions of the occupational safety and health program plan for the employees of the City of Gatlinburg shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Gatlinburg whether part-time, full-time, contract or seasonal. (as added by Ord. #2469, Sept. 2013, and replaced by Ord. #2572, June 2021 *Ch14\_03-23-22*)

**4-404. Standards authorized.** The occupational safety and health standards adopted by the City of Gatlinburg are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (as added by Ord. #2469, Sept. 2013, and replaced by Ord. #2572, June 2021 *Ch14\_03-23-22*)

**4-405. Variances from standards authorized.** The City of Gatlinburg may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Gatlinburg shall notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the departmental bulletin boards as designated by the city manager shall be deemed sufficient notice to employees. (as added by Ord. #2469, Sept. 2013, and replaced by Ord. #2572, June 2021 *Ch14\_03-23-22*)

**4-406. Administration.** For the purposes of this chapter, the human resources director/manager is designated as the safety director of occupational

safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #2469, Sept. 2013, and replaced by Ord. #2572, June 2021 ***Ch14\_03-23-22***)

**4-407. Funding the program plan.** Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the board of commissioners. (as added by Ord. #2469, Sept. 2013, and replaced by Ord. #2572, June 2021 ***Ch14\_03-23-22***)

**4-408. Plan adopted by reference.**<sup>1</sup> The plan which is established in accordance with the provisions of this chapter shall become effective in the City of Gatlinburg upon passage of this chapter and shall become a part of this chapter as fully and completely as if it set out herein in full, the same being here adopted and incorporated by reference. (as added by Ord. #2469, Sept. 2013, and replaced by Ord. #2572, June 2021 ***Ch14\_03-23-22***)

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<sup>1</sup>The Plan of Operation for the Occupational Safety and Health Plan for Employees of the City of Gatlinburg is available in the office of the city recorder.

## CHAPTER 5

### TRAVEL REIMBURSEMENT POLICY

#### SECTION

- 4-501. Purpose.
- 4-502. Policy.
- 4-503. Reimbursement procedures.
- 4-504. Travel advance.
- 4-505. Honorariums.
- 4-506. Taxi fares--airport transportation.
- 4-507. Travel--personally owned automobile.
- 4-508. Automobile rental.
- 4-509. Parking.
- 4-510. Lodging.
- 4-511. Per diem for meals and incidentals.
- 4-512. Telecommunications costs while on travel status.
- 4-513. Exceptions.
- 4-514. City manager authorized to promulgate forms.
- 4-515. Direct payment provisions.
- 4-516. Policy to be submitted to the comptroller.

**4-501. Purpose.** This policy shall constitute the official policy regarding travel at city expense for the mayor and any other member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body and any official or employee of the municipality whose salary is set by charter or general law, and supersedes all previous policies regarding same. Authorization for travel will not be granted and expenses will not be reimbursed unless the travel request is made and reimbursement claim filed in accordance with these regulations and any exceptions thereto are approved in advance. (Ord. #2202, March 2000)

**4-502. Policy.** (1) All overnight travel on city business for which expense reimbursement will be made and day trips requiring an expenditure reimbursement in excess of \$50.00 must have prior approval via "Request for Travel Approval" form. The form may be obtained from the city manager's office and should be signed by all parties indicated before it is submitted to the city manager's office for processing.

(2) Travel must be by the most direct route possible. Those traveling by an indirect route must assume any extra expense incurred thereby.

(3) Lodging must be for the minimum amount needed to complete the city business being conducted. Any lodging in excess of the minimum will not be paid for by the city.

(4) Expenses related to spousal travel will not be reimbursed.

(5) When more than one official is traveling to the same destination for the same purpose, only one claim for mileage reimbursement will be paid unless prior approval for multiple reimbursement has been obtained from the city manager.

(6) Mileage reimbursement shall be at the existing Internal Revenue Service rate as determined by the personnel office of the city.

(7) All airline reservations shall be made through the city manager's office at the best tourist or coach rate available. Officials flying at a higher rate must assume any extra expense incurred thereby. (Ord. #2202, March 2000)

**4-503. Reimbursement procedures.** Claims for reimbursement must be itemized on an approved "Claim for Travel Expense" form obtainable from the city manager's office. (Ord. #2202, March 2000)

**4-504. Travel advance.** The amount of the travel advance will be based on 80% of the total estimated cost of travel. Advances will not be issued for less than \$100. Immediately upon return, the employee must submit a request for reimbursement regardless of whether he/she owes advance monies back to the city or is due additional reimbursement. Each employee receiving a cash advance must sign a payroll deduction authorization form which will allow the city to recover the advance from any salary owed the employee in the event of termination of employment or failure to submit a travel claim. (Ord. #2202, March 2000)

**4-505. Honorariums.** For those employees who receive honorariums for appearing at meetings while on official city business, the employee may, at his/her option, accept the honorarium as full payment for travel expenses including airfare, or choose to surrender the honorarium to the city, and be reimbursed in accordance with established travel policy. (Ord. #2202, March 2000)

**4-506. Taxi fares--airport transportation.** Reasonable taxi fares are allowed from airports. It is expected that bus, limousine or light rail service to or from airports will be used when available and practical. In traveling between hotel or other lodging and meeting or conference sites, reasonable taxi fares will be allowed. No receipt is required for reimbursement of reasonable taxi fares. (Ord. #2202, March 2000)

**4-507. Travel--personally owned automobile.** (1) Reimbursement for the use of personally-owned cars is at the standard mileage rate. Reasonable tolls and ferry fees will be allowed when necessary; no receipt is required for reimbursement.

(2) Procedures for calculating mileage are based on the fact that the city does not reimburse employees for normal commuting mileage. Mileage as published by Rand-McNally, and available at [www.randmcnally.com](http://www.randmcnally.com), will be regarded as official. Reasonable vicinity mileage will be allowed.

(a) If an employee begins or ends a trip at his/her official station, reimbursable mileage will be the mileage from the official station to the destination.

(b) If an employee begins or ends a trip at his/her residence without stopping at his/her official station, reimbursable mileage will be the lesser of the mileage from the employee's residence to his/her destination or his/her official station to the destination. On weekends or holidays, the employee may typically be reimbursed for actual mileage from his/her residence to the destination.

(c) If an employee travels between destinations without returning to his official station or his residence, reimbursable mileage is the actual mileage between those destinations. (Ord. #2202, March 2000)

**4-508. Automobile rental.** Advance authorization from the city manager must be secured for automobile rental, whether for in-state or out-of-state travel. Reservations made through the city manager's department can assure the city of any discounts negotiated with vendors. Whenever possible, employees should refuel before returning vehicles. (Ord. #2202, March 2000)

**4-509. Parking.** Charges for routine parking while on travel status will be reimbursed. Receipts are required. (Ord. #2202, March 2000)

**4-510. Lodging.** The employee will be reimbursed for actual lodging costs plus tax incurred up to the applicable maximum amounts. Lodging receipts are required and must itemize room charges and taxes by date. If a convention rate exceeds the maximum reimbursement rate and is documented by a convention brochure or registration form, a higher reimbursement rate will be allowed.

The maximum reimbursement rates for lodging are the same as those maintained by the U.S. General Services Administration for federal employees within the continental United States (CONUS). The CONUS list, available on the General Services Administration web site at <http://www.state.tn.us/finance/act/accounts.html>, contains a standard reimbursement rate for lodging and meals and incidentals, and several pages of exceptions.

If a room is shared with other than a city employee, actual costs subject to the applicable maximum rate in the reimbursement rate schedule apply. In the event of double occupancy for city employees on official travel, both employees should attach an explanation to his/her travel claim detailing dates and other employees with whom the room was shared. The lodging costs may

be claimed by the employee who incurred the cost, or one-half the double occupancy charge may be allowable for each employee. (Ord. #2202, March 2000)

**4-511. Per diem for meals and incidentals.** The maximum per diem rates include a fixed allowance for meals and for incidental expenses (M&I). The M&I rate, or fraction thereof, is payable to the traveler without itemization of expenses or receipts. Incidentals are intended to include miscellaneous costs associated with travel such as tips for baggage handling, phone calls to home, etc. Reimbursement is made only when overnight travel is required, or excessive hours of work are required outside Sevier County or the employee's county of residence. Generally, the applicable maximum per diem rate for each calendar date of travel shall be determined by the location of lodging for the traveler.

The M&I rates for travel are the same as those for federal employees, and are available on the General Services Administration's web site. As with lodging, there is a standard rate for the continental United States (CONUS), and a list of exceptions.

Reimbursement for meals and incidentals for the day of departure shall be three-fourths of the M&I rate. Reimbursement for M&I for the day of return shall be three-fourths of the M&I rate applicable to the preceding calendar day.

Reimbursement may be made for an occasional meal for employees on one-day travel status working beyond their standard workday at one-third of the daily M&I rate for each reimbursable meal. Total reimbursement is limited to the full day M&I allowance. (Ord. #2202, March 2000)

**4-512. Telecommunications costs while on travel status.** Local phone calls, FAX charges and long distance calls for city business will be reimbursed. Employees must provide a statement furnishing the date, name and location called for long distance calls and FAX charges. (Ord. 2202, March 2000)

**4-513. Exceptions.** The city manager shall have the authority to grant exception from any part or all of these rules and regulations when deemed appropriate for an employee or group of employees on official city travel. (Ord. #2202, March 2000)

**4-514. City manager authorized to promulgate forms.** The city manager is authorized to promulgate forms for the reporting of such travel expenses and shall also determine whether travel expenses submitted pursuant to this policy are reimbursable expenses. (Ord. #2202, March 2000)

**4-515. Direct payment provisions.** The City of Gatlinburg is hereby also authorized to pay directly for travel expenses, including meals and lodging,

and registration fees for conferences, conventions, seminars, and other education programs on behalf of the mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body and any official or employee whose salary is set by charter or general law, provided payment is made directly to the provider and not to the official or employee. (Ord. #2202, March 2000)

**4-516. Policy to be submitted to the comptroller.** The travel expense reimbursement policy adopted herein shall also be submitted to the Comptroller of the State of Tennessee as required by law. (Ord. #2202, March 2000)

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

1. REAL PROPERTY TAXES.
2. PRIVILEGE TAX.
3. WHOLESALE BEER TAX.
4. SALES TAX.
5. BUSINESS TAX.
6. HOTEL/MOTEL TAX.
7. TOURIST RESIDENCY PERMITS.
8. RESTAURANT PRIVILEGE TAX.
9. PURCHASE, SALE, AND INVENTORY OF CITY PROPERTY.
10. MISCELLANEOUS.
11. AMUSEMENT TAX.

**CHAPTER 1****REAL PROPERTY TAXES****SECTION**

5-101. When due and payable.

5-102. When delinquent--penalty and interest.

**5-101. When due and payable.**<sup>2</sup> Taxes levied by the City of Gatlinburg against real property shall become due and payable annually on the first day of November of the year for which levied. Any taxpayer who pays his taxes before November 1st, aforesaid, shall receive a discount of two (2) percent from the amount due thereof. (1976 Code, § 6-101)

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<sup>1</sup>Charter reference: § 13.

<sup>2</sup>State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. 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</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 such penalty of two (2) percent on all such taxes remaining unpaid. An additional penalty of two (2) percent shall be added for each month that such taxes remain unpaid for twelve (12) months. (1976 Code, § 6-102)

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<sup>1</sup>Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b), provides that if the county trustee collects the municipality's property taxes, a penalty of ½ of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

## CHAPTER 2

### PRIVILEGE TAX

#### SECTION

- 5-201. Tax levied on gross receipts.
- 5-202. Gross receipt tax report to be filed monthly.
- 5-203. Failure to file return on time.
- 5-204. Distress warrants issued for collection.
- 5-205. Return to be made on sale of business.
- 5-206. Credit memorandum for overpayment.

**5-201. Tax levied on gross receipts.** Every person doing business within the City of Gatlinburg shall pay a tax of one and one-fourth percent (1¼%) upon the gross receipts of such business. The tax so levied shall specifically include, but shall not be limited to, the following privileges.

(1) The privilege of selling tangible personal property at wholesale or retail; the privilege of renting or furnishing things or services; the privilege of storing tangible personal property within the limits of said municipality for sale; the privilege of renting any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist cabin, tourist court, tourist camp, motel, or any other place in which rooms, lodgings or accommodations are furnished to transients for a consideration; the privilege of operating or conducting a garage, parking lot, and other place of business for the purpose of parking or storing motor vehicles; the privilege of operating places of amusement, sports or entertainment, including billiard or pool halls, bowling alleys, amusement devices, musical devices, amusement parks, carnivals, circuses, horse shows, athletic contests, wrestling matches, prize fights, boxing or wrestling exhibitions, skating rinks, public bathing houses, public dance halls, museums, riding academies, tourist guide services, "sky-lift" services, swimming pools, shooting galleries, miniature golf courses or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged.

(2) The said tax is hereby levied upon all persons doing business, within the corporate limits of the City of Gatlinburg, regardless of whether or not such business privilege is enumerated in this chapter.

(3) The said tax shall be collected from all persons as defined herein and paid at the time and in the manner as hereinafter provided.

(4) The tax so levied is and shall be in addition to all other taxes, whether levied in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied.

(5) It is specifically provided that said tax shall be paid by and absorbed by the person, or corporation doing business or exercising any of the

foregoing privileges, and shall not be passed on to or paid by customers, vendees, consumers and patrons paying therefor.

(6) One percent (1%) of the gross receipts tax levied shall be paid into the General Fund of the City of Gatlinburg. One-half ( $\frac{1}{2}$ ) of one-fourth percent ( $\frac{1}{4}\%$ ) shall be used for capital improvement projects and one-half ( $\frac{1}{2}$ ) of one-fourth percent ( $\frac{1}{4}\%$ ) shall be used to advertise the City of Gatlinburg in a manner as directed by the board of commissioners. (1976 Code, § 6-501)

**5-202. Gross receipt tax report to be filed monthly.** (1) The gross receipts tax of one and one-fourth percent ( $1\frac{1}{4}\%$ ) levied hereunder shall be due and payable monthly, beginning on the 15th day of July, and for the purpose of ascertaining the amount of tax payable under this chapter it shall be the duty of all persons subject to this tax on or before the 20th day of the month following the month in which this tax shall become effective to submit to the finance director, upon forms prescribed, prepared and furnished by him, returns, showing the gross receipts arising from the doing of business during the preceding calendar month; and thereafter like returns shall be prepared and submitted to said finance director by all persons subject to this chapter on or before the 20th of each month, for the preceding calendar month.

(2) When any person subject to this chapter shall fail to make any return and pay the full amount of the tax required by this chapter there shall be imposed, in addition to other penalties provided herein, a specific penalty to be added to the tax in the amount of five percent (5%), if the failure is for not more than thirty (30) days, with an additional five percent (5%) for each additional thirty (30) days, or fraction thereof, during which the failure continues, not to exceed twenty-five percent (25%) in the aggregate. In the case of a false or fraudulent return, where willful intent exists to defraud the City of Gatlinburg of any tax due under this chapter, a specific penalty of fifty percent (50%) of the tax bill shall be assessed.

When any person fails to remit any tax, or any portion thereof, on or before the date when such tax shall be required by law to be paid, there shall be added to the amount due interest at the rate of ten percent (10%) per annum from the date due until paid.

All penalties and interest imposed by this chapter shall be payable to and collectible by the finance director in the same manner as if they were a part of the tax imposed.

The finance director for good cause may extend for not to exceed thirty (30) days the time for making any returns required under the provisions of this chapter.

(3) In the event any person fails to make a report and pay the tax as provided by this chapter, or in case any person makes a grossly incorrect return, or a return that is false or fraudulent it shall be the duty of the finance director to make an estimate for the taxable period of such person's gross receipts, and assess and collect the tax and interest, plus penalty, if such have accrued, on the

basis of such assessment, which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the person owing said tax.

(4) It shall be the duty of every person required to make a return and pay said tax under this chapter to keep and preserve suitable records of the gross receipts of such person taxable under this chapter, and such other books of account as may be necessary to determine the amount of tax due hereunder, and other information as may be required by the finance director, and it shall be the duty of every such person, moreover, to keep such books of account for a period of two years, and all such books of account or other records shall be open to examination at all reasonable hours to the finance director or any of his authorized agents. (1976 Code, § 6-502)

**5-203. Failure to file return on time.** (1) If any person subject to making and filing a return required by the provisions of this chapter fails to render such return within the time required or renders a return which is false or fraudulent in that it contains statements which differ from the true gross receipts taxable under this chapter, or otherwise fails to comply with the provisions of this chapter for the taxable period for which said return is made, the finance director shall give such person ten (10) days notice in writing requiring such person to appear before him or his assistant with such books, records and papers as he may require relating to the business of such person for such taxable period; and said finance director may require such person, or the agents and employees of such person, to give testimony or to answer interrogatories under oath administered by the finance director or his assistants respecting the gross receipts of such person subject to tax or the failure to make report thereof as provided in this chapter.

(2) If any such person fails to make any such return or refuses to permit an examination of his books of account or records, or to appear and answer questions within the scope of such investigation relating to his gross receipts, the finance director is hereby authorized to make an assessment based upon such information as may be available to him and to issue a distress warrant for the collection of any such taxes, interest or penalties found to be due. Any such assessment shall be deemed prima facie correct.

(3) At the time of submitting the return required hereunder to the finance director, the persons subject to this chapter shall remit to him therewith the amount of tax due under the applicable provisions of this chapter and failure to so remit such tax shall cause said tax to become delinquent.

(4) All taxes, interest and penalties imposed under this chapter shall be paid to the finance director of the City of Gatlinburg in the form of remittance required by him.

(5) All persons subject to the provisions of this chapter failing or refusing to furnish any return herein required to be made or failing or refusing to furnish a supplemental return or other data required by the finance director, or who shall violate any other provisions of this chapter, shall be guilty of a

misdeemeanor and upon conviction shall be punished in accordance with the general penalty clause in this code. (1976 Code, § 6-503)

**5-204. Distress warrants issued for collections.** The tax imposed by this chapter shall for each month become delinquent on the twenty-first day of each succeeding month.

The finance director is hereby empowered and it shall be his duty when any tax becomes delinquent under this chapter to issue in the name of the city a distress warrant for the collection of the tax, interest, and penalty from each delinquent taxpayer. Said distress warrant shall run in the name of the city and shall be addressed to, and may be executed by, the chief of police or any police officer of the city, or by the sheriff or any deputy sheriff of Sevier County, and may be made returnable at any time not exceeding thirty (30) days from the date of issuance to the office of the finance director.

Upon levy of such distress warrant upon the property of any person who may be delinquent on the payment of said tax, the officer making said levy will advertise the same for sale as in cases of execution sales under the laws of the State of Tennessee, and, upon making sale, shall make due return of the said warrant to the office of said finance director, and will pay over to the said finance director all sums realized therefrom.

In case any officer shall make a levy under a distress warrant so issued and he shall not have sufficient time to advertise and make sale before the return day of said warrant, the said finance director is authorized upon the return thereof to issue a new distress warrant or extend the time of the old distress warrant so the legal advertisement and sale may be made pursuant to said levy. (1976 Code, 6-504)

**5-205. Return to be made on sale of business.** If any person liable for any tax, interest, or penalty levied hereunder shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business. His successor, successors, or assigns, if any, shall withhold sufficient of the purchase money to cover any amount of such taxes, interest, and penalties due and unpaid until such former owner shall produce a receipt from the finance director showing that they have been paid, or a certificate stating that no taxes, interest or penalties are due. If the purchaser of a business or stock of goods shall fail to withhold the purchase money as above provided, said purchaser shall be personally liable for the payment of the taxes, interest, and penalties accruing and unpaid on account of the operation of the business by any former owner, owners, or assigns. (1976 Code, § 6-505)

**5-206. Credit memorandum for over payment.** The finance director is hereby empowered, for good cause shown, to refund to any taxpayer any overpayment of the taxes due under this chapter, and for this purpose the

finance director may issue to any person an official credit memorandum for such overpayment of taxes which may be accepted by the finance director at full face value from the person to whom it is issued in the remittance for subsequent taxes accrued under the provisions of this chapter. Provided, however, in cases where a person has retired from business and has filed a final return, a refund of taxes may be made if it can be established to the satisfaction of the finance director that the tax was not due. Application for such refund, however, must be made within a period of ninety (90) days after the filing of such final return.

The finance director shall design, prepare, print and furnish to all persons, or make available to all persons who are subject to this chapter, all necessary forms for filing returns and instructions to insure a full collection from such persons and an accounting for the taxes due, but failure of any person to secure such forms shall not relieve such person from the payment of said tax at the time and in the manner herein provided.

The finance director and his assistants are hereby authorized and empowered to administer the oath for the purpose of enforcing and administering the provisions of this chapter.

The finance director shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws, or the constitution of the State of Tennessee or the United States, for the enforcement of the provisions of this chapter and the collection of revenues hereunder. (1976 Code, § 6-506)

## CHAPTER 3

### WHOLESALE BEER TAX

#### SECTION

5-301. To be collected.

**5-301. To be collected.** The recorder is hereby directed to take appropriate action to assure payment to the municipality 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> (1976 Code, § 6-401, modified)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 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.

## CHAPTER 4

### SALES TAX

#### SECTION

5-401. Sales tax enacted.

5-402. To be collected by the department of revenue.

5-403. Suit against city manager for recovery of tax paid.

**5-401. Sales tax enacted.** As authorized by Pub. Acts 1963, ch. 329, there is levied a tax in the same manner and on the same privileges subject to the "Retailers Sales Tax Act" under Tennessee Code Annotated, title 67, chapter 6, as the same may be amended, which are exercised in the City of Gatlinburg. The tax is levied on all such privileges at a rate of one-third (1/3) of the rates levied in the Retailers' Sales Tax Act codified in Tennessee Code Annotated, title 67, chapter 6. Provided the tax shall not exceed \$5 on the sale or use of any single article of personal property, and there is excepted from the tax levied by this chapter the sale, purchase, use, consumption or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil. Penalties and interest for delinquencies shall be the same as provided in Tennessee Code Annotated, §§ 67-6-505, 67-6-506, and 67-6-516. (1976 Code, § 6-201, modified)

**5-402. To be collected by the department of revenue.** It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, said determination being evidenced by local option sales and use tax rules and regulations heretofore promulgated by the department of revenue, the department shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The city manager of the City of Gatlinburg is hereby authorized to contract with the department of revenue for the collection of the tax by the department and to provide in said contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of said tax. (1976 Code, § 6-202)

**5-403. Suit against city manager for recovery of tax paid.** In the event the tax is collected by the department of revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the city manager of the City of Gatlinburg. (1976 Code, § 6-203)

**CHAPTER 5****BUSINESS TAX****SECTION**

5-501. Tax levied.

**5-501. Tax levied.** Except as otherwise specifically set forth in this code, the taxes provided for in the state's "Business Tax Act" are hereby expressly enacted, ordained and levied on the businesses, business activities, vocations and occupations carried on within the municipality at the rates in the manner prescribed. (1976 Code, § 6-301)

## CHAPTER 6

### HOTEL/MOTEL TAX

#### SECTION

- 5-601. Definitions.
- 5-602. Levy of tax.
- 5-603. Tax added to room invoice.
- 5-604. Remittance to director of finance.
- 5-605. Offer to absorb tax prohibited.
- 5-606. Penalties and interest for delinquency.
- 5-607. Records.
- 5-608. Administration.
- 5-609. Expending and distributing tax.
- 5-610. Tax is additional tax.
- 5-611. Rules and regulations.

**5-601. Definitions.** For the purposes of this chapter, the following definitions shall apply:

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

(2) "Hotel" means 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, inn, tourist court, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration, the definition shall also include the rental of time-share units or interval ownership units for consideration.

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

(4) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings, or accommodations in a hotel for a period of less than ninety (90) continuing days.

(5) "Consideration" means the consideration charged whether or not received, for the occupancy of a hotel valued in money whether received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. 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.

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

(7) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the municipality tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organization or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business. (1976 Code, § 6-701)

**5-602. Levy of tax.** There is hereby levied a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of three percent (3%) of the consideration charged by the operator. Said tax so imposed is a privilege tax upon the transient occupying said room and is to be collected and distributed as hereinafter provided. (1976 Code, § 6-702)

**5-603. Tax added to room invoice.** Said tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel, such invoice to be given directly or transmitted to the transient, and shall be collected by such operator from the transient and remitted to the Department of Finance. (1976 Code, § 6-703)

**5-604. Remittance to director of finance.** The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms to the director of finance. Said tax to be remitted to such officer not later than the 20th day of each month next following collection from the transient.

For the purpose of compensating the operator in accounting for and remitting the tax levied by this chapter, said operator shall be allowed two percent (2%) of the amount of tax due and accounted for and remitted to the director of finance in the form of a deduction in submitting his report and paying the amount due by him; provided the amount due was not delinquent at the time of payment. (1976 Code, § 6-704)

**5-605. 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 be added to the rent, or that, if added, any part will be refunded. (1976 Code, § 6-705)

**5-606. Penalties and interest for delinquency.** Taxes collected by an operator which are not remitted to the department of finance 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 six percent (6%) per annum, and in addition for penalty of one-half of one percent (1/2 of 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. Willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving lodging services paid by a customer to the operator in those cases when the operator fails or refuses to pay the tax payable to the department of finance. (1976 Code, § 6-706)

**5-607. Records.** It shall be the duty of every operator liable for the collection and payment of this tax, to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the director of finance shall have the right to inspect at all reasonable times. (1976 Code, § 6-707)

**5-608. Administration.** In administering and enforcing the provisions of this chapter, the director of finance shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, title 67, or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, § 67-1-911, it being the intent of this chapter that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this chapter; provided, the director of finance shall possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707(a), with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under the authority of this chapter and to direct the refunding of the same. Notice of any tax paid under protest shall be given to the director of finance, and suit for recovery shall be brought against him. (1976 Code, § 6-708, modified)

**5-609. Expending and distributing tax.** The proceeds from the tax levied herein shall be retained by the municipality and distributed as follows:

- (1) One-third (1/3) of the proceeds shall be used for direct promotion of tourism.
- (2) One-third (1/3) of the proceeds shall be used for tourist related activities.
- (3) One-third (1/3) of the proceeds shall be deposited in the general funds of the municipality.

Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel. (1976 Code, § 6-709)

**5-610. Tax is additional tax.** The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (1976 Code, § 6-710)

**5-611. Rules and regulations.** The finance director shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws, for the enforcement of the provisions of this chapter and the collection of revenues hereunder. Further the finance director shall design, prepare, print and make available to all persons who are subject to this chapter, all necessary forms for filing returns and instructions to insure full compliance with the provisions of this chapter. (1976 Code, § 6-711)

## CHAPTER 7

### TOURIST RESIDENCY PERMITS

#### SECTION

5-701. Definition.

5-702. Permit.

5-703. Fee.

5-704. Person required to obtain permit.

5-705. Penalty.

**5-701. Definition.** "Tourist residency" (sometimes referred to as a tourist residence) is defined as the practice of renting single family residences, specifically including cabins and chalets and similar residences, including condominiums and apartments, which are not otherwise inspected by the State of Tennessee, on an overnight, weekly or other basis of less than thirty days duration, to tourists and/or visitors.

Tourist residencies shall be reviewed and permitted under the adopted building codes and Life Safety 101 Code using one (1) of the following criteria:

(1) Tourist residency, as defined herein, consisting of three (3) or less stories, less than five thousand (5,000) gross square feet, and twelve (12) or fewer occupants shall be classified as one- and two-family dwellings. These dwellings are subject to the fire sprinkler exemptions of Tennessee Code Annotated, § 68-120-101(a)(8)(A);

(2) Tourist residency, as defined herein, consisting of more than (3) stories, more than five thousand (5,000) gross square feet, or more than twelve (12) occupants, shall be classified as R-1 or R-3 as determined by the provisions of NFPA 101-Life Safety Code and the International Building Code requirements. These dwellings are not subject to the fire sprinkler exemptions of Tennessee Code Annotated, § 68-120-101(a)(8)(A). (1976 Code, § 6-801, as replaced by Ord. #2325, Dec. 2004, and amended by Ord. #2453, Nov. 2012, Ord. #2461, March 2013, and Ord. #2503, Sept. 2016)

**5-702. Permit.** Each tourist residence as defined above must have a tourist residency permit and have an annual tourist residency inspection. (1976 Code, § 6-802, as replaced by Ord. #2325, Dec. 2004)

**5-703. Fee.** The base fee for a tourist residency permit shall be the sum of \$200 per residence. This will include the residence and two bedrooms. For all tourist residences which have more than two bedrooms, an additional \$75 per bedroom shall be charged. (1976 Code, § 6-803, as replaced by Ord. #2325, Dec. 2004)

**5-704. Person required to obtain permit.** The owner of the tourist residence or his/her agent, if being rented by an overnight rental agent, shall be required to obtain the tourist residency permit. (1976 Code, § 6-804, as replaced by Ord. #2325, Dec. 2004)

**5-705. Penalty.** Any owner, or rental agent on behalf of an owner, who rents a tourist residence without first obtaining a tourist residency permit shall be in violation of this chapter. Each rental shall constitute a separate violation of same. Upon conviction of any such violation, such person shall be punished by levying a fine not to exceed fifty dollars (\$50.00) per violation. (1976 Code, § 6-805, as replaced by Ord. #2325, Dec. 2004)

## CHAPTER 8

### RESTAURANT PRIVILEGE TAX

#### SECTION

- 5-801. Levy of tax.
- 5-802. Tax added to food invoice.
- 5-803. Remittance to director of finance.
- 5-804. Exemptions.
- 5-805. Penalties and interest for delinquency.
- 5-806. Records.
- 5-807. Administration.
- 5-808. Tax is additional tax.
- 5-809. Rules and regulations.
- 5-810. Use of proceeds.
- 5-811. Severability.

**5-801. Levy of tax.** There is hereby levied a privilege tax upon the privilege of purchasing food from restaurants, cafes, cafeterias, caterers and other similar establishments engaged in selling prepared food in the City of Gatlinburg. Said privilege tax shall be in an amount equal to one and one-half percent (1½%) of the consideration charged by the operator of said establishments. Said tax so imposed is a privilege upon the purchasing of food by patrons of said establishments and is to be collected and distributed as hereinafter provided.

For purposes of this chapter, restaurant shall be deemed to include any establishment selling prepared food whether for consumption on-premise or off-premise and is to include delicatessen, snack bars, ice cream parlors, lunch rooms or counters within other retail businesses, and other similar establishments, and specifically includes all 'food service establishments' as defined by Tennessee Code Annotated, title 68. (1976 Code, § 6-901)

**5-802. Tax added to food invoice.** Said tax shall be added by each and every operator of establishments covered by this chapter to each invoice prepared by the operator of said facility. Said invoice shall be given directly to the purchaser and shall be collected by the operator from the purchaser at the time of sale and remitted to the director of finance of the City of Gatlinburg. (1976 Code, § 6-902)

**5-803. Remittance to director of finance.** The tax hereby levied shall be remitted by all operators of establishments subject to said tax to the director of finance. Said tax shall be remitted to the finance director not later than the 20th day of each month next following collection from the purchaser. (1976 Code, § 6-903)

**5-804. Exemptions.** The provisions of this chapter shall not apply to food prepared to be served at churches, schools, senior citizen centers, nursing homes and at boarding houses where the cost of food is included in the rental rate. The provisions of this chapter shall also not apply to the sale of alcoholic beverages in any form, manner, time or place. (1976 Code, § 6-904)

**5-805. Penalties and interest for delinquency.** Taxes collected by an operator which are not remitted to the department of finance 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 ten percent (10%) per annum and in addition for penalty of one-half of one percent ( $\frac{1}{2}$  of 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. Willful refusal of an operator to collect or remit the tax or willful refusal of a purchaser to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving food services paid by a customer to the operator in those cases where the operator fails or refuses to pay the tax payable to the department of finance. (1976 Code, § 6-905)

**5-806. Records.** It shall be the duty of every operator liable for the collection and payment of this tax, to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the director of finance shall have the right to inspect at all reasonable times. (1976 Code, § 6-906)

**5-807. Administration.** In administering and enforcing the provisions of this chapter, the director of finance shall have, as additional powers, the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, title 67, or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, § 67-1-911, it being the intent of this chapter that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this chapter; provided, the director of finance shall possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707, with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under the authority of this chapter and to direct the refunding of the same. Notice of any tax paid under protest shall be given to the director of finance, and suit for recovery shall be brought against him. (1976 Code, § 6-907)

**5-808. Tax is additional tax.** The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (1976 Code, § 6-908)

**5-809. Rules and regulations.** The finance director shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws, for the enforcement of the provisions of this chapter and the collection of revenues hereunder. Further the finance director shall design, prepare, print and make available to all persons who are subject to this chapter, all necessary forms for filing returns and instructions to insure full compliance with the provisions of this chapter. (1976 Code, § 6-909)

**5-810. Use of proceeds.** Tax proceeds generated by the provisions of this chapter shall be used as determined by the board of commissioners of the City of Gatlinburg. The use of said funds, however, shall be limited to Capital Improvements Projects as established by the Capital Improvement Program of the City of Gatlinburg, including the Gatlinburg Convention Center. (1976 Code, § 6-910)

**5-811. Severability.** If any provision of this chapter is deemed by a court of competent jurisdiction to be invalid, such invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid application and to that end, the provisions of this chapter are declared severable. (1976 Code, § 6-911)

## CHAPTER 9

### PURCHASE, SALE, AND INVENTORY OF CITY PROPERTY

#### SECTION

- 5-901. City manager to authorize purchases.
- 5-902. Terms, conditions and procedures for purchasing.
- 5-903. Notice inviting bids.
- 5-904. Submittal and opening of bids.
- 5-905. Acceptance or rejection of bids.
- 5-906. Determination of lowest responsible bidder.
- 5-907. Awards to other than lowest bidders.
- 5-908. Bid deposits.
- 5-909. Performance bond.
- 5-910. Purchases by the state.
- 5-911. When competitive bids required.
- 5-912. Inventory on property required.
- 5-913. Transfer and sale of property.
- 5-914. Procedure for sales.
- 5-915. Award protest procedures.

**5-901. City manager to authorize purchases.** The purchasing agent, as directed by the city manager, for the city shall oversee all purchases of supplies, materials, equipment and services as authorized by the commission in the manner prescribed by this chapter and subject to the limitations imposed by law. (1976 Code, § 1-1501)

**5-902. Terms, conditions and procedures for purchasing.** The following terms, conditions and procedures shall be followed by the purchasing agent and/or the city manager and suppliers in the procurement of goods and services for the City of Gatlinburg.

(1) All purchases of supplies, materials and equipment and services shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged therewith, and such supplies, materials, equipment and services shall conform with specifications approved, established and enforced by the purchasing agent and/or the city manager.

(2) No purchase order shall be issued or contract executed, nor shall any other agreement purporting to obligate the city be entered into, without the written approval of the director of finance, that there is a sufficient unencumbered appropriation and allotment balance to cover the obligation.

(3) Competitive bids on all supplies, materials, equipment and services, except those specified elsewhere in this chapter, and contracts for public improvements shall be obtained, whenever practicable, and the purchase

or contract awarded to the lowest responsible bidder, provided that any or all bids may be rejected as prescribed in this chapter.

(4) "Split-bidding" is prohibited. The practice of "split bidding" is hereby defined to be the device of submitting multiple requisitions for the same supplies, materials, equipment or services where the sum of the cost of the several requisitions is equal to current state law requirements and splitting the department's requirements into several requisitions would thereby avoid the necessity for the city manager to require competitive sealed bids or quotations. The practice of "split-bidding" is hereby declared to be improper, illegal and against the public interest, and the head of the office, department or agency shall state on each requisition that such requisition represents the entire quantity presently known to be required and that the requisition is not a part of a device or scheme to avoid purchasing on competitive bidding or to otherwise evade the established purchasing procedures of the city.

(5) The city manager shall not accept the bid of any vendor or contractor who is in default on the payment of any taxes, licenses, fees or other monies of whatever nature that may be due the city by such vendor or contractor.

(6) A bidder, to qualify for an award of contract, shall have available experienced personnel to give adequate service on any equipment bid on, and maintain a supply of essential repair parts. (1976 Code, § 1-1502)

**5-903. Notice inviting bids.** Notice inviting bids shall be published at least once in a local newspaper as the city manager may direct and may be published in other publications. Such notice shall include a general description of the articles to be purchased, shall state where bid blanks and written specifications may be secured, and the time and place for opening bids. Additional notice of such invitations to bid shall be posted on the public bulletin board in the municipal building. (1976 Code, § 1-1503)

**5-904. Submittal and opening of bids.** Bids shall be submitted sealed as prescribed in bid specifications and shall be identified as bids on the envelope. Such bids shall be opened in public in the presence of at least three (3) persons at the time and place stated in the public notice, and a tabulation of all bids so received shall be made available upon request. (1976 Code, § 1-1504)

**5-905. Acceptance or rejection of bids.** The city manager shall have and hereby is granted the authority to reject any or all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby; shall have the right to reject any bid in any instance where there are not at least two bidders on the same invitation to bid; however, this shall not prevent the city manager from accepting a bid and presenting it to the commission to award a contract where there is only one bidder, if, in his opinion, the best interest of the

city will be served by doing so. No contract shall then be awarded without commission's approval. The city manager is hereby authorized to execute contracts on behalf of the City of Gatlinburg without the board of commissioners' approval if the amount of the contract is less than twenty thousand dollars (\$20,000.00). All contracts for an amount in excess of \$20,000 shall be approved by the board of commissioners and executed either by the mayor or the city manager as authorized in the approval. All change orders to contracts approved by the board of commissioners shall likewise be approved by the board of commissioners prior to execution. Change orders to contracts not approved by the board of commissioners may be administratively approved and executed by the city manager provided the change order is in an amount less than seven thousand five hundred dollars (\$7,500.00) and the funds for same have been approved by the board of commissioners. The city manager shall notify the board of commissioners of such change orders but their previous approval of same is not required. The city manager is further authorized to execute purchase orders on behalf of the city for such items or goods as approved and funded in the budget, without regard to amount. (1976 Code, § 1-1505, as amended by Ord. #2189, Sept. 1999)

**5-906. Determination of lowest responsible bidder.** In determining the lowest responsible bidder, as referred to in § 5-902(3), in addition to price, the city manager shall consider:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the services required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality or performance of previous contracts or services.
- (5) The previous and existing compliances by the bidder with laws and ordinances relating to the contract or service.
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- (7) The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- (8) The ability of the bidder to provide future maintenance and services for the use of the subject of the contract.
- (9) The number and scope of conditions attached to the bid. (1976 Code, § 1-1506, as amended by Ord. #2509, Feb. 2017)

**5-907. Awards to other than lowest bidders.** When the award is not recommended by the city manager to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the city manager and filed with all the other papers relating to the transaction.

Award to other than the low bidder must be approved by the city commission. (1976 Code, § 1-1507)

**5-908. Bid deposits.** When deemed necessary, bid deposits shall be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the city manager shall determine and unsuccessful bidders shall be entitled to return of the deposits where such has been required. A successful bidder shall forfeit any required deposit upon failure on his part to enter a contract within ten (10) days after the award, if a specified time is not stated in the bid specifications. (1976 Code, § 1-1508)

**5-909. Performance bond.** The city manager may and is hereby granted the authority to require a performance bond, before entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the city. (1976 Code, § 1-1509)

**5-910. Purchases by the state.** Notwithstanding the procedures as are set out in § 5-901 through § 5-909, the city manager is hereby authorized to request the Department of General Services of the state to purchase supplies and equipment for the city pursuant to Tennessee Code Annotated, § 12-3-401, when it is deemed that such purchases will result in a substantial savings to the city. (1976 Code, § 1-1510)

**5-911. When competitive bids required.** (1) Purchases less than \$2,500.00. All purchases of any single item or multiple items totaling less than two thousand five hundred dollars (\$2,500.00) are at the discretion of the respective department head and require no public advertisement or competitive bidding. While bidding or quotations are not mandatory for purchases under two thousand five hundred dollars (\$2,500.00) they are still desirable and every effort should be made to acquire products and services at best possible price.

(2) Purchases from \$2,500.00 to \$10,000.00. Purchases greater than two thousand five hundred dollars (\$2,500.00) but less than ten thousand dollars (\$10,000.00) will be made only after obtaining at least three (3) documented quotes unless there are less than three (3) vendors that can supply the goods or services. For purposes of this section, a vendor that fails to respond to an invitation to quote, resulting in a no quote, constitutes a documented quote. Competitive bidding and public advertisement is not required. Quotes may be received via fax, telephone, internet, and the like. The business will be awarded to the vendor providing the lowest and best quote conforming to the specifications and delivery requirements, provided that the city manager or his/her designee approves the quote and purchase. Department heads or others authorized to make purchases on behalf of the city will not divide the quantity of items required into multiple purchases totaling between two thousand five hundred dollars (\$2,500.00) but less than ten thousand dollars (\$10,000.00) or

otherwise contrive to circumvent the provisions of this section and/or subsequent sections.

(3) Purchases greater than \$10,000.00. Unless otherwise provided by statute, competitive bidding and public advertisement will be required for all purchases over ten thousand dollars (\$10,000.00) except for:

(a) Purchases for goods or services that are subject to daily price changes (e.g. gasoline).

(b) Purchases from any federal, state or governmental unit or agency or any other cooperative purchasing agreement (U.S. Communities, NJPA, etc.) allowed by the state.

(c) Purchases for goods or services that are sold, distributed or manufactured by a single source ("sole source purchases"); and

(d) Purchases made during a declared area-wide emergency or for the immediate delivery in actual emergencies arising from the unforeseen causes, including delays by contractors or transportation or unanticipated volume of work. (1976 Code, § 1-1511, as replaced by Ord. #2509, Feb. 2017)

**5-912. Inventory on property required.** The city manager shall maintain an inventory of all public property and equipment. When possible, each item of such property shall be labeled, serially numbered, or identifiable in some way as city property. When such inventory is made, one copy thereof shall be filed in the office of the director of finance and such additional copies with other public officials as the commission may designate, so that the same may be made a part of the permanent records of the city. The inventory shall be adjusted annually as additional properties are acquired or disposed of by the city. (1976 Code, § 1-1512)

**5-913. Transfer and sale of property.** The city manager may transfer to or between departments supplies, materials and equipment. When it is determined by the city manager that material and/or equipment exists which is not needed by any city department, the city commission may authorize the city manager to direct the sale thereof, and the proceeds from any sale or sales shall be deposited in the appropriate fund of the city. (1976 Code, § 1-1513)

**5-914. Procedure for sales.** The city manager, duly authorized, shall obtain competitive and formal quotations for the sale and disposal of surplus, obsolete, unused materials or equipment, when any one item or group of items offered for sale amounts to more than \$1,000.00 in appraised resale value.

(1) In such event, the city manager shall cause notice of sale to be published in a newspaper or newspapers of general circulation, giving a general description of the items to be sold, where bids are to be received and the time and place of the sale. The city manager may, in addition, solicit sealed or informal quotations, as the case may be, from prospective buyers, by telephone,

by sending them copies of newspaper notices, or other methods designed to reach the greatest number of prospective buyers.

(2) When any separate item or items of such surplus to be offered for sale amounts to less than \$1,000.00, the city manager may accept informal bids or quotations for the sale of such item or items.

(3) Surplus is to be sold to the highest and best bidder with the right retained by the city to reject any or all bids or to waive any informalities or immaterial defects contained in said bids.

(4) At the time and place of sale of such surplus, sealed bids shall be submitted to the city manager, and shall be identified as bids on the envelope. Such bids shall be opened in public in the presence of at least (3) persons. Oral bids at a public auction may be considered by the city manager, after giving proper notice of such fact.

(5) Depending upon the nature of such surplus offered, the city manager may require that cash or a cashier's check in an amount equal to 10% of the price bid shall be deposited by the bidder at the time of making or submitting the bid. The person to whom property is sold, either by sealed bid or at public auction, shall consummate the purchase within five (5) days from and excluding the date of the award of such bid.

(6) The provisions of this section shall not apply when the city is selling surplus, obsolete, or unused materials or equipment to any other federal, state or local governmental unit or agency.

(7) In addition to any other procedure for the sale of surplus property set out in this section, the city is hereby authorized to dispose of surplus city property through sale using the internet. The city may conduct such sale itself or may employ a third-party provider for the purpose of said sale. The city is authorized to enter into an agreement with said third-party provider setting forth the process and procedures for such sale. The use of the internet for sales of surplus property shall be an additional means of doing so, and whether such process is used shall be administratively determined by the city manager. (1976 Code, § 1-1514, as amended by Ord. #2327, Feb. 2005)

**5-915. Award protest procedures.** Occasionally, there may be complaints from vendors that the process of awarding a sealed bid has been unfair in some manner. While the City of Gatlinburg maintains excellent vendor relations, procedures do exist should a vendor claim that the process is not fair. The City of Gatlinburg has established the following procedures concerning protests of awards. The goal of these procedures is to arrive at a just settlement of disputes between the city and its vendors. As a first step, vendors who believe there has been a problem with the process or decision should contact the party associated with the bid in question. Most of the time this will be the finance director unless the bid has been handled by an outside engineer or architect. Usually one (1) of these aforementioned parties will be able to explain the city's

rationale for the decision and the vendor will be satisfied. However, if the vendor is still not satisfied the following steps may be taken:

(1) The vendor must notify the Gatlinburg Finance Director, in writing, during the next three (3) business days. The city will not consider complaints filed electronically. Complaints received more than three (3) business days after the award decision has been made will not be considered for review.

(2) The envelope in which the protest is mailed should be clearly marked "protest of award decision." The written protest should include:

(a) The name and address of the protestor.

(b) The bid name, date, and any other pertinent information.

(c) A statement of reason for the protest.

(d) Any supporting documents, exhibits, or evidence to substantiate the protest.

(3) The finance director will deliver the protest to the city manager for review and a decision will be made in writing. Recognize that holding the procurement process up any longer than necessary is detrimental to the interests of the city. In any case, a decision will be made within five (5) business days of the receipt of the protest.

Please note that in those cases where delaying the procurement process would endanger the health of the residents of the City of Gatlinburg, cause additional and extensive damage to the city or would adversely affect its programs, the city will not stop the purchasing process. (as added by Ord. #2509, Feb. 2017)

**CHAPTER 10****MISCELLANEOUS****SECTION****5-1001. Depositories.**

**5-1001. Depositories.** The following financial institutions or their successors are hereby designated as official depositories for City of Gatlinburg funds:

BB&T  
Citizens National Bank  
Tennessee State Bank  
First Tennessee Bank  
Home Federal Bank  
Sevier County Bank  
SmartBank

In addition to the banks specifically named herein, the city may deposit city funds with banks which are named as trustees in any bond resolution of the City of Gatlinburg. Any depository named either in this section or in any future bond resolution shall be required to provide adequate collateral for city funds deposited as required by state law and of the City of Gatlinburg or, in the alternative, to be a member of the Tennessee Collateral Pool. (As added by Ord. #2207, May 2000, and amended by Ord. #2418, Oct. 2009, and Ord. #2479, Nov. 2014)

## CHAPTER 11

### AMUSEMENT TAX

#### SECTION

- 5-1101. Definitions.
- 5-1102. Levy of tax.
- 5-1103. Tax added to amusement price.
- 5-1104. Remittance to director of finance.
- 5-1105. Offer to absorb tax prohibited.
- 5-1106. Exemptions.
- 5-1107. Penalties and interest for delinquency.
- 5-1108. Records.
- 5-1109. Administration.
- 5-1110. Deposit of tax.
- 5-1111. Tax is additional tax.

**5-1101. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions shall apply:

(1) "Admission" means admission into or for an amusement after consideration paid by single ticket, season ticket or subscription; for any admission charged within any enclosure in addition to the initial charge for admission to such enclosure; and for the use of sporting or recreational facilities or equipment, including the rental of such facilities or equipment; and shall apply on admission fees or charges, whether or not a ticket is actually issued;

(2) "Amusement" means any theater, motion picture house, cinema, athletic contest, exhibition, pageant, show, production, demonstration, play, performance, concert, musicale, recital, reading, circus, carnival, act, exhibit, lecture, address, nightclub, cabaret, dance, dance hall, restaurant which provides either floor show, singing, dancing, or dancing facilities for patrons, and ride or excursion where passengers are taken on and discharged within the county boundaries and shooting galleries, as well as all mechanical or electrical devices operated for pleasure or skill where a fee is charged for admission or entrance or for the purpose of playing them, or where there is any charge whatever for them or in connection with them either directly or indirectly, where such games or devices are located in any amusement park or amusement center, provided, however, actual play on coin operated machines of skill or chance are exempt from the provisions of this tax;

(3) "Consideration" means the consideration charged whether or not received, for an admission for an amusement 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 therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the service provided to the person is

complimentary from the operator and no consideration is charged to or received from any person;

(4) "Consumer" means any person who pays consideration into or for an amusement;

(5) "Operator" means the person operating the amusement;

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

(7) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the municipality tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business. (as added by Ord. #2301, Nov. 2003)

**5-1102. Levy of tax.** There is hereby levied a privilege tax upon the privilege of a consumer paying consideration for admission into or for an amusement in the amount of two percent (2%) of the consideration charged by the operator. Such tax so imposed is a privilege tax upon the consumer enjoying the amusement and is to be collected and distributed as hereinafter provided. (as added by Ord. #2301, Nov. 2003)

**5-1103. Tax added to amusement price.** Such tax shall be added by each and every operator to each ticket sold for a consideration for admission into and for such amusement, and shall be collected by such operator from the consumer and remitted to the department of finance of the municipality in which the amusement is located. The tax shall not be assumed by the operator. Where the tax calculated on any individual admission ticket includes any fraction of a cent, the next highest full cent shall be charged. (as added by Ord. #2301, Nov. 2003)

**5-1104. Remittance to director of finance.** The tax hereby levied shall be remitted by all operators who lease, rent, or own an amusement to the director of finance, to be remitted to such officer not later than the twentieth day of each month next following collection from the consumer. The director of finance may promulgate reasonable rules and regulations for the enforcement and collection of the tax, shall prescribe any necessary forms, and may, by regulations, set other reporting and paying dates and periods. (as added by Ord. #2301, Nov. 2003)

**5-1105. Offer to absorb tax prohibited.** No operator of an amusement 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 be added to the consideration, or that, if added, any part will be refunded. (as added by Ord. #2301, Nov. 2003)

**5-1106. Exemptions.** The tax shall not apply to activities sponsored by any religious or charitable organization or any public or private educational institution where the receipts are devoted exclusively to the use of such organization or institution. Neither shall it apply to charges for admission to any activity sponsored or operated by the city. (as added by Ord. #2301, Nov. 2003)

**5-1107. Penalties and interest for delinquency.** Taxes collected by an operator which are not remitted to the department of finance 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 six percent (6%) per annum, and in addition for penalty of one-half of one percent ( $\frac{1}{2}$  of 1%) for each month or a fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Willful refusal of an operator to collect or remit the tax or willful refusal of a consumer to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving an amusement taxable by this chapter when the operator fails or refuses to pay the tax payable to the department of finance. (as added by Ord. #2301, Nov. 2003)

**5-1108. Records.** It shall be the duty of every operator liable for the collection and payment to the municipality of any tax levied under the authority granted by this chapter to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the director of finance shall have the right to inspect at all reasonable times. (as added by Ord. #2301, Nov. 2003)

**5-1109. Administration.** In administering and enforcing the provisions of this chapter, the director of finance shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, title 67, or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, § 67-1-911, it being the intent of this chapter that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this chapter; provided, the director of finance shall possess those

powers and duties as provided in Tennessee Code Annotated, § 67-1-707, with respect to the adjustment and settlement with taxpayer of all errors of taxes collected by him under the authority of this chapter and to direct the refunding of same. Notice of any tax paid under protest shall be given to the director of finance, and suit for recovery shall be brought against him. (as added by Ord. #2301, Nov. 2003)

**5-1110. Deposit of tax.** The proceeds from the tax levied herein shall be deposited in the general fund of the municipality and shall be expended so that one-half ( $\frac{1}{2}$ ) shall be used to advertise and promote the city and one-half ( $\frac{1}{2}$ ) shall be used for capital improvement projects for the city. (as added by Ord. #2301, Nov. 2003)

**5-1111. Tax is additional tax.** The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (as added by Ord. #2301, Nov. 2003)

## TITLE 6

### LAW ENFORCEMENT

#### CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

#### CHAPTER 1

### POLICE AND ARREST<sup>1</sup>

#### SECTION

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Disposition of persons arrested.
- 6-106. Police department records.

**6-101. Policemen subject to chief's orders.** All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1972 Code, § 1-401)

**6-102. Policemen to preserve law and order, etc.** Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1972 Code, § 1-402)

**6-103. Policemen to wear uniforms and be armed.** All policemen shall wear such uniform and badge as the board of commissioners shall authorize and shall carry a service pistol and other accessories at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1972 Code, § 1-403)

**6-104. When policemen to make arrests.** Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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<sup>1</sup>Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

(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 reasonable cause to believe the person has committed it. (1972 Code, § 1-404)

**6-105. Disposition of persons arrested.** Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1972 Code, § 1-406)

**6-106. Police department records.** The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1972 Code, § 1-407)

## CHAPTER 2

### WORKHOUSE<sup>1</sup>

#### SECTION

- 6-201. County workhouse to be used.
- 6-202. Inmates to be worked.
- 6-203. Compensation of inmates.

**6-201. County workhouse to be used.** The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1972 Code, § 1-601)

**6-202. Inmates to be worked.** All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1972 Code, § 1-602)

**6-203. Compensation of inmates.** Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him. (1972 Code, § 1-603)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 41-3-101.

## TITLE 7

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

#### **CHAPTER**

1. GENERAL PROVISIONS.
2. FIRE PREVENTION CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.

#### **CHAPTER 1**

### **FIRE DISTRICT**

#### **SECTION**

- 7-101. Fire limits described.
- 7-102. Interference with fire plug.

**7-101. Fire limits described.** The corporate fire limits shall be as follows: That area of the city described in the municipal zoning ordinance as the commercial district. (1976 Code, § 7-101)

**7-102. Interference with fire plug.** It shall be unlawful for any person to cover with dirt, lumber, brick or any other substance any public fire hydrant or plug within the corporate limits, or to stack or pile up any substance against or so near a fire hydrant or plug so as to prevent quick and easy connections from being made with said fire hydrant or plug. (1976 Code, § 7-102)

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<sup>1</sup>Municipal code reference  
Building, utility and housing codes: title 12.

## CHAPTER 2

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

#### SECTION

- 7-201. Fire code adopted
- 7-202. Appendices adopted.
- 7-203. Enforcement.
- 7-204. Variance procedure for fire code.
- 7-205. Available in recorder's office.
- 7-206. Violations.

**7-201. Fire code adopted.** Pursuant to authority granted by §§ 6-54-501 et seq. of the Tennessee Code Annotated, and for the purpose of regulating fire prevention within the City of Gatlinburg, the International Fire Code, 2018 edition, as prepared and adopted by the International Code Council, and the 2018 National Fire Protection Association (NFPA 101) Life Safety Code,<sup>2</sup> are hereby adopted and incorporated herein by reference as a part of this code, and are hereinafter collectively referred to as the fire code. (1976 Code, § 7-201, as replaced by Ord. #2226, Nov. 2000, Ord. #2308, Nov. 2003, Ord. #2379, Dec. 2007, Ord. #2446 Nov. 2012, and Ord. #2555, Oct. 2020 ***Ch.14\_03-23-22***)

**7-202. Appendices adopted.** In addition to the International Fire Code, the following appendices to said code are adopted:

Appendix B

Appendix C

Appendix D. (1976 Code, § 7-202, as replaced by Ord. #2226, Nov. 2000, Ord. #2308, Nov. 2003, Ord. #2379, Dec. 2007, Ord. #2446 Nov. 2012, and Ord. #2555, Oct. 2020 ***Ch.14\_03-23-22***)

**7-203. Enforcement.** The chief of the fire department is designated as the fire official whose duties shall be to enforce the provisions of the fire code. (1976 Code, § 7-203, as replaced by Ord. #2226, Nov. 2000, Ord. #2308, Nov. 2003, Ord. #2379, Dec. 2007, Ord. #2446 Nov. 2012, and Ord. #2555, Oct. 2020 ***Ch.14\_03-23-22***)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>2</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. The latest edition should be requested.

**7-204. Variance procedure for fire code.** The City of Gatlinburg hereby designates the Gatlinburg Board of Appeals to act as the responsible authority to review and decide requests for variances from the standards established by the fire code. (1976 Code, § 7-205, as replaced by Ord. #2226, Nov. 2000, Ord. #2308, Nov. 2003, Ord. #2379, Dec. 2007, Ord. #2446 Nov. 2012, and Ord. #2555, Oct. 2020 *Ch.14\_03-23-22*)

**7-205. Available in recorder's office.** Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated, one (1) copy of the International Fire Code, 2018 edition, with the above modifications, and the 2018 edition of the National Fire Protection Association (NFPA 101) Life Safety Code, have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1976 Code, § 7-206, as replaced by Ord. #2226, Nov. 2000, Ord. #2308, Nov. 2003, Ord. #2379, Dec. 2007, Ord. #2446 Nov. 2012, and Ord. #2555, Oct. 2020 *Ch.14\_03-23-22*)

**7-206. Violations.** It shall be unlawful for any person to violate or fail to comply with any provisions of the fire code as herein adopted by reference and modified. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such persons shall be punished by levying a fine not to exceed fifty dollars (\$50.00) per violation. (as added by Ord. #2446, Nov. 2012, and replaced by Ord. #2555, Oct. 2020 *Ch.14\_03-23-22*)

## 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. Tenure and compensation of members.
- 7-306. Chief responsible for training.
- 7-307. 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 board of commissioners of the municipality. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall be and remain the property of the municipality. The fire department shall be composed of a chief appointed by the city manager and such number of physically-fit subordinate officers and firemen as the city manager shall appoint. (1976 Code, § 7-301)

**7-302. Objectives.** The fire department shall have as its objectives:

- (1) To enforce fire prevention code.
- (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. (1976 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. (1976 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 a written report on such matters

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<sup>1</sup>Municipal code reference

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

to the city manager once each month, and at the end of the year a detailed annual report shall be made. (1976 Code, § 7-304)

**7-305. Tenure and compensation of members.** The chief shall hold office so long as his conduct and efficiency are satisfactory to the city manager. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the city manager.

All personnel of the fire department shall receive such compensation for their services as the board of commissioners may from time to time prescribe. (1976 Code, § 7-305)

**7-306. Chief responsible for training.** The chief of the fire department shall be fully responsible for the training of the firemen, and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1976 Code, § 7-306)

**7-307. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1976 Code, § 7-308, modified)

## CHAPTER 4

### FIRE SERVICE OUTSIDE CITY LIMITS

#### SECTION

7-401. Use of fire equipment outside of the corporate limits.

**7-401. Use of fire equipment outside of the corporate limits.** Fire equipment of the City of Gatlinburg may be used outside of the boundaries of the city subject to the following conditions:

(1) That men and equipment shall be limited to service within the unincorporated regional planning zone; provided that nothing in this section shall prevent the fire department from rendering service to buildings situated in Sevier County which are owned and maintained by Sevier County, the State of Tennessee, or the United States of America, or by a governmental agency of any of them, or, upon request of the proper authority, in case of extreme emergency, to any municipal corporation having local fire-fighting equipment, which municipal corporation is within a reasonable distance of the city.

(2) In addition to providing fire protection within the city, the fire equipment and personnel may be used in other areas of the county pursuant to an approved mutual aid agreement as authorized by state statute. (1976 Code, § 7-307, modified)

## CHAPTER 5

### FIREWORKS

#### SECTION

- 7-501. Terms.
- 7-502. Unlawful use.
- 7-503. Public nuisances.
- 7-504. Penalty.
- 7-505. Penalty not exclusive.

**7-501. Terms.** The following terms, when used in this chapter shall have the following meanings for the purposes of this chapter.

(1) “Person” shall mean an individual, a firm, a corporation, or any other entity. As used herein, person shall include not only the person who physically performs any act prohibited by this chapter, but also any person who encourages, participates in, or knowingly allows any such prohibited act.

(2) “Fireworks” shall include all articles of fireworks included in the definition of special fireworks of I.C.C. Class C common fireworks as contained in Tennessee Code Annotated, title 68, chapter 104, including, without limitation, the permissible terms of fireworks listed in Tennessee Code Annotated, § 68-104-108, sparklers, smoke bombs, and smoke sticks. The term shall not include items specifically excepted from the application of said Tennessee Code Annotated, § 68-104-113, or fireworks for public displays authorized by special permits obtained pursuant to the provisions of Tennessee Code Annotated, § 68-104-107.

(3) “Public place” shall mean any place open to the general public or any substantial part of the general public, including without limitation, public streets, public sidewalks, parking lots, parks, playgrounds, athletic fields, hotels, motels, indoor and outdoor swimming pools open to the public or to business guests or patrons, schools, churches, museums, auditoriums, public buildings, theaters, indoor and outdoor moving picture establishments, taxis and other public conveyances, offices, stores, banks, craft shops, shopping centers, amusement places, recreational centers, restaurants, cafeterias, eating places, utility properties, automobile service stations, and manufacturing, commercial, professional and recreational businesses of all kinds, together with all property appurtenant thereto or used in connection therewith. (1976 Code, § 7-401, modified)

**7-502. Unlawful use.** It shall be unlawful for any person to use any fireworks in any public place in the City of Gatlinburg. (1976 Code, § 7-402, modified)

**7-503. Public nuisances.** The activities made unlawful by this chapter be and the same are hereby declared to be public nuisances, which shall be subject to abatement by any and all remedies available generally for the abatement of public nuisances. (1976 Code, § 7-403)

**7-504. Penalty.** Any person guilty of the violation of any of the provisions of this chapter shall be subject to a civil penalty of up to five hundred dollars (\$500.00) per offense. (1976 Code, § 7-404, modified)

**7-505. Penalty not exclusive.** The prohibitions contained in this chapter shall be in addition and supplemental to the prohibitions contained in any existing ordinances of the City of Gatlinburg, and shall in no manner repeal, modify or interfere with the prohibitions contained in any such existing ordinances. (1976 Code, § 7-405)

**TITLE 8****ALCOHOLIC BEVERAGES<sup>1</sup>****CHAPTER**

1. INTOXICATING LIQUORS--PACKAGE STORES.
2. INTOXICATING LIQUORS--HOTELS, RESTAURANTS, ETC.
3. BEER.

**CHAPTER 1****INTOXICATING LIQUORS--PACKAGE STORES****SECTION**

- 8-101. Definitions.
- 8-102. Unlawful liquor.
- 8-103. Sale by licensee lawful.
- 8-104. Qualifications of applicant.
- 8-105. Form of application for certificate for package sales.
- 8-106. Contents of certificate for package sales.
- 8-107. Misrepresentation or concealment unlawful.
- 8-108. Basis for issuance of certificate for package sales.
- 8-109. Display of license.
- 8-110. Maximum number of license.
- 8-111. Location of stores.
- 8-112. Signs.
- 8-113. Hours, etc. business permitted to operate.
- 8-114. Certain conduct prohibited on premises.
- 8-115. Inspection fee.
- 8-116. Inspection fee reports.
- 8-117. Payment of inspection fee.
- 8-118. Inspections.
- 8-119. Failure to report and pay inspection fee.
- 8-120. Disposition of funds derived from inspection fees.
- 8-121. Violation of relevant state and federal laws, rules and regulations.

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<sup>1</sup>Municipal code reference

Minors in beer places: § 11-202.

Drinking beer, etc., on the streets, etc.: § 11-201.

State law reference

Tennessee Code Annotated, title 57.

8-122. Licensee responsible for employees, etc.

8-123. License not transferable.

**8-101. Definitions.** Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) “Alcoholic beverage” means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine, beer or wine, where the latter two contain an alcoholic content of five percent by weight or less.

(2) “Federal statutes” means the statutes of the United States now in effect or as they may hereafter be changed.

(3) “State statutes” means the statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(4) “State alcoholic beverage commission” means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including the provisions of Tennessee Code Annotated, §§ 57-1-101 to 57-1-209.

(5) “State rules and regulations” means all applicable rules and regulations of the State of Tennessee applicable to alcoholic beverages, as now in effect or as they may hereafter be changed, including without limitation the local option liquor rules and regulations of the state alcoholic beverage commission.

(6) “State liquor retailer’s license” means a license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, §§ 57-3-101 to 57-3-216) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(7) “Certificate of package sales” means the certificate mentioned in Tennessee Code Annotated, § 57-3-208, in connection with the prescribed procedure for obtaining a state liquor retailer’s license.

(8) “License” means a license issued under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at a retail or for consumption on the premises in the City of Gatlinburg.

(9) “Licensee” means the holder of a license.

(10) “License fee” means the annual fee a licensee is required by this chapter to pay at or prior to the time of the issuance of a license.

(11) “Applicant” means the party applying for a license.

(12) “Application” means the form or forms an applicant is required to file in order to obtain a license.

(13) “Liquor store” means the building or part of a building where a licensee conducts any of the business authorized by the license held by such licensee.

(14) “Board of commissioners” means the Board of Commissioners of the City of Gatlinburg.

(15) “City manager” means the City Manager of the City of Gatlinburg.

(16) “Director of finance” means the Director of Finance of the City of Gatlinburg.

(17) “Unlawful liquor” shall mean any intoxicating liquor which does not bear a federal and state revenue stamp upon its container, such stamps shall be evidence of payment of the alcoholic beverage tax.

(18) “Certificate of good moral character” means the certificate required by the legislative body of the City of Gatlinburg pursuant to its status as a premier type tourist resort municipality under Tennessee Code Annotated, § 57-4-102 (g)(2).

(19) “Certificate of compliance” means the certificate required in addition to the certificate of good moral character by the legislative body of Gatlinburg pursuant to its status as a premier type tourist resort municipality under the Tennessee Code Annotated, § 57-4-102(g)(2).

(20) “Certificate of occupancy” means the certificate referred to in § 1004 of the Gatlinburg Zoning Ordinance being Ordinance 830 or its successor, and in § 109 of the Standard Building Code. (1976 Code, § 2-101)

**8-102. Unlawful liquor.** It shall be unlawful for any person to manufacture, sell, barter, possess, store, transport or ship any unlawful liquor of any quantity within the corporate limits of the City of Gatlinburg. (1976 Code, § 2-102)

**8-103. Sale by licensee lawful.** It shall be lawful for a licensee to sell alcoholic beverages in a liquor store, provided all such sales are made in strict compliance with all federal statutes, all state statutes, all state rules and regulations and all provisions of this chapter. (1976 Code, § 2-103)

**8-104. Qualifications of applicant.** To be eligible to apply for or to receive a license, an applicant must satisfy all of the requirements of the state statutes and of the state rules and regulations for a holder of state liquor retailer’s license and must have been a resident of the State of Tennessee at least two years immediately preceding the date when the applicant is filed with the city manager or with the director of finance. (1976 Code, § 2-104, as amended by Ord. #2243, June 2001)

**8-105. Form of application for certificate for package sales.** Each applicant for a certificate for package sales shall file with the city manager a completed form of application, on a form to be provided by the city manager, and which shall contain the following information:

(1) The name and street address of each person to have any interest in the license as owner, partner, or stockholder;

(2) The name of the liquor store to be operated under the license;  
 (3) The address of the liquor store to be operated under the license;  
 (4) The statement that each applicant has been a resident of the State of Tennessee for at least two (2) years immediately prior to the time the application is filed;

(5) The agreement of each applicant to comply with the state, federal and city laws and ordinances and with the rules and regulations of the state alcoholic beverage commission with reference to the sale of alcoholic beverages, and the agreement of each applicant to the validity of and the reasonableness of the regulations, inspection fees, and taxes provided in this chapter with reference to the sale of alcoholic beverages;

(6) The statement that the applicant or applicants who are to be in actual charge of the liquor store have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application.

The application form shall be accompanied by a copy of each questionnaire form and other material to be filed by the applicant with the state alcoholic beverage commission in connection with this same application. The application form shall be signed and verified by each person which is to have any interest in the license, as owner, partner, or stockholder. (1976 Code, § 2-105, as amended by Ord. #2458, Feb. 2013)

**8-106. Contents of certificate for package sales.** The certificate for package sales shall state:

(1) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application.

(2) That in the opinion of the board of commissioners, the applicant or applicants will not violate any of the provisions of the Tennessee Code Annotated regarding the package sale of alcoholic beverages.

(3) That the applicant or applicants have secured a location for said business which has been approved by the board of commissioners, as a suitable location for the operation of a liquor store and that the applicant or applicants meet any and all residency requirements.

(4) That the issuance of a license to the applicant or applicants would not violate § 8-110 of this chapter regarding the maximum number of licenses. (1976 Code, § 2-126)

**8-107. Misrepresentation or concealment unlawful.** If any applicant misrepresents any material fact or conceals any material fact in any

application form filed for the purpose of complying with the requirements contained in § 8-105 such applicant shall be deemed to have violated the provisions of this chapter. (1976 Code, § 2-106)

**8-108. Basis for issuance of certificate for package sales.** (1) The mayor and the board of commissioners are authorized to refuse to consider the issuance of a certificate for package sales whenever the number of such previously issued and outstanding certificates for package sales, when added to the number of outstanding licenses, equals or exceeds the number of licenses authorized by this chapter.

(2) No certificate for package sales shall be issued unless a license issued on the basis thereof can be exercised without violating any provision of this chapter.

(3) No member of the board of commissioners shall sign any certificate for package sales for any applicant until:

(a) Such applicant's application has been filed with the city manager;

(b) The application has been considered at a meeting of the board of commissioners and approved by a vote of at least three members thereof. (1976 Code, § 2-107)

**8-109. Display of license.** The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (1976 Code, § 2-108)

**8-110. Maximum number of licenses.** No more than six (6) licenses shall be issued and outstanding for each 5,000 persons, or any fraction thereof, residing in the City of Gatlinburg, according to the 1970 federal census or any subsequent federal census.

The retail sale of a product produced at a duly licensed distillery shall not count as a retail liquor package store in the numbers limitation set forth above so long as said distillery only sells those products produced at its distillery, even though issued a retail liquor package store license by the State Alcoholic Beverage Commission. No more than four (4) retail stores within distilleries shall be allowed in the City of Gatlinburg in addition to the six (6) regular retail liquor package stores. (1976 Code, § 2-109, as amended by Ord. #2457, Feb. 2013)

**8-111. Location of stores.** (1) No liquor store shall be located within four hundred fifty feet (450') of any church or school, except for C-1 zones which shall not be within 200 feet (200') of any church, and in all cases shall be measured in a straight line from property line to property line. No liquor store shall be located adjacent to property where any house used as a residence is

located. No liquor store shall be located at any place where excessive congestion is present or is likely to develop. Adequate off-street on-site parking space shall be available to any proposed liquor store and be in conformance with the Zoning Ordinance of the City of Gatlinburg. No liquor store shall be located on any property unless such property is in a commercial district as defined in the Gatlinburg Zoning Ordinance. No license shall be issued for any location until the city manager certifies to the board of commissioners that the plans submitted by the applicant are in conformance with the building code of the City of Gatlinburg. A majority of the members may then approve the proposed location of a liquor store after a public hearing and deliberate consideration of this matter at a meeting of the board of commissioners.

(2) Minimum distance required. No liquor store shall be located within one thousand feet (1,000') of any other liquor store. This distance shall be determined by measuring from property line to property line of each establishment.

(3) Distillery distance requirement. No distillery manufacturing distilled spirits shall be located within one thousand feet (1,000') of any other distillery manufacturing distilled spirits. This distance shall be determined by measuring from property line to property line of each distillery. The provisions of this subsection shall not apply to, or effect, any licensed distillery in operation and open to the public prior to April 12, 2016. A distillery that is exempt from this requirement shall remain exempt under this subsection upon the transfer of any ownership interest in the distillery to a successor in interest. (1976 Code, § 2-110, as amended by Ord. #2459, Feb. 2013, Ord. #2495, June 2016, and Ord. #2526, June 2018 *Ch14\_03-23-22*)

**8-112. Signs.** It shall be unlawful for any liquor store to erect or maintain any more than one (1) sign on the inside or outside of the building where the liquor store is located, advertising or display located upon or attached to such building or premises in which the name of any brand of alcoholic beverage or the type of any alcoholic beverage, as defined in this chapter, is used. Said advertising signs or display shall not exceed six (6) inches in height and the sign on the outside of the building shall be placed parallel with the building. (1976 Code, § 2-111)

**8-113. Hours, etc. business permitted to operate.** No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, Thanksgiving Day, or on Easter. On Monday through Saturday, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before eight o'clock A.M. (8:00 A.M.) nor after eleven o'clock P.M. (11:00 P.M.), nor on Sunday before the hours of ten o'clock A.M. (10:00 A.M.) nor after eleven o'clock P.M. (11:00 P.M.) In the event of an emergency, liquor stores shall be closed upon order of the city manager or the chief of police.

Effective January 1, 2019, no retail food store shall sell, give away, or otherwise dispense wine except between the hours of eight o'clock A.M. (8:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Monday through Saturday and between ten o'clock A.M. (10:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Sunday. (1976 Code, § 2-112, as replaced by Ord. #2526, June 2018 *Ch14\_03-23-22*)

**8-114. Certain conduct prohibited on premises.** It shall be unlawful for any licensee to conduct his business in the following manner:

- (1) To sell or furnish any alcoholic beverage to a minor, intoxicated person or any person known to be a habitual drunkard;
- (2) To permit loitering on the premises; and
- (3) To permit any person to consume alcoholic beverage while in the store. (1976 Code, § 2-113)

**8-115. Inspection fee.** (1) There is hereby levied on each licensee an inspection fee of eight percent (8%) of the wholesale price of all alcoholic beverages sold by each such licensee including retail food stor wine licensees, except as set out in subsection (2) below, which inspection fee shall be collected and paid as provided by the statutes of the State of Tennessee, including the provisions of Tennessee Code Annotated, § 57-3-501.

(2) There is hereby levied on each manufacturer of high alcohol content beer that obtains a retail license to sell its product which are manufactured on the manufacturers premise, a fifteen percent (15%) inspection fee to inspect the retail store at which such products are sold by the manufacturer. Such inspection fee shall be imposed on the wholesale price of the high alcohol content beer supplied pursuant to § 57-3-204(e)(7)(B) by a wholesaler for those products manufactured and sold by the manufacturer at its retail store as authorized pursuant to § 57-3-204(e)(7). (1976 Code, § 2-114, as amended by Ord. #2498, June 2016)

**8-116. Inspection fee reports.** Each wholesaler making sales to any licensee shall furnish the director of finance a monthly report of all such sales, which report shall contain all of the information required by said Chapter 538 of the Public Acts of the 85th General Assembly of the State of Tennessee, and all such additional information as may be reasonably required by the director of finance. Each such monthly report shall be filed with the director of finance not later than the twentieth (20th) of the month following the month in which the sales were made. (1976 Code, § 2-115)

**8-117. Payment of inspection fee.** Each wholesaler making sales to any licensee shall collect and remit the inspection fee (less any authorized reimbursement for the collection service, which reimbursement shall not exceed five percent (5%) of the amount of the inspection fee), the inspection fee to be

paid to the director of finance at the time the monthly report is made and in no event later than the twentieth (20th) of the month following the month in which the sales were made. A penalty of ten percent (10%) of the fee due shall be paid for each failure to file a timely report and/or to pay the required fee. (1976 Code, § 2-116)

**8-118. Inspections.** The city manager and the director of finance, or the authorized representative of either of them, are authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city manager, director of finance, chief of police, and any police officer of the City of Gatlinburg is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store, shall be a violation of this chapter. (1976 Code, § 2-117)

**8-119. Failure to report and pay inspection fee.** It shall be unlawful for any licensee engaged in the sale of intoxicating liquors within the corporate limits of the City of Gatlinburg to violate the provisions of the chapter, fail to pay the prescribed inspection fees and to fail to submit to inspection report as required by the provisions of this chapter. (1976 Code, § 2-118)

**8-120. Disposition of funds derived from inspection fees.** All funds derived from the inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the City of Gatlinburg in investigating and inspecting licensees and applicants, and in seeing that all provisions of this chapter are observed; and the board of commissioners finds and declares that the amount of these inspection fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes. (1976 Code, § 2-119)

**8-121. Violation of relevant state and federal laws, rules and regulations.** Any licensee, who in the operation of such licensee's liquor store, shall violate any federal statute, any state statute, or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages, shall be guilty of a violation of the provisions of this chapter. (1976 Code, § 2-120)

**8-122. Licensee responsible for employees, etc.** Each licensee shall be legally responsible for all acts of such licensee's officers, employees, agents and representatives, so that any violation of this chapter by any officer,

employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (1976 Code, § 2-121)

**8-123. License not transferable.** A licensee shall not sell, assign, or transfer his license or any interest therein to any other person. No license shall be transferred from one location to another location without the prior written approval of the board of commissioners. (1976 Code, § 2-122)

## CHAPTER 2

### INTOXICATING LIQUORS-HOTELS, RESTAURANTS, ETC.<sup>1</sup>

#### SECTION

- 8-201. Privilege tax.
- 8-202. [Deleted.]
- 8-203. Certificate of good moral character required - contents - consent to investigate.
- 8-204. Grounds for denial of certificate of good moral character.
- 8-205. Certificate of compliance required - contents.
- 8-206. Minimum separation requirements.
- 8-207. Hours for sale of alcoholic beverages for on-premises consumption.
- 8-208. Exterior signs prohibited.

**8-201. Privilege tax.** It is hereby declared the legislative intent that every person is exercising a taxable privilege who engages in the business of selling at retail in this city, alcoholic beverages for consumption on the premises. For the exercise of such privilege, the following taxes are levied for city purposes to be paid annually, to wit:

- (1) Private Club . . . . . \$ 300.00
- (2) Hotel (motel) . . . . . \$1000.00
- (3) Restaurant, according to seating capacity on licensed premises:
  - (a) 75-125 seats . . . . . \$ 600.00
  - (b) 126-175 seats . . . . . \$ 750.00
  - (c) 176-225 seats . . . . . \$ 800.00
  - (d) 226-275 seats . . . . . \$ 900.00
  - (e) 276 seats and over . . . . . \$1000.00
  - (f) 'Wine Only' Restaurant with 50 or more seats . . . \$ 120.00

The amounts of privilege taxes as set out herein shall be for one (1) year and each privilege license shall expire on the expiration of the sellers state license for that year. The privilege taxes as set out herein shall be paid to the director of finance of the City of Gatlinburg. All licensees already operating as of the effective date of this ordinance but which have less than one (1) year to the expiration date of their current license shall pay a pro rata portion of the applicable fees set out herein. (1976 Code, § 2-124)

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<sup>1</sup>State law references

For limitation on inspection fees: § 57-3-501.

For levy of privilege tax: § 57-3-301.

For issuance and suspension of privilege license see City of Lakewood vs. Tennessee Alcoholic Beverage Commission, 219 Tenn. 510.

**8-202. [Deleted.]**<sup>1</sup> (1976 Code, § 2-125, as deleted by Ord. #2459, Feb. 2013)

**8-203. Certificate of good moral character required - contents - consent to investigation.** Each applicant for a license to sell alcoholic beverages for consumption on the premises of any hotel, restaurant or club must first obtain a certificate of good moral character, on a form provided by the city manager, signed by the mayor of the City of Gatlinburg. The certificate shall state:

(1) That the applicant is personally known to the mayor and the board of commissioners and is a person of good moral character; or

(2) That the applicant is not personally known to the mayor and the board of commissioners, but that the city has made careful investigation of the applicant's general character and from such investigation, has determined it to be good.

Consideration of each application for a certificate shall be undertaken at a regular or specially called meeting of the board of commissioners and approved by the vote of at least three members thereof.

Each applicant for a certificate of good moral character is deemed to consent, by virtue of his application, to an investigation of his general character including, but not limited to, the determination of any record of convictions. (1976 Code, § 2-127)

**8-204. Grounds for denial of certificate of good moral character.** It shall be grounds for denial of the certificate of good moral character that:

(1) The applicant has been convicted of a felony or, if a corporation, that the executive officers or those in control have been convicted of a felony; or

(2) The applicant has been convicted of a crime involving moral turpitude. (1976 Code, § 2-128)

**8-205. Certificate of compliance required - contents.** Each applicant for a license to sell alcoholic beverages for consumption on the premises of any hotel, restaurant or club must obtain, in addition to the certificate of good moral character, a certificate of compliance signed by the building official in the Department of Community Development. The certificate shall state:

(1) That the proposed use is a permitted use or is existing legally and is allowable in the zone in which it is located; and

(2) That the establishment for which the certificate is sought provides separate sanitary facilities, for men and women, conforming to the building code, located within the area where business is conducted; and

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<sup>1</sup>Section 8-202 was moved to § 8-111(2) by Ord. #2459.

- (3) [Reserved]; and
- (4) That the establishment for which the certificate is sought has a seating capacity at least equal to the minimum requirements set out in state statutes concerning the issuance of liquor-by-the-drink licenses; and
- (5) That the establishment for which the certificate is sought is no closer to a church or school than is permitted under the minimum separation requirements set forth in § 8-206 below; and
- (6) That the premises either have:
  - (a) A “certificate of occupancy” issued by the City of Gatlinburg;
  - or
  - (b) A memorandum signed by the building official in the Department of Community Development stating that the premises were constructed prior to the effective date of this chapter and does not have a certificate of occupancy; and that the city neither offers nor expresses an opinion as to the compliance (or lack thereof) of the premises with regard to any building, health or safety codes.

It shall be grounds for denial of the Certificate of Compliance that the applicant fails to meet each and every requirement of this section. (1976 Code, § 2-129, as amended by Ord. #2443, Oct. 2012)

**8-206. Minimum separation requirements.** No hotel, restaurant or club shall be issued a “Certificate of Compliance” unless it is separated from the closest church and/or school by the minimum distance of separation required for the zone in which the hotel, restaurant or club is located. The distance of separation in the C-1 Commercial zone shall be determined by the length of a line drawn between the front door of the school building via public sidewalk to the customer entry of the building for which the certificate is sought. The distance of separation shall be determined by the length of a straight line drawn between the closest points of the church or school building and the building for which the certificate is sought. The minimum distances of separation shall be as follows:

If the establishment seeking the certificate of compliance is located in the following	then the required minimum distance of separation from a	and the required minimum distance of separation from a
<b>ZONE</b>	<b>SCHOOL is:</b>	<b>CHURCH is:</b>
C-1	150 feet	0 feet

If the establishment seeking the certificate of compliance is located in the following	then the required minimum distance of separation from a	and the required minimum distance of separation from a
C-2	-----	10 feet <sup>1</sup>
Other Commercial	1000 feet	200 feet
All Residential Zones	1000 feet	1000 feet
Other Zones	500 feet	500 feet

(1976 Code, § 2-130, as amended by Ord. #2162, May 1998, Ord. #2470, Oct. 2013, and Ord. #2487, Nov. 2015)

**8-207. Hours for sale of alcoholic beverages for on-premises consumption.** No hotel, restaurant or club shall sell or give away alcoholic beverages, or wine for consumption on the premises between the hours of 1:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 1:00 A.M. and 12:00 Noon on Sundays. (1976 Code, § 2-131)

**8-208. Exterior signs prohibited.** It shall be unlawful to place any sign of any description or type on the exterior of a hotel, restaurant or club indicating that wine, or alcoholic beverages are sold for consumption therein. (1976 Code, § 2-132)

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<sup>1</sup>In addition to said distance, the establishment seeking the certificate shall be required to construct a permanent barrier consisting of a fence and/or landscaping or a combination thereof to prevent any vehicular or pedestrian passage between properties, if located within 200 feet of a church building. The barrier must be reviewed and approved by the Environmental Design Review Board. (Ord. #2162, May 1998)

## CHAPTER 3

### BEER

#### SECTION

- 8-301. Establishment of beer board.
- 8-302. Application for permit required.
- 8-303. Contents of application.
- 8-304. To whom permits may be issued.
- 8-305. Permits to be approved by beer board.
- 8-306. Privilege tax.
- 8-307. Types of permits.
- 8-308. Restrictions on issuance of permits.
- 8-309. Permit.
- 8-310. Special event permit.
- 8-311. Times when the sale of beer is prohibited.
- 8-312. Regulation of use of beer signs.
- 8-313. Selling to minors prohibited.
- 8-314. Loitering and sale to intoxicated persons.
- 8-315. Display of open beer containers prohibited.
- 8-316. Police department to inspect.
- 8-317. Hearings; revocations or suspension of permit; civil penalties.

**8-301. Establishment of beer board.** (1) There is hereby created a board, which shall be known and designated as the “Beer Board of the City of Gatlinburg”, hereinafter referred to in this chapter as the “board”. Such board shall be composed of the city manager and the five members of the board of commissioners of the City of Gatlinburg.

(2) It shall be the duty of the board to regulate and supervise the issuance of permits to manufacture, store, distribute and sell beer.

(3) It is hereby declared that the sale of beer in the city is a privilege, and such board is hereby empowered with complete discretion to issue, revoke, and suspend all permits to sell beer in the city.

(4) The board is empowered to elect its own chairman and other officers, and to make its own regulations with respect to meetings or hearings, and may deny the issuance of any permit whenever it determines that such issuance would be detrimental to public health, safety, or morals. The board may likewise suspend or revoke the permit of any permittee who violates any of the laws of the United States, the State of Tennessee, or the City of Gatlinburg, or whenever it shall satisfactorily appear that the premises or business of a permittee is being maintained and operated in such manner as to be detrimental to public health, safety or morals.

(5) Where a permit is revoked, no new permit shall be issued to permit the sale of beer on the same premises until after the expiration of one year from

the date said revocation becomes final and effective. This limitation shall apply only if the premises owner is notified of the revocation hearing as well as the permittee.

(6) For purposes of this chapter beer is defined as any beer, ale, or other malt beverage, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, prior to January 1, 2017, and thereafter, eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (1976 Code, § 2-201, as amended by Ord. #2497, June 2016)

**8-302. Application for permit required.** (1) It shall be unlawful for any person to sell or store for sale, or to distribute or manufacture beer within the city without having first obtained a permit as provided in this chapter. Before any person shall be authorized to sell or store, distribute or manufacture beer, he shall make application to the board, upon a form prescribed by it.

(2) The applicant must agree in the application to be solely responsible for the management and operation of the business for which the permit is granted.

(3) The applicant must agree in the application to comply with all laws of the United States, and the State of Tennessee, and all ordinances of the City of Gatlinburg. Said application shall be supported by an affidavit, affirmation, or oath that the facts stated therein are true.

(4) The applicant shall pay, prior to the consideration of the application, a fee of two hundred fifty dollars (\$250.00). Regardless of whether the application is approved or denied, the fee collected shall become the property of the City of Gatlinburg and shall be used for any purpose as the board of commissioners shall, in its discretion, deem appropriate.

(5) A permit is valid only for the owner of the business in whose name the permit is issued and cannot be transferred to another owner. If the owner is a corporation, joint venture, syndicate, limited liability company, or partnership, a change in ownership shall occur when control of at least fifty percent (50%) of the stock or interest in such entity is transferred to another person. (1976 Code, § 2-202, as amended by Ord. #2497, June 2016)

**8-303. Contents of application.** The application shall contain:

(1) The name and address of the applicant and how long the applicant has resided at that address;

(2) The particular place for which a permit is desired, designating the same by street and number, if practicable, and if not, such other apt description as definitely locates it;

(3) The type of permit desired;

(4) The name and address of the owner of the premises upon which the business is located;

(5) That the applicant has not had a permit for sale of legalized beer revoked;

(6) That neither the applicant, nor any partner, or if a corporation, any officer or stockholder having at least a 5% ownership interest, has been convicted of any crime involving moral turpitude within ten (10) years preceding the filing of such application;

(7) That no brewer or distiller of legalized beer has any interest in the business, financial or otherwise, or in the premises upon which the business is located; and

(8) An oath, affirmation, or affidavit by the applicant or person signing the application that the facts set forth in the application are true and that the applicant is the owner of the business. (1976 Code, § 2-203)

**8-304. To whom permits may be issued.** Permits may be issued to individuals, corporations or associations. No permit shall be issued except to individuals of good moral character who have not been convicted of any violation of the laws against manufacturing, selling, transporting, storing, or possessing of intoxicating liquors, or of selling or possessing beer illegally, or of any crime involving moral turpitude, within ten years; nor shall any license be issued to any corporation or association which have members, officers, stockholders having at least a 5% ownership interest, or employees who have such convictions. (1976 Code, § 2-204)

**8-305. Permits to be approved by beer board.** Permits shall be approved or disapproved by the board and, if approved, a permit shall be issued by the director of finance for the City of Gatlinburg; provided, however, that no permit shall be issued until such time as the applicant has been issued a valid minimum business tax license under the provisions of Tennessee Code Annotated, § 67-4-701 et seq. (1976 Code, § 2-205)

**8-306. Privilege tax.** Each person, corporation, or association issued a permit by the city shall remit to the city finance director an annual privilege tax in the amount of \$100.00. Said tax shall be remitted by January 1 of each year. The city shall mail written notice to each permit holder of the payment date of the annual tax at least thirty (30) days prior to January 1. Notice shall be mailed to the address specified by the permit holder on its permit application. If a permit holder does not pay the tax by January 31 or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the city shall notify the permit holder by certified mail that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the city may suspend or revoke the

permit or impose a civil penalty pursuant to Tennessee Code Annotated, § 57-5-108.

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. (1976 Code, § 2-206)

**8-307. Types of permits.** Permits issued by the beer board shall consist of five (5) types:

(1) On-premises permits shall be issued for the consumption of beer on the premises.

(2) Off-premises permits shall be issued for sale of beer to be consumed off of the premises.

(3) Combined on- and off-premises permit shall be issued for the consumption both on the premises and for beer to be consumed off of the premises.

(4) Special event permit. A special events permit shall be issued for events as provided in § 8-310.

(5) Caterer permit. A caterer permit authorizes a caterer who possesses a current liquor by the drink certificate from the Alcoholic Beverage Commission to sell beer whether beer is to be consumed by the purchaser or the purchaser's guest upon the premises of the catered event site. No caterer permit shall be issued to a person who does not hold a valid on-premises or combined retail permit for its permanent catering hall or restaurant. (1976 Code, § 2-207, as replaced by Ord. #2497, June 2016)

**8-308. Restrictions on issuance of permits.** No permit, except special event permits, shall be issued to the owner of any restaurant or eating place unless such restaurant or eating place is classified not less than grade 85 under the laws of the State of Tennessee, has facilities for the serving of a minimum of forty (40) persons at tables and booths, provides separate sanitary facilities for men and women, said sanitary facilities to be located within the area where the business is conducted. No person may be served for whom seating is not provided, and seating shall not be provided in excess of one (1) seat per ten (10) square feet exclusive of all bars, bandstands, service areas, dance floors and hallways. If a beer permit is issued to an applicant contingent upon receiving a grade of eighty-five (85) or above on a restaurant score, the applicant shall be permitted to operate until a grade has been received from the Sevier County Health Department. However an appropriate grade must be received by the applicant and provided to the city within thirty (30) days of the opening of the restaurant. Failure to do so will result in revocation of the permit.

On-premise permittees shall serve at least one meal per day, five days per week, where said service of meals is the principal business. At least 51% of business revenue shall be derived from the sale of food. Permittee shall have a

printed menu containing the price of food and drinks. Permittee shall also be required to have adequate kitchen facilities and staff. (1976 Code, § 2-208, as amended by Ord. #2497, June 2016)

**8-309. Permit.** Permits shall be issued to the owner of the business, whether a person, corporation, or association.

(1) A permit shall be valid:

(a) Only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.

(b) Only for a single location, except as provided in subsection (2), and cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business.

(c) Only for a business operating under the name identified in the permit application.

(2) Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all such businesses pursuant to the same permit.

(3) A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one permit.

(4) A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name. (1976 Code, § 2-209)

**8-310. Special event permit.** A permit to sell beer may be obtained from the beer board for special events not to exceed three (3) days in duration. An applicant for such a special event permit must meet all other requirements for a beer permit except such an event may be permitted without being located within a permanent structure and shall not have to comply with § 8-308. A special event permit fee in the amount of two hundred fifty dollars (\$250.00) shall be paid upon application for such permit. A special event permit holder shall not be required to pay the privilege tax set out in § 8-306. Special event permits may only be issued to bona fide charitable, non-profit, or political organizations. Special event permits shall be limited to four (4) times per year, per applicant. (1976 Code, § 2-210, as amended by Ord. #2497, June 2016)

**8-311. Times when the sale of beer is prohibited.** It shall be unlawful for any person to sell beer for on-premises or off-premises consumption

or special events between the hours of 1:00 A.M. and 6:00 A.M. on Monday through Saturday or between the hours of 1:00 A.M. and 12:00 Noon on Sundays. Within thirty (30) minutes after the time each day when the sale of beer becomes unlawful, any permittee holding an on-premise permit shall remove or cause to be removed from all tables, counters, and other places where beer is served, all containers with beer therein and all beer bottles and cans; and except for said thirty (30) minute period, he shall keep said containers from said places during all hours when the sale of beer on said premises is unlawful. (1976 Code, § 2-211, as amended by Ord. #2234, Feb. 2001)

**8-312. Regulation of use of beer signs.** It shall be unlawful for any person authorized to sell beer, either on or off-premises, to erect or maintain any more than one sign on the inside or outside of the building displaying the word “beer” or the name of any brand of beer. Said advertising sign or display shall not exceed six (6) inches in height and any sign on the outside of the building shall be placed parallel to the building. (1976 Code, § 2-212)

**8-313. Selling to minors prohibited.** It shall be unlawful for any person engaged in the sale of beer, either on-premise or off-premise, to make or permit to be made any sales of beer to minors. It shall also be unlawful to allow any minors to loiter about the place of business and the burden of ascertaining the age of minor customers shall be upon the owner or operator of such place of business. It shall also be unlawful for any person to purchase beer for the purpose of selling or giving to any minor. It shall also be unlawful for any minor to purchase beer. For purposes of this section, a minor is a person under 21 years of age. (1976 Code, § 2-213)

**8-314. Loitering and sale to intoxicated persons.** It shall be unlawful for any operator or owner to permit persons to loiter around their place of business or to make or permit the sale of beer to any person who is intoxicated. (1976 Code, § 2-214)

**8-315. Display of open beer containers prohibited.** It shall be unlawful for any person to possess or display open cans, containers, or bottles of beer upon the public streets, sidewalks, or other public places in the City of Gatlinburg. This restriction shall not apply to those portions of a permittee’s location which are located on the exterior of the business as set out in § 8-309(1)(b). (1976 Code, § 2-215)

**8-316. Police department to inspect.** It shall be the duty of the police department of the City of Gatlinburg, or any special officers appointed by the city manager, to inspect the place of business and the premises of the holders of permits under this chapter, and it shall be unlawful for any permittee to

refuse to allow any such inspection during any time that such place is open for business. (1976 Code, § 2-216)

**8-317. Hearings; revocations or suspension of permit; civil penalties.** (1) Authority to revoke or suspend. The board is hereby granted the power to revoke or suspend any beer permit, or to refer to a hearing officer to adjudicate issues relating to the suspension or revocation of a beer permit and/or the issuance of fines, where the permit holder:

- (a) Has violated any of the provisions of this chapter; or
- (b) Has been found guilty of violating one (1) or more provisions of the Gatlinburg city code;
- (c) Is convicted of any violation of the laws of the United States or the state prohibiting or regulating the manufacture, sale, possession, storage, or transportation of beer or other alcoholic beverages; or
- (d) Is convicted of a crime involving moral turpitude.

The board is hereby authorized to engage a licensed attorney to act as a hearing officer on behalf of the board.

(2) Length of suspension; permanent revocation. (a) Discretion of board or board hearing officer. Except as otherwise provided by this article or state law, the board and the board hearing officer may exercise discretion in determining whether to suspend or revoke a permit and in determining the appropriate length of a suspension under the circumstances presented in each case. In making these determinations, the board or board hearing officer shall consider the effectiveness of any sanction previously imposed against the permit holder.

(b) Minimum and maximum suspensions. (i) First offense in a twelve (12) month period. Except as otherwise provided in this section, no permit shall be suspended for more than ten (10) days, if the violation is by the permit holder or the permit holder's manager, or for more than five (5) days, if the violation is by a permit holder's non-managerial employee, provided that neither the permit holder nor any of the permit holder's employees has committed another violation of this chapter in the previous twelve (12) months.

(ii) Subsequent offenses in a twelve (12) month period. Except as otherwise provided in this section, a permit shall be revoked or suspended for a minimum of three (3) days if either the permit holder, the permit holder's manager, or any of the permit holder's employees has committed another violation of this chapter in the previous twelve (12) months.

(c) Revocation. (i) Except as otherwise provided in this chapter, no permit may be revoked unless the permit holder has committed at least two (2) violations of this chapter in a twelve (12) month period.

(ii) Except as otherwise provided by this chapter or state law, the board or the board hearing officer shall revoke a permit holder's permit if either the board or the board hearing officer finds that beer has been sold on the permitted premises to persons under the age of eighteen (18) on two (2) or more occasions in a twelve (12) month period or on three (3) or more occasions in a twenty-four (24) month period.

(3) Exception; sale by a responsible vendor's clerk to person under the age of twenty-one (21).

(a) A permit shall not be revoked or suspended because of the sale of beer to a person under the age of twenty-one (21) if, at the time of the sale:

(i) The permit holder was a responsible vendor; and

(ii) The clerk who made the sale was a certified clerk, or had been employed by the permit holder for sixty-one (61) days or less.

(b) Notwithstanding subsection (a), if the commission revokes the permit holder's responsible vendor's certification pursuant to Tennessee Code Annotated, § 57-5-608(b) because the permit holder had knowledge of or should have known about the violation, or participated in or committed the violation, the permit holder shall be punished under this section as if the vendor were not certified as a responsible vendor at the time of the sale.

(4) Exception; sale by vendor not certified as a responsible vendor to person between eighteen (18) and twenty-one (21) years of age.

(a) A permit shall not be revoked because the permit holder or the permit holder's employee or agent sells beer to a minor over the age of eighteen (18) years, if such minor exhibits an identification, false or otherwise, indicating the minor's age to be twenty-one (21) or over, if the minor's appearance as to maturity is such that the minor might reasonably be presumed to be of such age and the minor is unknown to such person making the sale.

(b) In the case of an illegal sale such as that described in subsection (4)(a), a permit holder's permit may be suspended for a period not to exceed ten (10) days or a civil penalty up to one thousand five hundred dollars (\$1,500.00) may be imposed.

(5) Civil penalty-responsible vendor. The board or the board hearing officer may impose a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of selling or permitting the sale of beer to a person under the age of twenty-one (21) or for any other violation of this chapter or applicable state law. A penalty imposed under this subsection shall be paid within seven (7) days of the imposition of the penalty. Failure to pay the penalty within seven (7) days shall constitute a violation of this chapter subject to prosecution under subsection (4) above.

(6) Civil penalty- vendor not certified as a responsible vendor. (a) The board or the board hearing officer, upon finding grounds for revoking or suspending a permit holder's permit, may offer a permit holder who is not certified as a responsible vendor the alternative of paying:

(i) A civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of selling or permitting the sale of beer to a person under the age of twenty-one (21); or

(ii) A civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

(b) If a civil penalty is offered as alternative to revocation or suspension, the permit 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. The permit holder's payment of a civil penalty shall not affect the holder's ability to seek review of the civil penalty pursuant to state law.

(7) Hearing required. No permit shall be revoked or suspended or penalty imposed until a public hearing is held either before the board or the board hearing officer after reasonable notice to all the known parties in interest. (1976 Code, § 2-217, as replaced by Ord. #2497, June 2016)

**TITLE 9****BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>****CHAPTER**

1. GENERALLY.
2. PEDDLERS, ETC.
3. CHARITABLE, RELIGIOUS AND COMMERCIAL SOLICITATION.
4. POOL ROOMS.
5. AUCTION SALES.
6. HOTELS.
7. SHOOTING GALLERIES.
8. MASSAGE ESTABLISHMENTS.
9. TATTOO PARLORS.
10. CABLE TELEVISION.
11. PUBLIC RESTROOMS IN MALLS.

**CHAPTER 1****GENERALLY****SECTION**

- 9-101. "Going out of business" sales.
- 9-102. Rental or sale of flotation device regulated, generally.
- 9-103. Operation of ferris wheel, merry-go-around, etc., restricted.
- 9-104. Congested areas.
- 9-105. Parking, safety, and buffer zones.
- 9-106. Planning commission approval.
- 9-107. Penalty.
- 9-108. City logo or trademark.
- 9-109. Licensing of city logo or trademark.
- 9-110. Enforcement.
- 9-111. Compensation.

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

**9-101. "Going out of business" sales.** It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale", "bankruptcy sale", "loss of lease sale", or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale adds to his stock or fails to go out of business within ninety (90) days, he shall be prima facie deemed to have violated this section.

Any person desiring to hold a "going out of business" sale shall first file a written application for such a permit. The application shall contain the following:

(1) The name, address, and occupation or business of the person, firm or corporation desiring to conduct such "going out of business" sale.

(2) The location and address where such "going out of business" sale is to be conducted.

(3) A statement showing the date or dates of said "going out of business" sale.

(4) A statement showing dates and places of any other "going out of business" sales engaged in by the applicant for a period of two (2) years next preceding the date of application.

(5) A list or schedule of inventory, stock and merchandise to be disposed of at such "going out of business" sale.

(6) The names and addresses of all owners, partners, or stockholders in said business.

(7) An affidavit by the applicant that he does not intend to re-open the same or similar business, either directly or indirectly, for a period of one (1) year from the date of such sale.

The application will be reviewed for approval by the city administration.

Any person granted a permit shall not be issued another such permit for a period of one (1) year from the date shown on such permit. The permit shall not be transferrable. Any person conducting a "going out of business" sale in violation of the provisions of this section shall be subject to a penalty in accordance with the general penalty clause of this code. (1976 Code, § 5-102)

**9-102. Rental of sale of flotation devices regulated, generally.**

(1) It shall be unlawful for any person, firm or corporation to engage in the commercial activity of renting or otherwise providing inner tubes, inflated rafts, or other flotation devices for the intended use by swimmers or others for floating on any portion of any river, creek, or other watercourse in the City of Gatlinburg, permission for the use of which portion has not been obtained from all of the riparian owners or other persons entitled to control the possession and occupancy thereof. Each person, or corporation advertising or otherwise holding themselves out to provide for a consideration inner tubes, inflated rafts, or other flotation devices in the City of Gatlinburg for these purposes shall be guilty of

a violation of this section. Each person (whether acting for such person or for any other party) who for a consideration engages in renting or otherwise providing inner tubes, inflated rafts, or other flotation devices for these purposes, shall be guilty of violating the provisions of this section.

(2) No such activity heretofore described shall constitute a violation of the section if the use of the flotation devices thus provided, is confined to portions of a river, creek, or other watercourse where such use has been approved by all of the riparian owners or others entitled to control and possession and occupancy thereof. The sale of innertubes, inflated rafts, or other flotation devices in stores for general use, and without any express or implied act by the seller suggesting the use thereof on any portion of any river, creek, or other watercourse in Gatlinburg without the consent of the riparian owner or the party entitled to control the possession and occupancy of such portion, shall, upon conviction, be fined in accordance with the provisions of the general penalty clause in this code. (1976 Code, § 5-103)

**9-103. Operation of ferris wheel, merry-go-around, etc., restricted.** No person shall operate any ferris wheel, merry-go-around, roller coaster, airplane ride, miniature train ride, flume ride, or any and all other amusement rides such as those used at fairs, midways and carnivals, where any part of such ride is located within three hundred feet (300') of the following street's rights-of-way in the City of Gatlinburg:

- (1) U. S. Highway 441, also referred to as Parkway, from the northern corporate city limits near Dudley Creek Road south and southwest to the southern corporate limits at the boundary line of Great Smoky Mountains National Park, excluding the area between traffic light #1 and traffic light #3;
- (2) River Road, from South Parkway to the corporate limits at the boundary line of the Great Smoky Mountains National Park;
- (3) Roaring Fork Road from East Parkway to the corporate limits;
- (4) East Parkway, east to Ridge Road;
- (5) Historic Nature Trail-Airport Road. (1976 Code, § 5-104, as replaced by Ord. #2471, Nov. 2013)

**9-104. Congested areas.** The Board of Commissioners of the City of Gatlinburg further finds and declares that certain other areas of the City of Gatlinburg are less congested, but have a potential for same, and hereby declares that those areas may contain the amusement rides defined herein, provided:

- (1) Temporary amusements are at least two hundred feet (200') from the listed roads and street's rights-of-way.
- (2) Permanent amusement rides are at least fifty feet (50') in distance from the roads and street's right-of-way listed.

For purpose of this section, permanent is hereby defined to be: Installed in such a way as the amusement ride is securely affixed to the

land and the amusement ride is so constructed as to not be readily removable and the value of same must reasonably exceed twenty-five thousand dollars (\$25,000.00).

(3) The roads and streets referred to in this section are as follows: Highway 73 from Ridge Road East to the Corporate limits; Cherokee Orchard Road; Parkway from traffic light #1 to traffic light #3.

(4) The provisions of this section, § 9-104, shall not apply to amusements within a totally enclosed building. However, for the purposes of this section, the term "totally enclosed building" does not include buildings that contain rollup/garage doors that remain in an up or open position during the hours of operation. (1976 Code, § 5-105, as replaced by Ord. #2471, Nov. 2013)

**9-105. Parking, safety and buffer zones.** In addition to the prohibitions and restrictions set out herein, anyone desiring to locate any of the amusement rides described herein, shall meet the following requirements:

(1) Adequate parking. One (1) parking space for each four (4) customers, computed on a maximum service capacity of area of the recreational use, will be provided upon the same property where the amusement is located.

(a) Each parking space shall have at least one hundred ninety (190) square feet in area and shall have paved vehicular access to a public street or alley.

(b) Turning space shall be provided so that no vehicle will be required to back into a public street.

(2) Aesthetic considerations. As a minimum, include the following requirements:

(a) Any off-street parking facility of ten (10) cars or more shall also provide the equivalent of one (1) parking space per each twenty (20) cars and each fraction thereof, to be planted with at least one (1) tree with a minimum diameter measured at the location of its greatest width of one and one-half inches (1 1/2"), and grass and/or ground cover. The exact location within the parking facility is optional with each design, but the planted area herein referred to shall be in addition to perimeter buffer strips and to other landscaping on the property outside the parking facility.

(b) The purpose of this requirement is to aid in providing visual definition, oxygenation, wind modulation, drainage absorption and relief from other problems that may result from total coverage paving.

(c) Plant material of such growth characteristics as will provide an obscuring screen of not less than seven feet (7') in height. The amount of planting required to accomplish adequate screening is variable with the individual site; the enforcing officer should arbitrate to determine types and amount when no specific standards are required, and the board of zoning appeals or planning commission shall make such determination when approval of development plans is required by either of these bodies.

In any case, the following description of screening shall be established as the minimum acceptable buffer. The depth of the zone is dependent upon the buffer strip required.

(i) Minimum specifications. Such a buffer strip shall provide within two (2) years of planting, a planted, growing barrier affording visual privacy and sight relief between properties or dissimilar uses and/or character of buildings. Visual privacy shall include screening from automobile headlights, elevated yard lights, electric signs, building lighting, mechanical equipment clusters, garbage or trash containers, and vehicular traffic. The minimum acceptable screen would consist of one (1) row or two (2) rows (centers staggered) of:

- (A) Trees as described below;
- (B) Additional shrubbery;
- (C) Ground cover;

Rows should be six feet (6') apart with six foot (6') edges both sides when two (2) rows are required and when one (1) row is required six foot (6') edges on both sides must be provided. Plants recommended for each type of screening are:

(1) Trees. White pine or Hemlock: four feet (4') O.C. if one (1) row six feet (6') O.C. if two (2) rows. Redbud or Tulip Poplar: Every fourth three, stagger lines.

(2) Shrubby. Forsythia or Bridal Wreath Spirea: four feet (4') OC. one (1) row. Hedge: Privet at one foot (1') O.C.; Barberry at one inch (1") O.C.

(3) Ground cover. Honeysuckle or Vinca Minor.

(D) Existing undisturbed vegetative buffers may be substituted for the above when in the opinion of the planning commission, it is adequate to achieve the required buffering.

(ii) Maintenance. Initial buffer planting shall be guaranteed one (1) full year. Trimming annually required thereafter. (1976 Code, § 5-106, as replaced by Ord. #2471, Nov. 2013)

**9-106. Planning commission.** All other requirements of the City of Gatlinburg presented by the city manager and approved by the city commission relating to the installation of amusement rides described herein, including but not limited to: adequate parking; adequate safety precautions for entrances and exits; aesthetic considerations; compliance with all ordinances and city permit requirements; compliance with zoning requirements; etc., as set forth in the various city ordinances in effect, shall be met.

Detail plans and specifications to include parking plan, site location, detailed street plan will be submitted to Gatlinburg Planning Commission for approval before any permit will be issued. (1976 Code, § 5-107, modified)

**9-107. Penalty.** Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction may be subject to a civil penalty of up to five hundred dollars (\$500.00) per offense. Each day's violation shall constitute a separate offense. (1976 Code, § 5-108, modified)

**9-108. City logo or trademark.** The city has duly recorded and protected a symbol or emblem which represents the City of Gatlinburg and its goodwill. Said symbol has been registered with the Secretary of State as an official logo, trademark, or service mark. The city has the exclusive right to use said trademark or logo but has the right to license the use of this symbol by others with restrictions and supervision by the city. Any such use of the city's logo should be allowed under certain conditions and restrictions which would preserve the goodwill of the city and not be commercialized solely for profit. (1976 Code, § 5-109)

**9-109. Licensing of city logo or trademark.** The city manager is authorized to negotiate with individuals or companies who wish to make limited use of the logo of the City of Gatlinburg and reduce any proposals to contract form for consideration by the board of commissioners. No agreement shall be effective or binding upon the city except by contract duly approved and executed. The following conditions shall be included in any such agreement in addition to others agreed upon by the parties:

- (1) Uses shall be for certain named products only.
- (2) Each licensee for a product shall have the exclusive use for that product.
- (3) The market area for these products shall be limited to the City of Gatlinburg only.
- (4) The logo may not be used for commercial advertising by the licensee.
- (5) The city may require samples and adequate quality control safeguards.
- (6) The city shall retain the right to inspect the goods to be sold and reject those not of quality equal to or exceeding the samples approved. The city may limit the number of units produced.
- (7) The use of the logo shall not be assignable by the licensee. (1976 Code, § 5-110)

**9-110. Enforcement.** The city shall reserve the right to prosecute violations of the trademark laws and unauthorized uses of the city's logo. An infringement or unauthorized use of the city's logo shall be a violation of the

Gatlinburg Municipal Code as well as all other penalties and remedies including injunctive relief allowed by state statutes. Violation of any of the provisions of the licensing agreement by the licensee shall be the basis for terminating the agreement and such violations may be in addition to the penalties allowed by state statutes for unauthorized use. (1976 Code, § 5-111)

**9-111. Compensation.** Licensees shall pay to the city such royalties, fees, or other consideration as may be agreed upon by the parties. (1976 Code, § 5-112)

## CHAPTER 2

### **PEDDLERS, ETC.**<sup>1</sup>

#### **SECTION**

- 9-201. Street solicitation for hotel, etc. or sales prohibited.
- 9-202. Exemptions.
- 9-203. Door to door solicitations for sales prohibited, generally.
- 9-204. Loud noises and speaking devices.
- 9-205. Identification badge required.
- 9-206. Application and fee.
- 9-207. Exception.
- 9-208. Penalty.

**9-201. Street solicitation for hotel, etc. or sales prohibited.** It shall be unlawful for any person or persons to drum, solicit business for an inn, hotel or lodging or, to sell or offer for sale in any manner, goods, wares or merchandise of any description upon the streets or sidewalks of the city. It shall also be a violation for any person to solicit or offer for sale near public property when such activity involves the interference or interruption of pedestrian or traffic flow on the city sidewalks, streets, or other public thoroughfares. (1976 Code, § 5-201)

**9-202. Exemptions.** The terms of this chapter shall not be applicable to any vehicle that exhibits on its sides and/or rear, the name, trade name, type of business or enterprise of the owner, nor to newsboys, nor to bona fide charitable, religious, patriotic or philanthropic organizations.

There is also exempted from the prohibitions of the preceding section the activities associated with city sponsored events where the city has closed a city street for the purpose of conducting special events funded by the city and the Chamber of Commerce. Sales and solicitations on streets and sidewalks shall be allowed only within the area where the street is closed and only for the duration of the event. Persons participating in such special events and wishing to display merchandise or solicit sales shall be required to comply with regulations established by the board of commissioners of the City of Gatlinburg and adopted by resolution prior to any such event. (1976 Code, § 5-202)

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

**9-203. Door to door solicitations for sales prohibited, generally.**<sup>1</sup>

It shall be deemed a nuisance and punishable as a misdemeanor for any solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise not having been requested or invited so to do by the owner or owners, occupant or occupants of any private residence to go in or upon such premises for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same. Provided, however, that the provisions of this section shall not apply to the sale or soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs and other farm and garden produce so far as the sale of the commodities named herein is now authorized by law. (1976 Code, § 5-203)

**9-204. Loud noises and speaking devices.** No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the municipality or upon private premises where sound or sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public place, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (1976 Code, § 5-204)

**9-205. Identification badge required.** In the commercial districts of the city, all peddlers, drummers, hawkers, commercial solicitors, salespersons, canvassers, or others in a similar activity specifically including timeshare salespersons and others distributing promotional literature for the same, shall be required to obtain and prominently display an identification badge on their person. The requirements of this section shall not apply to those who are conducting such activity within the confines of their principal place of business but shall apply to the public areas of the city, including setback areas, open plazas, and booths open to the public sidewalk or set back area, set up for the purpose of promoting, distributing or selling information or referring persons to other locations for commercial purposes. (Ord. #2185, Aug. 1999)

**9-206. Application and fee.** The identification badge required in § 9-205 above may be obtained from the Gatlinburg Police Department. In order to obtain such an identification badge, the applicant shall provide the following information:

- (1) Name, address and local telephone number;

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<sup>1</sup>The validity of this section was upheld by the Supreme Court of the United States in the case of City of Alexander v. Breard, 95 L.Ed. 838 on June 4, 1951.

- (2) Date of birth and either drivers license number or social security number;
- (3) The previous residence(s) of the applicant for the preceding three years;
- (4) Location of proposed activity;
- (5) Name of the applicant's employer; and
- (6) The type of activity proposed.

A non-refundable application and identification badge fee in the amount of twenty-five dollars (\$25.00) shall be due upon submittal of the application. Said fee is for the purpose of defraying the cost of equipment, processing, records keeping, and records check. Such identification badge shall be carried with the applicant at all times and prominently displayed during any solicitation or distribution activity. The identification badge shall be valid for a period of one year from date of issuance. (Ord. #2185, Aug. 1999)

**9-207. Exception.** The requirements of §§ 9-205 and 9-206 shall not apply to salespersons who are soliciting orders or business within the premises of the business establishment. (Ord. #2185, Aug. 1999)

**9-208. Penalty.** Any person violating §§ 9-205 and 9-206 shall, upon conviction, be fined an amount not to exceed \$500.00. In addition to any other penalty imposed, any person convicted on two or more occasions for violation of the above sections shall be required to surrender their identification badge to the city. (Ord. #2185, Aug. 1999)

## CHAPTER 3

### CHARITABLE, RELIGIOUS AND COMMERCIAL SOLICITATION

#### SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Application for permit.
- 9-304. Issuance of a permit.
- 9-305. Permit for charitable and religious solicitation.
- 9-306. Revocation of a permit for charitable and religious solicitations.
- 9-307. Regulation of location, times and numbers of charitable and religious solicitors.
- 9-308. [Repealed.]
- 9-309. [Repealed.]
- 9-310. Off-premises canvassing/solicitation.

**9-301. Permit required.** No person shall solicit contributions for any charitable or religious purpose within the City of Gatlinburg without a permit from the city manager authorizing such solicitation. Provided, however, that the provisions of this section shall not apply to any locally established church or organization organized and operated exclusively for religious or charitable purposes and not operated for the pecuniary profit of any person, if the solicitations by such established person or group are conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for making such contributions, or if the solicitations are in the form of collections or contributions at the regular assembly or services of such locally established organizations or churches. (1976 Code, § 5-301)

**9-302. Prerequisites for a permit.** The city manager shall issue a permit authorizing charitable or religious solicitations when, he finds the following facts to exist:

- (1) That the control and supervision of the solicitation will be under the supervision of either the applicant or person in charge.
- (2) That all statements and answers listed on the application for a permit are true.
- (3) That neither the applicant nor any individual soliciting with the supervision of the applicant has been adjudged guilty of a felony or misdemeanor the basis of which conviction was fraud, theft, embezzlement, or obtaining money or property under false pretenses. (1976 Code, § 5-302)

**9-303. Application for permit.** No person or organization shall solicit funds or properties as set out in § 9-301 until such time as the person or

organization has filed an application with the city manager of the City of Gatlinburg. Said application shall contain the following information:

- (1) The name and address of the person or organization;
- (2) The purpose for which such solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom;
- (3) The name and address of the person or persons who will be in direct charge of conducting the solicitation and the names of all promoters connected or to be connected with the proposed solicitation;
- (4) The date and times for the proposed solicitation.

Said application shall be sworn to, or affirmed, along with a statement that the funds derived from said solicitation are to be used in furtherance of the religious or charitable activity involved and will not be a fraud upon the public. (1976 Code, § 5-303)

**9-304. Issuance of a permit.** The city manager shall have five (5) normal working days to make an investigation of the application submitted by the applicant, holidays and weekends excluded. If a permit is neither issued nor denied within five (5) normal working days, the applicant may appeal directly to the board of commissioners of the City of Gatlinburg for issuance of a permit. In the event the permit is denied by the city manager, for whatever reason, the City of Gatlinburg shall institute proceedings in the local Chancery Court for judicial review of the city's denial, the same as for review of other administrative decisions. In lieu of this procedure, the applicant may request that the board of commissioners of the City of Gatlinburg review the denial by the city manager, however, review by the board of commissioners shall be at their discretion and in the event the board of commissioners does not exercise its discretion in reviewing the denial, the appeal shall be to Chancery Court as provided above. (1976 Code, § 5-304)

**9-305. Permit for charitable and religious solicitation.** If the city manager determines that the requirements of this chapter have been complied with, the city manager shall issue a permit to the applicant for solicitation of funds or property within the City of Gatlinburg. Said permit shall be valid for ninety (90) days, following which a new application must be filed with the City of Gatlinburg. Any permit issued under this chapter shall be non-transferrable. Any persons soliciting funds or property shall carry the permit or a facsimile copy thereof with him at all times and shall display same to the person solicited, if requested, or to any police officer of the City of Gatlinburg. The issuance of a permit shall not be construed to be an endorsement by the City of Gatlinburg of the charitable or religious organization, and no representations to that effect shall be made. (1976 Code, § 5-305, as replaced by Ord. #2355, Sept. 2006)

**9-306. Revocation of a permit for charitable and religious solicitation.** Whenever the city manager has knowledge that any person has violated any of the provisions of this chapter or that any promoter, agent or solicitor of a permit holder has misrepresented the purpose of the solicitation, or fails to abide by the limitations set forth in § 9-307, the city manager shall immediately suspend said person's permit. The city manager shall then give the permit holder written notice to the address listed on the application that said person has been suspended from further solicitation. Said notice shall state the reasons and facts relied upon by the city manager in taking this action. Said suspension shall be binding upon the permit holder unless he shall have requested a hearing within five (5) days of the notice of the suspension. If the permit holder or the person suspended wish to challenge the suspension, upon giving notice to the city manager, a hearing shall be held within fifteen (15) days of the request. The hearing shall be held by the city manager or designee and at such hearing the permit holder as well as the individual or any other interested person may present evidence regarding the suspension. The city manager shall render a decision within two (2) days following the hearing and said decision shall be reduced to writing and a copy thereof delivered to the permit holder and the individual involved. If the city manager finds that a violation has occurred, the suspension shall be upheld. Suspensions shall be for a minimum of ninety (90) days. If the city manager determines that violations have not occurred, the privilege of soliciting shall be reinstated for the suspended individual. (1976 Code, § 5-306, as replaced by Ord. #2355, Sept. 2006)

**9-307. Regulation of location and numbers of charitable and religious solicitors.** Due to the heavy traffic and pedestrian congestion in the city and the potential safety hazards, soliciting of funds on the streets, sidewalks and ten (10) foot front yard setback areas of the City of Gatlinburg are strictly prohibited. Religious solicitation is limited to areas where the sidewalk is at least ten (10) feet in width, as measured from the street side of the sidewalk curb measuring away from the street, and there shall be a maximum of two (2) persons at any one location at any given time. Persons violating the limitations set forth herein may be suspended from further solicitations in addition to other penalties provided by law. (1976 Code, § 5-307, as amended by Ord. #2219, Oct. 2000, and replaced by Ord. #2355, Sept. 2006)

**9-308. [Repealed.]** (As added by Ord. #2219, Oct. 2000, and replaced by Ord. #2355, Sept. 2006, and repealed by Ord. #2421, Nov. 2009)

**9-309. [Repealed.]** (Ord. #2197, Nov. 1999, modified, as amended by Ord. #2266, April 2002, and replaced by Ord. #2355, Sept. 2006, and repealed by Ord. #2421, Nov. 2009)

**9-310. Off-premises canvassing/solicitation.** (1) Findings and purpose. This section is based on the following findings and purposes.

(a) (i) Because of the proliferation of off-premises solicitation and individuals acting as acquisition agents within the Gatlinburg Commercial Aesthetic District (hereinafter "CA District"), and the fact that the volume of such activities has resulted in numerous complaints by pedestrians and tourists about the aggressive and persistent actions of such persons attempting to engage them in conversation in order to consummate a business transaction, it is the intent of this section to preserve and protect the unique charm and small town character of the City of Gatlinburg CA District, which serves as a major attraction to millions of tourists each year.

(ii) The city is committed to maintaining its small town character, scenic beauty and natural resources, which are the foundation of its economic strength and quality of life. The downtown area in particular has been recommended to be designated a scenic and landscape resource of significance ("SLRS") (Saratoga Report 2007). These essential components of the city's attractiveness to residents and visitors have been severely impaired by the practice of aggressive off-premises canvassing and acquisition agents, particularly as practiced in the CA District.

(iii) Between 2006 and 2008, the city received copies of more than eighty (80) written complaints as well as innumerable verbal complaints from visitors, tourists, business owners and citizens regarding the off-premises canvassing and the aggressive tactics of acquisition agents within the CA District. A number of the complaining visitors described these activities as ruining the special character of the city which was their reason for visiting and expressed their determination not to return to the city because the aggressive off-premises canvassing and acquisition agents had destroyed its attractiveness as a place to visit.

(iv) The ordinance set forth in this section is therefore directed solely to the regulation of the time, place and manner of certain limited forms of commercial speech by acquisition agents and acquisition agent firms directed towards visitors, tourists and residents within the CA District. The ordinance set forth in this section is not intended to regulate any form of speech other than speech designed to do no more than propose a commercial transaction.

(v) Given the unique commingling of both public and privately owned sidewalks throughout the CA District which are equally accessible without restriction by tourists and pedestrians,

the purposes of the ordinance set forth in this section can only be made effective if the restrictions contained herein are applied to both public sidewalk and the front yard setback of ten feet (10') used by pedestrians and identified in the City of Gatlinburg Zoning Ordinance.

(b) Tourism is essential to the city's fiscal strength. Gatlinburg's friendly, small town environment has historically played a substantial role in making it an attractive tourist destination and the "Gateway to the Smokies." The Great Smoky Mountains National Park attracts between nine and ten million (9,000,000-10,000,000) visitors each year. Gatlinburg has been deemed Tennessee's first premier resort location. (Gatlinburg Chamber of Commerce, In the Heart of it All Brochure). In 2007, it is estimated that the gross receipts from amusement, lodging and restaurant revenues within the City of Gatlinburg amounted to over two hundred ninety-seven million dollars (\$297,000,00.00), representing over sixty percent (60%) of total city revenues as reported by the Gatlinburg Chamber of Commerce. Because the CA District is a critical component of the city's entire sales tax base, the ordinance set forth in this section is further designed to protect the economic viability of this area by ensuring a pleasurable outdoor shopping experience uninhibited by repeated personal sales solicitations for the millions of tourists which visit the area each year.

(c) In 2008 the consulting firm Sprinkle Consulting was commissioned to evaluate concerns related to pedestrian safety within the CA District. The report identified the following: The sidewalk and street environment in the CA District is busy, with traffic and pedestrian flows in close proximity to one another. The sidewalks are crowded with a wide range of pedestrian age, group sizes, and types. Pedestrian mobility types are diverse. Persons with disabilities are significantly present. There are many children and senior citizens. The free flow of pedestrians along the sidewalks is constrained in numerous ways. Commercial solicitation in the stream of pedestrians, particularly in the form of direct verbal sales invitations and dialogue with pedestrians has been observed with the concomitant interruption on the flow stream of pedestrians. Commercial solicitation has been identified as a contributing cause to pedestrian safety concerns. (Sprinkle Consulting, Landis Report 2008). The ordinance set forth in this section is further designed to protect the safety of pedestrians within the CA District.

(d) The ordinance set forth in this section is further designed to:

(i) Protect local residents and visitors against unreasonable interference or disturbance in their peace or obstruction of free travel on city streets and sidewalks within the CA District from the conduct of acquisition agents;

(ii) Insure that acquisition agents do not misrepresent the nature of the products they are promoting or the identity of the business that is promoting the products and to provide a means for regulating such activities and enforcing the provisions of this section;

(iii) Establish an acquisition agent review board to assist the city and visitors in addressing and resolving complaints related to acquisition agent activities in an appropriate and effective manner.

(2) Definitions. For purpose of this section, the following definitions shall apply:

(a) "Acquisition agent." Acquisition agent means a person who is licensed as an acquisition agent as defined by Tennessee Code Annotated, § 62-13-142, or a person who by means of personal inducement, solicitation, or otherwise attempts directly to encourage any person to attend a sales presentation for a time-share program; provided, however, that "acquisition agent" shall not include any person, or that person's employee, who engages in any such activity solely on real property owned or leased by such person on or within the premises of a hotel, motel, private resort or lodging rental office or phone or mail solicitation business. In addition, acquisition agent shall include licensed brokers, affiliate brokers and any other individual authorized to act as acquisition agents pursuant to Tennessee Code Annotated, § 62-13-102.

(b) "Acquisition agent location." Acquisition agent location means a physical location within the Gatlinburg CA District used by acquisition agents and/or acquisition firms for off-premises canvassing from which an acquisition agent can speak directly to persons on the sidewalk. The term "acquisition agent location" does not include any physical location within the Gatlinburg CA District used by acquisition agents and/or acquisition firms for off-premises canvassing from which an acquisition agent cannot speak directly to persons on the sidewalk.

(c) "Acquisition firm." Acquisition firm means a person or entity that engages in the business of employing or contracting with acquisition agents.

(d) "Business." Any commercial activity in which any real property, timeshare interests, goods, services or edibles are sold or offered for sale or for rent within the corporate limits of the city.

(e) "Commercial solicitation." Commercial solicitation shall be defined as any person to person contact, delivery or exchange not initiated by the prospective customer which directs attention to any business, mercantile or commercial establishment, or any other commercial activity, for the purpose of directly promoting a commercial interest through sales, rentals or any exchange of value. Commercial solicitation shall specifically include solicitations by acquisitions agents.

(f) "Enclosed structure." A structure having a roof and supported by column or walls. Enclosed structure does not include any sidewalks under a roofed area.

(g) "Gatlinburg CA District." That area depicted on the City of Gatlinburg Zoning District Map as the commercial aesthetic district.

(h) "Goods." Any tangible item, including, but not limited to, edibles, products, supplies, coupons, pamphlets, brochures, and maps.

(i) "Off-Premises Canvassing" or "OPC." Person-to-person efforts initiated by a acquisition agent solely intended to interest, entice, or solicit any person to participate in commercial transactions with a business, including, but not limited to offers of goods, cash, discounts on products or services, or other items, including the offering of free goods or services made in exchange for or with the intent to induce the recipient's willingness to receive information relating to a possible commercial transaction.

(j) "Product." The real property, timeshare interests, goods, edibles or other services sold or offered for sale or rent.

(k) "Sidewalk." Sidewalk shall include both public sidewalks and the front yard setback of ten feet (10') used by pedestrians and identified in the City of Gatlinburg Zoning Ordinance.

(3) Signage. (a) Within the City of Gatlinburg CA District, it shall be unlawful for any person, company, corporation, acquisition agent, acquisition firm or entity engaged in the procurement of prospective customers for sales solicitation, presentation or substantially similar activity, to identify or advertise itself by means of any sign, that utilizes the following phrases or substantially similar phrases: "tourist information," "tourist center," "visitor information," or "information center," "activity center," "activity information" unless:

(i) The identity of the business is disclosed on the face of the sign in letters of sufficient size to be clearly readable to the public, but in no event less than fifty percent (50%) of the average size of the sign text, whichever is larger; and

(ii) The words "vacation ownership solicitation" are caused to be printed and thereafter remain in an unobscured manner, in at least clearly readable three-fourths inch (3/4") black letters within two feet (2') of the aforementioned signage concerning tourist or information either on the doors to the building, or on the exterior wall of the building immediately adjacent to the door; or, if the business operates from a booth within another business establishment, the same shall be printed on the front panel of the booth in a location clearly and consistently visible to any persons passing by; and

(iii) The requirements for signage in subsections (a) and (b) shall take effect one hundred and twenty (120) days after the enactment of this ordinance.

(b) Such signs shall comply in all material respects with any ordinances or rules specifying signage standards within the City of Gatlinburg.

(4) Time, place and manner regulation of acquisition agents. Acquisition agents may only engage in commercial solicitation or off-premises canvassing within the Commercial Aesthetic (CA) District of the City of Gatlinburg at licensed acquisition agent locations or at any other physical location from which the acquisition agent cannot speak directly to persons on the sidewalk.

(a) An acquisition firm may license as many acquisition agent locations as it desires, however, each acquisition firm shall be prohibited from operating more than three (3) locations within the CA District of Gatlinburg at any given time.

The acquisition agent review board shall be responsible for the licensing of acquisition agent locations.

(b) Any acquisition firm currently engaging in business within the CA District as of the date of passage of this ordinance shall be able to operate four (4) acquisition agent locations within the CA District at any given time.

(5) Specific regulation of conduct. Acquisition agents shall be prohibited from the following activities on the public streets and sidewalks within the CA District:

(a) No acquisition agent shall make an untruthful, false, or misleading representation in the course of soliciting or attempting to solicit persons.

(b) No acquisition agent shall intentionally make any physical contact with any persons on the public streets or sidewalks while engaging in commercial solicitation.

(c) No acquisition agent shall continue to engage any person as part of any off-premises canvassing if the person has made an unequivocal, affirmative, audible, verbal statement that he or she no longer wishes to be solicited.

(d) Acquisition agents shall at all times while engaging in solicitation wear the required photo identification badge in a prominent location visible on his or her person to the public.

(e) No acquisition agent shall make abusive or derogatory comments directed at pedestrians.

(6) Licensing requirements. (a) Acquisition agents. All acquisition agents engaging in commercial solicitation who engage in the practice of commercial solicitation within the CA District as defined herein shall be required to register with the City of Gatlinburg and secure and wear at

a prominent and visible location on their person at all times engaged in commercial solicitation a photo identification badge. Said photo identification badge may be obtained from the Gatlinburg Police Department. Said badge shall show the name of the organization and the name of the acquisition agent. Any person seeking a photo identification badge as an acquisition agent shall produce proof that they are a licensed acquisition agent or licensed brokers, affiliate brokers or other individual authorized to act as acquisition agents pursuant to Tennessee Code Annotated, § 62-13-102. The charge for the issuance of any photo identification badge is thirty-five dollars (\$35.00) which shall be used to defray the cost and expense of the photo badge and records keeping. The Gatlinburg Police Department shall issue an acquisition agent photo identification badge to any person seeking to obtain an acquisition agent photo identification badge upon that person's payment of the annual thirty-five dollar (\$35.00) fee and presentation of proof that the person is an acquisition agent, broker or affiliate broker licensed by the State of Tennessee, or other individual authorized to act as an acquisition agent under Tennessee Code Annotated, § 62-13-102.

(b) Acquisition firms. All acquisition firms employing or contracting with acquisition agents engaging in commercial solicitation within the CA District shall be required to register with the City of Gatlinburg to obtain an acquisition firm license. The charge for obtaining an annual acquisition firm license is five hundred dollars (\$500.00), which shall be used to defray the administrative costs and expense of said licensing and enforcement. The City of Gatlinburg shall issue an acquisition firm license to any acquisition firm that registers with the City of Gatlinburg. To register with the City of Gatlinburg, an acquisition firm, if it is a sole proprietorship or general partnership, need only provide its name, address of its principal office, telephone number, name of owner or partners, and owner's or partners' home addresses, or if the acquisition firm is a corporation, limited liability company, limited partnership or other business organization other than a sole proprietorship or general partnership, then it need only provide its name, address of its principal office, telephone number, name of an officer of the acquisition firm and that officer's business address.

(c) Acquisition agent locations. All acquisition agent locations, as defined in section 2(b) of this section, shall be registered with and licensed by the City of Gatlinburg. To register an acquisition agent location, the acquisition agent or acquisition firm seeking to register the acquisition agent location must provide the City of Gatlinburg with the address of the acquisition agent location, and the name, address and telephone number of the acquisition agent or acquisition firm registering the acquisition agent location. The acquisition agent or acquisition firm must pay to the City of Gatlinburg an annual fee of two hundred dollars

(\$200.00) per location, which shall be used to defray the administrative costs and expense of said licensing and enforcement. Upon the acquisition agent or acquisition firm providing the information required by this subsection and paying the fee of two hundred dollars (\$200.00), the City of Gatlinburg shall issue a license for the acquisition agent location to the acquisition agent or acquisition firm requesting the same. Any location used by acquisition agents and/or acquisition firms for off-premises canvassing that does not meet the definition of acquisition agent location as defined in § 9-310(2)(b) of this section does not have to be licensed.

(7) Enforcement; review board. (a) A code enforcement officer shall be designated by the city and assigned enforcement powers to address and refer written complaints concerning. Acquisition agents, acquisition firms and acquisition agent locations to the appropriate party (the complained of business, the acquisition agent review board, code enforcement, and the like) with any recommended actions.

(i) Copies of any written complaints shall be forwarded to the designated code enforcement officer on at least a weekly basis.

(ii) The designated code enforcement officer shall have the authority to make one (1) of the following recommendations:

(A) That the complaint appears to be without merit, frivolous or without sufficient information to decide otherwise and that no action is recommended;

(B) That the business or entity referred to in the complaint should handle the matter and provide sufficient documentation to the designated code enforcement officer that the issue was addressed; or

(C) That the complaint be sent to the acquisition agent review board for further investigation and possible action pursuant to subsection (b) below.

(iii) All recommendations made by the designated code enforcement officer shall be in writing and copies thereof shall be forwarded to the business that was referred to in the complaint or the acquisition agent or acquisition firm if identified and to the city. Further, a copy of the complaint itself shall accompany the designated code enforcement officer written recommendation that is sent to the business entity and, if possible, the designated code enforcement officer shall communicate any action or resolution of the problem to the complaining party.

(b) An acquisition agent review board shall be appointed by majority vote of the board of commissioners for a test period of one (1) year from date of appointment. In addition to any other authority and/or powers granted herein, the acquisition agent review board shall address,

review, investigate and, when necessary, refer written complaints concerning violations of this chapter related to acquisition agent activities to the city attorney with any recommended actions. The acquisition agent review board shall be made of up of three (3) persons consisting of a representative from city government, a representative from the acquisition agent or time share industry and a representative of the Gatlinburg Chamber of Commerce. At the end of the test period, the review board may be extended by majority vote of the board of commissioners.

(i) The acquisition agent review board shall have authority to make the following recommendations:

(A) That a complaint appears to be without merit, frivolous, or without sufficient information to decide otherwise and that no action is recommended; or

(B) That formal review is required according to the following procedures:

(1) The acquisition review board issues a formal inquiry to the business or entity referred to in the complaint.

(2) The business or entity referred to in the complaint provides a formal answer to the acquisition agent review board within five (5) business days of receipt of formal inquiry;

(C) The acquisition agent review board reviews and investigates any response received by the business or entity in question. Whereupon after review, the acquisition agent review board may do the following:

(1) Recommend to the city attorney that no further action is necessary on the complaint;

(2) Find that the business or entity referred to in the complaint handled the matter by addressing concerns to the satisfaction of the acquisition agent review board and that further prosecution is not recommended; or

(3) Recommend that the complaint be forwarded to the city attorney for consideration of further action pursuant to subsection (8) below.

(c) The above procedures and any recommendations made by the acquisition agent review board are advisory in nature and in no way limit the ultimate discretion of the city code enforcement officer, city attorney or police department in determining whether or not to file or when to file civil or criminal charges.

(8) Violation and penalties. (a) Any violation of the terms of this article shall be punishable by a civil fine to fifty dollars (\$50.00) per

occurrence for an acquisition agent, and up to fifty dollars (\$50.00) per occurrence for an acquisition firm.

(b) Any acquisition agent who commits three (3) or more violations of this ordinance within a three hundred sixty five (365) day period shall be suspended from commercial solicitation within the City of Gatlinburg for a period of at least ninety (90) days and shall be required to surrender his or her photo identification badge. Each additional violation shall constitute an additional thirty (30) day suspension.

(c) The designated code enforcement officer is charged with the implementation and enforcement of this ordinance.

(d) Alternatively, based upon a recommendation of the acquisition agent review board or in its own discretion, the code enforcement division may provide one (1) written warning to any offending acquisition agent and/or acquisition firm employer.

(e) Nothing within this section shall limit the ultimate discretion of the city code enforcement officer, city attorney or police department in determining whether or not to file or when to file civil or criminal charges. (as added by Ord. #2357, Oct. 2006, and replaced by Ord. #2421, Nov. 2009)

## CHAPTER 4

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

#### SECTION

9-401. Prohibited in residential areas.

**9-401. 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 area of the city except an area zoned as a commercial district. (1976 Code, § 5-501)

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

## CHAPTER 5

### AUCTION SALES

#### SECTION

- 9-501. Permit to conduct auction required.
- 9-502. Prerequisites for filing application.
- 9-503. Application form.
- 9-504. Guidelines for issuance of permit.
- 9-505. Bond form.
- 9-506. Rules regulating auction sales.
- 9-507. Quality of goods to be truly represented.
- 9-508. Revocation of permit for cause.

**9-501. Permit to conduct auction required.** No person, firm or corporation shall conduct any auction of personal or real property within the corporate limits who has not obtained a permit from the city manager for such sale. All auction sales shall be governed by the provisions of this chapter, except auctions held pursuant to the order of a court of record, sales of executors or administrators, bona fide sales of trustees under recorded mortgages or deeds of trusts, or by lien holders acting in accordance with law, or charitable organizations conducting their own auction. (1976 Code, § 5-601)

**9-502. Prerequisites for filing application.** Application for a permit to conduct an auction sale in the City of Gatlinburg shall be in writing and show that all auctions conducted pursuant to the application will be conducted by a regularly licensed auctioneer. Such application shall be accompanied with an inventory listing the articles proposed for sale or the types of articles. (1976 Code, § 5-602)

**9-503. Application form.** Each applicant shall file with the Department of Community Development a written application which shall reflect the following information:

- (1) The name, address and occupation or business of the person, firm or corporation desiring to conduct such auction.
- (2) The name, address and occupation or business of the person, firm or corporation for whom the auction is conducted, if other than the applicant.
- (3) Whether or not any other application for permit by him or the owner of the goods has been refused; and/or whether any such permit has been revoked or challenged after the issuance.
- (4) The name and address of the auctioneer or auctioneers, who will call or cry the auction.
- (5) The address of the place or places where the auction is to be conducted.

- (6) The time or times when the auction is to be conducted.
- (7) The kind of personal property to be sold at the auction or an inventory of the property, if available. (1976 Code, § 5-603)

**9-504. Guidelines for issuance of permit.** Upon the filing of an application, the building official shall make investigation of the applicant and the proposed sale. The department shall then report its findings to the city manager who shall then consider and approve or deny the application request.

The city manager may issue a permit upon the applicant paying a fee of twenty-five dollars (\$25.00) to defray cost involved in making the necessary investigation.

In granting or denying the application, the city manager shall be guided by the following elements in making his determination:

- (1) Whether the application is of good moral character;
- (2) Whether the auction will congest traffic on the streets or on the sidewalks;
- (3) Whether the applicant has been found guilty of violating the provisions of this chapter or related laws; and
- (4) Whether the sureties on the applicant's bond are solvent. (1976 Code, § 5-604)

**9-505. Bond form.** The bond to be filed with the application shall be in the penal sum of \$1,000 with good and solvent sureties; in the following form, to-wit:

STATE OF TENNESSEE  
COUNTY OF SEVIER

KNOW ALL MEN BY THESE PRESENT: That we \_\_\_\_\_, Principal and \_\_\_\_\_ and \_\_\_\_\_, Sureties, are held and firmly bound unto the City of Gatlinburg for its own use in the penal sum of One Thousand Dollars, for the payment well and truly to be made, we bind ourselves respectively and our heirs and administrators.

The condition of this bond is such that whereas the above named \_\_\_\_\_ has obligated himself to the City of Gatlinburg in the penal sum of \$1,000 now, therefore, if the said \_\_\_\_\_ does well and truly perform to the provisions of the Gatlinburg Municipal Code § 9-501 *et seq.*, then this obligation shall be void otherwise to remain in full force and effect for the period of one year from the date of this bond.

It is expressly understood that this bond is payable to and recoverable by the City of Gatlinburg for its own use and for the use of all persons suffering loss or damage by reason of the violation of the Gatlinburg Municipal Code by the above named principal, and to compel the principal herein to perform the obligation herein undertaken.

IN WITNESS WHEREOF, we have hereunto set our hands this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Surety

(1976 Code, § 5-605)

**9-506. Rules regulating auction sales.** It shall be unlawful for any person, firm or corporation conducting a public or private auction of personal property to commit any of the following violations:

(1) Mislead the public as to the reason or purpose for holding said auction by any type or method of advertisement, or inducement.

(2) To offer for sale or to sell at any auction held for the purpose of "going out of business" any merchandise other than merchandise in stock at the time of commencement of said auction.

(3) To have an agent or other person, designated by whatever title or in whatever manner, to sit in the audience and support the bids by making bids for the sole purpose of maintaining a high bid level and not as a bona fide offer to buy.

(4) To mislead the public by false, fraudulent, or negligent advertising concerning the quality of goods sold.

(5) To hold any auction other than between the hours of 8:00 A.M. and 10:00 P.M.

(6) To make any false representations or statements as to the ownership of, character or circumstances of the owner, or pretended owner of such property for the purpose of inducing the sale thereof.

(7) To falsely advertise, state or represent that such goods, wares, and merchandise are in whole, or in part, a bankrupt or insolvent stock, or damaged goods saved from fire, or to make any false statement, representation or advertisement as to the purchase, history or character of such goods, wares, or merchandise.

(8) To substitute any article in lieu of that described and offered to and purchased by the bidder.

(9) To represent and/or sell as new or unused merchandise any second hand or used merchandise.

(10) To alter, transfer, lend or sell, or rent out any permit issued under this chapter or to use any permit not issued to the person so using.

(11) To conduct an auction sale covered by this chapter after the expiration of the permit issued or after the revocation or suspension of such permit.

(12) To hold an auction at any time, at any place, or in any manner other than that prescribed in the permit.

(13) To hold an auction in which property is sold or offered for sale by any auctioneer other than one of the auctioneers named in the application for the permit.

(14) To hold any auction without fully complying with all statutes and ordinances concerning license fees, zoning, and privilege taxes.

(15) To make any false statement or any misleading statement, either oral or written, as to the kind, quality or nature of any article sold or offered for sale.

(16) To conduct an auction sale on any streets, sidewalks or public property.

(17) To conduct an auction sale in such manner that those participating or attending the auction sale are likely to occupy the sidewalks or streets in the vicinity of the place where the auction sale is being held.

(18) To sell any article for more than \$25.00 without giving the purchaser a written invoice containing a description of the article sold and the selling price.

(19) To refuse to allow any duly authorized official or representative of the City of Gatlinburg during business hours or at any other reasonable time, to examine any records required by this chapter in connection with said auction, or to examine the property offered or to be offered for sale, or to attend any auction sale while the same is going on.

(20) For the applicant to fail to be in continuous attendance at all times during the auction sale.

(21) To assign or attempt to assign his auction permit to another person.

(22) To fail to display conspicuously and continuously the permit for auction sale at the location where the auction is being conducted. (1976 Code, § 5-606)

**9-507. Quality of goods to be truly represented.** At every sale by auction the applicant and all persons participating in the auction shall truly and correctly represent at all times to the public attending the actual facts relating to the quality of the goods offered for sale. (1976 Code, § 5-607)

**9-508. Revocation of permit for cause.** The city manager shall have the power and authority to revoke any permit authorizing sale by auction of personal property for making false representations in the application for permit,

for violation of the terms of this chapter or violation of any state law or federal law regulating possession or sale of personal property. (1976 Code, § 5-608)

## CHAPTER 6

### HOTELS

#### SECTION

- 9-601. Guest required to register under correct name.
- 9-602. Hotel rates required to be posted.
- 9-603. Temporary change of rates.
- 9-604. Register inspection by police.
- 9-605. Eviction of disorderly persons.

**9-601. Guest required to register under correct name.** All guests at any hotel, inn, motel or other such overnight lodging accommodations shall be required to register their correct names and addresses with the management. It shall be unlawful for any person to register in any overnight lodging accommodation under an assumed or fictitious name or to list a fictitious address as being his place of residence. (1976 Code, § 5-701)

**9-602. Hotel rates required to be posted.** All hotels, motels, tourist homes or any other business engaged in over night lodging of guests shall post in a conspicuous place in each room thereof a notice plainly stating the price per day of each room and such establishments operating under the American Plan shall also post rates for meals to be served. (1976 Code, § 5-702)

**9-603. Temporary change of rates.** Hotel room rates shall be regulated in accordance with the provisions of Tennessee Code Annotated, § 62-7-101. In any instance where room rates are increased by the management of any hotel, motel, etc. and notice is served on the Division of Hotel and Restaurant Inspection as required by state law, a copy of such notice shall also be delivered to the city manager of Gatlinburg. If the period of increase indicated on the notice is less than a duration of seven (7) days, the copy to the city manager shall be marked "temporary".

If the city manager reasonably believes that the temporary increase is designed to profit from shortage of lodging facilities during this period, he shall request of the board of commissioners that a public hearing be held with proper notice of the time and place of the hearing to be given to interested parties. If the board of commissioners finds that the increase in room rates was not made in good faith and was made only for the purpose of profiteering because of a room shortage, they shall pass a resolution setting forth their findings in which resolution they shall request that the Division of Hotel and Restaurant Inspection take such action as may be necessary to prohibit unfair treatment for hotel guests during this period. (1976 Code, § 5-703, modified)

**9-604. Register inspection by police.** All hotels, motels, inns or other overnight lodging accommodations shall make available their register of guest at least monthly for inspection to any police officer of the city upon request. (1976 Code, § 5-704)

**9-605. Eviction of disorderly persons.** It shall be unlawful for any guest, or visitor of any guest, of any hotel, motel, inn or lodging house in this municipality to act in a disorderly manner, or destroying the property of any such hotel, motel, inn or lodging house, or cause a public disturbance in or upon such premises. "Premises" may include, but is not limited to, the guest rooms, meeting rooms, hallways, parking lot, or other common area of a hotel, motel, inn or lodging house. Furthermore, every owner or keeper of any hotel, motel, inn or lodging house in this municipality shall have the right to terminate the occupancy and evict any guest who violates this section; this remedy is in addition to any other fine, penalty or sanction of the law. Upon exercising his right of eviction, the owner or keeper of any hotel, motel, inn or lodging house shall return to the violator any pre-paid room fees, excluding the fee for the day of the actual eviction. Eviction shall not terminate any liability of the violator for room fees owed at the time of eviction. (1976 Code, § 5-705)

## CHAPTER 7

### **SHOOTING GALLERIES**

#### **SECTION**

9-701. Shooting galleries permitted only in parks.

9-702. Permit required.

**9-701. Shooting galleries permitted only in parks.** It shall be unlawful for any person to operate a shooting gallery where live ammunition is used, within the corporate limits of the City of Gatlinburg at any place except in an amusement park which may be established by the city or private individuals. (1976 Code, § 5-801)

**9-702. Permit to operate shooting gallery required.** Any person desiring to install a shooting gallery in any such amusement park shall make application to the city manager for a permit. Before issuing a permit the city manager shall inspect such proposed installation to determine that reasonable safeguards are provided for the public. (1976 Code, § 5-802)

## CHAPTER 8

### MASSAGE ESTABLISHMENTS

#### SECTION

- 9-801. Definitions.
- 9-802. Permit required.
- 9-803. Exemptions.
- 9-804. Application for massage establishment license.
- 9-805. Application for massagist's permits.
- 9-806. Issuance of license or permit for a massage establishment.
- 9-807. Approval or denial of application.
- 9-808. Waiver of application requirements.
- 9-809. Multiple massage establishments.
- 9-810. Posting of license.
- 9-811. Register of employees.
- 9-812. Revocation or suspension of license.
- 9-813. Revocation of masseur or masseuse permit.
- 9-814. Facilities necessary.
- 9-815. Operating requirements.
- 9-816. Persons under age 18 prohibited on premises.
- 9-817. Alcoholic beverages prohibited.
- 9-818. Hours.
- 9-819. Employment of massagist.
- 9-820. Inspection required.
- 9-821. Unlawful acts.
- 9-822. Sale or transfer or change of location.
- 9-823. Name and place of business.
- 9-824. Transfer of license.
- 9-825. Violation and penalty.

**9-801. Definitions.** For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(1) "Employee." Any person over eighteen (18) years of age, other than a massagist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

(2) "Licensee." The person to whom a license has been issued to own or operate a massage establishment as defined herein.

(3) "Massage." Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such

supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.

(4) "Massage establishment." Any establishment having a source of income or compensation derived from the practice of massage as defined in sub-section (3), and which has a fixed place of business where any person, firm, association or corporation engages in or carries on any of the activities as defined in sub-section (3).

(5) "Massagist, masseur or masseuse." Any person who, for any consideration whatsoever, engages in the practice of massage as defined in sub-section (3).

(6) "Outcall massage service." Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment as defined in sub-section (3).

(7) "Patron." Any person over eighteen (18) years of age who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(8) "Permittee." The person to whom a permit has been issued to act in the capacity of a massagist (masseur or masseuse) as defined herein.

(9) "Person." Any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(10) "Recognized school." Any school or educational institution licensed to do business as a school or educational institution in the state in which it is located, or any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Inc., and which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study not less than seventy (70) hours before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

(11) "Sexual or genital area." Genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female. (1976 Code, § 5-901)

**9-802. Permit required.** (1) Business license required. No person shall engage in or carry out the business of massage unless he has a valid massage business license issued by the city pursuant to the provisions of this chapter for each and every separate office or place of business conducted by such person.

(2) Massagist's permit required. No person shall practice massage as a massagist, employee or otherwise, unless he has a valid and subsisting massagist's permit issued to him by the city pursuant to the provisions of this chapter. (1976 Code, § 5-902)

**9-803. Exemptions.** This chapter shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

(1) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of Tennessee.

(2) Nurses who are registered under the laws of this state.

(3) Barbers and beauticians who are duly licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes. (1976 Code, § 5-903)

**9-804. Application for massage establishment license.** Every applicant for a license to maintain, operate or conduct a massage establishment shall file an application under oath with the City of Gatlinburg upon a form provided by the city and pay a nonrefundable annual license fee, which shall be \$100.00 per year or any part thereof. Each applicant shall be given a copy of this chapter upon request, prior to submitting an application. Licensees who have already paid the license fee for the current six (6) month period shall not be required to pay an additional fee hereunder. The application, once accepted, shall be referred to the city manager for investigation. Copies of the application shall within five (5) days also be referred to the Department of Community Development. The department shall within thirty (30) days inspect the premises proposed to be operated as a massage establishment and shall make written verification to the city manager concerning compliance with the codes of the City of Gatlinburg that they administer. The application shall further be referred to the police department for investigation of the applicant's character and qualifications. Each application shall contain the following information:

(1) A definition of service to be provided.

(2) The location, mailing address and all telephone numbers where the business is to be conducted.

(3) The name and residence address of each applicant (hereinafter all provisions which refer to applicant include any applicant which may be a corporation or partnership).

(a) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten per cent (10%) of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.

(b) If applicant is a partnership, the names and residence address of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.

(4) The two (2) previous addresses immediately prior to the present address of the applicant.

(5) Proof that the applicant is at least eighteen (18) years of age.

(6) Individual or partnership applicant's height, weight, color of eyes and hair, sex and date of birth.

(7) Copy of identification such as driver's license and social security card.

(8) One portrait photograph of the applicant at least two (2) inches by two (2) inches and a complete set of applicant's fingerprints which shall be taken by the chief of police or his agent. If the applicant is a corporation, one portrait photograph at least two (2) inches by two (2) inches of all officers and managing agents of said corporation and a complete set of the same officers' and agents' fingerprints which shall be taken by the chief of police or his agent. If the applicant is a partnership, one front-face portrait photograph at least two (2) inches by two (2) inches in size of each partner, and a complete set of each partner or limited partner's fingerprints which shall be taken by the chief of police or his agents.

(9) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.

(10) The massage or similar business or license history of the applicant; whether such person, in previously operating in this or another city or state, has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(11) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(12) The name and address of each massagist who is or will be employed in said establishment, including social security number and/or date of birth.

(13) Applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught, provided, however, that if the applicant will not himself engage in the practice of massage as defined herein, he need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught.

(14) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in subsection (3) wherein the business or profession of massage is carried on.

(15) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(16) Authorization from the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(17) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

(18) The names, current addresses and written statements of at least three (3) bonafide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the city, then the county, then the State of Tennessee, and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

Upon the completion of the above provided form and the furnishing of all foregoing information the city manager shall accept the application for the necessary investigations. The holder of a massage establishment license shall notify the city manager of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs. (1976 Code, § 5-904)

**9-805. Application for massagist's permits.** Application for a massagist's business permit shall be made to the city manager in the same manner as provided above for massage establishment licenses, accompanied by the annual nonrefundable massagist's permit fee of \$75.00 per year or part thereof. Massagists who have already paid the permit fee for the current six (6) month period shall not be required to pay an additional fee hereunder. The application shall contain but not be limited to the following:

(1) The business address and all telephone numbers where the massage is to be practiced.

(2) Name and residence address, and all names, nicknames and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant.

(3) Social security number, driver's license number, if any, and date of birth.

(4) Applicant's weight, height, color of hair and eyes and sex.

(5) Written evidence that the applicant is at least eighteen (18) years of age.

(6) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance, except misdemeanor traffic violations.

(7) Fingerprints of the applicant taken by the police department.

(8) Two front-face portrait photographs taken within thirty (30) days of the date of application and at least two (2) inches by two (2) inches in size.

(9) The name and address of the recognized school attended, the dates attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has completed not less than seventy (70) hours of instruction.

(10) The massage or similar business history and experience (10) years prior to the date of application, including but not limited to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

(11) The names, current addresses and written statements of at least five (5) bona fide permanent residents other than relatives, of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the city, then the county, then the State of Tennessee and lastly from the rest of the United States.

(12) A medical certificate signed by a physician, licensed to practice in the State of Tennessee, within seven (7) days of the date of application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this subsection shall be provided at the applicant's expense.

(13) Such other information, identification and physical examination of the person deemed necessary by the police chief in order to discover the truth of the matters hereinbefore required to be set forth in the application.

(14) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(15) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the city. (1976 Code, § 5-905)

**9-806. Issuance of license or permit for a massage establishment.**

The City of Gatlinburg shall issue a license for a massage establishment or a permit for a masseur or masseuse after ratification by the board of commissioners of the City of Gatlinburg, if all requirements for a massage establishment or massagist permit described in this chapter are met unless it finds:

(1) The correct permit or license fee has not been tendered to the city, and, in the case of a check, or bank draft, honored with payment upon presentation.

(2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations.

(3) The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business and/or the equipment used therein; and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of any offense without the State of Tennessee that would have constituted any of the following offenses if committed within the State of Tennessee.

(a) An offense involving the use of force or violence upon the person of another that amounts to a felony.

(b) An offense involving sexual misconduct.

(c) An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The City of Gatlinburg may issue a license or permit to any person convicted of any of the crimes described herein above if it finds that such conviction occurred at least five (5) years prior to the date of the application and that the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this section.

(4) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(5) The applicant has had a massage business, masseur, or other similar permit or license denied, revoked, or suspended by the city or any other state or local agency within five (5) years prior to the date of the application.

(6) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the business, is not over the age of eighteen (18) years. (1976 Code, § 5-906)

**9-807. Approval or denial of application.** The City of Gatlinburg shall act to approve or deny an application for a license or permit under this chapter within a reasonable period of time and in no event shall the City of Gatlinburg act to approve or deny said license or permit later than 90 days from the date that said application was accepted by the city manager. Every license or permit issued pursuant to this chapter will terminate at the expiration of one year from the date of its issuance unless sooner suspended or revoked. (1976 Code, § 5-907)

**9-808. Waiver of application requirements.** The City of Gatlinburg shall waive the requirements of §§ 9-801(10) and 9-805(9) of this chapter if the applicant furnishes satisfactory evidence that he or she attended not less than seventy (70) hours of instruction in a school within or without this state or in

any foreign country that provides education substantially equal to or in excess of the educational requirements of this chapter. (1976 Code, § 5-908)

**9-809. Multiple massage establishments.** Should any massage business have more than one location where the business of massage is pursued, then a permit, stating both the address of the principal place of business, and of the other location(s) shall be issued by the chief of police upon a tender of a license fee of \$100.00. Licenses issued for other locations shall terminate on the same date as that of the principal place of business, regardless of the date of issuance. (1976 Code, § 5-909)

**9-810. Posting of license.** (1) Every massagist shall post the permit required by this chapter in his work area.

(2) Every person, corporation, partnership or association licensed under this chapter shall display such license in a prominent place. (1976 Code, § 5-910)

**9-811. Register of employees.** The licensee or person designated by the licensee of a massage establishment shall maintain a register of all persons employed at any time as masseurs or masseuses and their permit numbers. Such register shall be available at the massage establishment to representatives of the City of Gatlinburg during regular business hours. (1976 Code, § 5-911)

**9-812. Revocation or suspension of license.** Any license issued for a massage establishment may be revoked or suspended by the City of Gatlinburg after notice and a hearing, for good cause, or in any case where any of the provisions of this chapter are violated or where any employee of the licensee, including a masseur or masseuse is engaged in any conduct which violates any of the state or local laws or chapters at licensee's place of business and the licensee has actual or constructive knowledge by due diligence. Such permit may also be revoked or suspended by the City of Gatlinburg after notice and hearing, upon the recommendations of the Director of the Sevier County Health Department that such business is being managed, conducted or maintained without regard to proper sanitation and hygiene. (1976 Code, § 5-912)

**9-813. Revocation of masseur or masseuse permit.** A masseur or masseuse permit issued by the chief of police shall be revoked or suspended where it appears that the masseur or masseuse has been convicted of any offense which would cause for denial of a permit upon an original application, has made a false statement on an application for a permit, or has committed an act in violation of this chapter. (1976 Code, § 5-913)

**9-814. Facilities necessary.** No license to conduct a massage establishment shall be issued unless an inspection by the City of Gatlinburg reveals that the establishment complies with each of the following minimum requirements.

(1) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the City of Gatlinburg Building Code. Plumbing fixtures shall be installed in accordance with the city plumbing code.

(a) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the City of Gatlinburg.

(b) Floors of wet and dryheat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.)

(c) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(2) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(3) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(4) Toilet facilities shall be provided at convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(5) Laboratories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Laboratories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

(6) All electrical equipment shall be installed in accordance with the requirements of the City Uniform Electrical Code. (1976 Code, § 5-914)

**9-815. Operating requirements.** (1) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(2) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(3) All employees, including masseurs and masseuses, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing room shall open outward and shall be self-closing.

(4) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

(5) No massage establishment granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

(6) All patrons of the massage establishment shall register and the establishment shall keep and maintain a complete written record of all its patrons for a period of one year. (1976 Code, § 5-915)

**9-816. Persons under age 18 prohibited on premises.** No person shall permit any persons under the age of eighteen years to come or remain on the premises of any massage business establishments, as masseur, employee or patron, unless such person is on the premises on lawful business. (1976 Code, § 5-916)

**9-817. Alcoholic beverages prohibited.** No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverages on the premises of any massage business. (1976 Code, § 5-917)

**9-818. Hours.** No massage business shall be kept open for any purpose between the hours of 10:00 P.M. and 8:00 A.M. (1976 Code, § 5-918)

**9-819. Employment of massagist.** No person shall employ as massagist any person unless said employee has obtained and has in effect a permit issued pursuant to this chapter. (1976 Code, § 5-919)

**9-820. Inspection required.** The chief of police or his authorized representatives shall from time to time make inspection of each massage business establishment for the purposes of determining that the provisions of this chapter are fully complied with. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or hinder such officer in any manner. (1976 Code, § 5-920)

**9-821. Unlawful acts.** (1) Treatment of persons of opposite sex restricted. It shall be unlawful for any person holding a permit under this section to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police pursuant to § 9-820. The requirements of this section shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.

(2) It shall be unlawful for any person, in a massage parlor to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

(3) It shall be unlawful for any person, in a massage parlor, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, in a massage parlor, to expose the sexual or genital parts, or any portion thereof, of any other person.

(4) It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.

(5) It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections (4), (2) or (3) of this section.

(6) It shall be further unlawful for any permittee under this chapter to administer massage on an outcall basis as defined in § 9-801(6). Such person shall administer massage solely within an establishment licensed to carry on such business under this chapter. Any violation of these provisions shall be deemed grounds for revocation of the permit granted hereunder. The restriction on outcall massage shall not apply to a permittee who performs outcall massage as defined herein upon a customer or client who, because of reasons of physical defects or incapacities or due to illness is physically unable to travel to the massage establishment. If any outcall massage is performed under this exception, a record of the date and hour of each treatment, and the name and address of the customer or client, and the name of the employee administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of said client or customer shall be kept by the licensee or person or employee designated by the licensee. Such records shall be open to inspection by officials charged with the enforcement of

public health laws. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by an employee of the business or the City of Gatlinburg shall be unlawful.

(7) It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a massage establishment which is fitted with a door capable of being locked. All doors or doorway coverings within a massage establishment shall have an unobstructed opening 6 inches by 6 inches in size capable of clear two-way viewing into and out of all cubicles, rooms or booths. The opening shall not be less than four and one-half feet from the floor of the establishment nor more than five and one-half feet from the floor. Toilets and cubicles used solely for the application of liquid or vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of said cubicle, room or booth. Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments. (1976 Code, § 5-921)

**9-822. Sale or transfer or change of location.** Upon sale, transfer or relocation of a massage establishment, the license therefor shall be null and void unless approved as provided in § 9-806 provided, however, that upon the death or incapacity of the licensee or any co-licensee of the massage establishment, any heir or devisee of a deceased licensee, or any guardian of an heir or devisee of a deceased licensee, may continue the business of the massage establishment for a reasonable period of time not to exceed sixty (60) days to allow for an orderly transfer of the license. (1976 Code, § 5-922)

**9-823. Name and place of business.** No person granted a license pursuant to this chapter shall operate the massage establishment under a name not specified in his license, nor shall he conduct business under any designation or location not specified in his license. (1976 Code, § 5-923)

**9-824. Transfer of license.** No license or permit shall be transferrable except with the consent of the City of Gatlinburg and ratified by the board of commissioners of the city. An application for such transfer shall be made in writing and shall be accompanied by fees prescribed in §§ 9-804 and 9-805. The written application for such transfer shall contain the same information as requested herein for initial application for the license or permit. (1976 Code, § 5-924)

**9-825. Violation and penalty.** Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual owner, employee of the owner, operator or employee of the operator, or whether

acting as a mere agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who gives massages or operates a massage establishment or any of the services defined in this chapter without first obtaining a license or permit and paying a fee to do so from the City of Gatlinburg or shall violate any provisions of this chapter shall be guilty of a misdemeanor and upon conviction, such person shall be punished by a fine not to exceed \$500 or by imprisonment for a period not to exceed six (6) months or by both such fine and imprisonment. (1976 Code, § 5-925)

## CHAPTER 9

### TATTOO PARLORS

#### SECTION

9-901. Tattoo parlor requirements.

**9-901. Tattoo parlor requirements.** No person shall operate a tattoo establishment or engage in the practice as a tattoo operator or as a tattoo artist unless such person shall first obtain a permit from the Sevier County Health Department or its duly authorized agent, and further shall meet the requirements set forth in Tennessee Code Annotated, § 62-38-201, et seq. (1976 Code, § 5-1001, modified)

## CHAPTER 10

### CABLE TELEVISION

#### SECTION

9-1001. To be furnished under franchise.

9-1002. Federal regulations adopted.

9-1003. Franchising authority.

**9-1001. To be furnished under franchise.** Television shall be furnished for the municipality and its inhabitants under such franchise as the board of commissioners 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>1</sup> (1976 Code, § 13-301)

**9-1002. Federal regulations adopted.** Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 543, and Federal Communications Commission action under the authority of said Act certifying the City of Gatlinburg, Tennessee to regulate basic cable television service within the boundaries of the City of Gatlinburg; and for the purposes of regulating the rates charged to customers of any cable television operator franchised by the City of Gatlinburg, the regulations contained in Title 47 of the Code of Federal Regulations, Part 76, Subpart N, sections 76.900 through 76.985, are hereby adopted and incorporated by reference as a part of this code. (1976 Code, § 13-302)

**9-1003. Franchising authority.** Whenever the regulations cited in § 9-1002 refer to ‘franchising authority’, it shall be deemed to be a reference to the Board of Commissioners of the City of Gatlinburg, Tennessee. (1976 Code, § 13-303)

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<sup>1</sup>For details of franchises granted under this section, see Ords. #224, #226, #373, #390, #476, #523, #1002, #2256, and #2258 of record in the recorder’s office.

## CHAPTER 11

### PUBLIC RESTROOMS IN MALLS

#### SECTION

9-1101. Definition.

9-1102. Public restrooms in malls to be open.

**9-1101. Definition.** Mall is a shopping center, planned unit development, arcade, or any multi-tenant building on a single parcel of property which is internally separated or segregated into individual shops or similar subdivisions, each of which is, or appears to be, a separate and distinct business or function. (As added by Ord. #2218, Oct. 2000)

**9-1102. Public restrooms in malls to be open.** Public restrooms in malls are to be open and accessible to the public at all times during which the mall is open to the public. The requirements of this section shall not apply at times when vandalism is likely to occur, such as Halloween, or other special events or occasions, but such closures shall not exceed the reasonable duration of the event. (As added by Ord. #2218, Oct. 2000)

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

1. IN GENERAL.
2. DOGS.
3. GRAZING FOR KUDZU ERADICATION.

**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. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.
- 10-108. Commercial riding stables prohibited.

**10-101. Running at large prohibited.** It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1976 Code, § 3-101)

**10-102. Keeping near a residence or business restricted.** No person shall keep any animal or fowl enumerated in the preceding section within three hundred (300) feet of any residence, place of business, or public street, without a permit from the city. The city shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. Provided that, swine may be kept within the corporate limits at any recognized stock show for a duration of not more than one week, or when such animals are kept at a licensed slaughter house or recognized stockyard for not more than four days. Provided further that such swine shall be kept not less than five hundred (500) feet from any street, park, playground, school, church or similar activity or any residential building, business or industrial enterprise. (1976 Code, § 3-102, modified)

**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. (1976 Code, § 3-103)

**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, safe condition, and wholesomeness for food if so intended.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1976 Code, § 3-104)

**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 either because of noise, odor, contagious disease, or other reason. (1976 Code, § 3-105)

**10-106. Cruel treatment prohibited.** It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1976 Code, § 3-106)

**10-107. Seizure and disposition of animals.** Any animal, including cats or other domestic animals as defined in Tennessee Code Annotated, § 39-14-201(3), found to be at large and/or trapped by an animal control officer, police officer, or any other city employee, or by the general public, may, upon seizure or taking custody of any animal under this provision, shall transport said animal(s) to the Sevier County Humane Society Animal Shelter, or such other shelter as designated by the city manager from time to time. The Sevier County Humane Society, incorporated under the laws of the State of Tennessee, as a corporation for the prevention of cruelty to animals, may under the statutes of the State of Tennessee, as they apply to Societies for the Prevention of Cruelty to Animals – Powers, Tennessee Code Annotated, § 39-14-210(c)(2), humanely euthanize, or cause to be euthanized, any animal found abandoned or otherwise as stated in said statute, after a holding period of not less than seventy-two (72) hours.

The Sevier County Humane Society will make every effort to locate the owners of lost animals that come into their custody, that are bearing identification, by holding them for five (5) days, and notifying the owners listed on the identification device, by certified mail, prior to the final disposition of said animal.

Nothing herein shall require the destruction of stray animals, unless so ordered by health officials for the purpose of rabies or other disease control concerns. Otherwise, the Sevier County Humane Society reserves the right to seek responsible homes for stray animals that enter into their care, following the

holding period for stray animals as prescribed above. (1976 Code, § 3-107, as replaced by Ord. #2287, March 2003)

**10-108. Commercial riding stables prohibited.** Commercial riding stables are not permitted within the city limits of the City of Gatlinburg. (as added by Ord. #2270, July 2002)

## CHAPTER 2

### DOGS

#### SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Penalties.
- 10-209. Unlawful for dogs to defecate on public streets and sidewalks and in public parks.

**10-201. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the “Tennessee Anti-Rabies Law” (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1976 Code, § 3-201, modified)

**10-202. Dogs to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1976 Code, § 3-202)

**10-203. Running at large prohibited.**<sup>1</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1976 Code, § 3-203)

**10-204. Vicious dogs to be securely restrained.** It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. (1976 Code, § 3-204)

**10-205. Noisy dogs prohibited.** No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1976 Code, § 3-205)

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<sup>1</sup>State law reference

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

**10-206. Confinement of dogs suspected of being rabid.** If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the city or chief of police may cause such dog to be confined or isolated for such time as he reasonably deems necessary to determine if such dog is rabid. (1976 Code, § 3-206, modified)

**10-207. Seizure and disposition of dogs.** Dogs, or other domestic animals as defined in Tennessee Code Annotated, § 39-14-201(3), found to be at large and/or trapped by an animal control officer, police officer, or any other city employee, or by the general public, may, upon seizure or taking custody of any animal under this provision, shall transport said animal(s) to the Sevier County Humane Society Animal Shelter, or such other shelter as designated by the city manager from time to time. The Sevier County Humane Society, incorporated under the laws of the State of Tennessee, as a corporation for the prevention of cruelty to animals, may under the statutes of the State of Tennessee, as they apply to Societies for the Prevention of Cruelty to Animals – Powers, Tennessee Code Annotated, § 39-14-210(c)(2), humanely euthanize, or cause to be euthanized, any animal found abandoned or otherwise as stated in said statute, after a holding period of not less than seventy-two (72) hours.

The Sevier County Humane Society will make every effort to locate the owners of lost animals that come into their custody, that are bearing identification, by holding them for five (5) days, and notifying the owners listed on the identification device, by certified mail, prior to the final disposition of said animal.

Nothing herein shall require the destruction of stray animals, unless so ordered by health officials for the purpose of rabies or other disease control concerns. Otherwise, the Sevier County Humane Society reserves the right to seek responsible homes for stray animals that enter into their care, following the holding period for stray animals as prescribed above. (1976 Code, § 3-207, as replaced by Ord. #2287, March 2003)

**10-208. Penalties.** Any person violating any of the provisions of this chapter, shall upon conviction thereof, be subject to a civil penalty of up to five hundred dollars (\$500.00) for each and every offense. (1976 Code, § 3-208, modified)

**10-209. Unlawful for dogs to defecate upon public streets and sidewalks and in public parks.** It shall be unlawful for dogs to defecate on the public streets and sidewalks and in public parks in the City of Gatlinburg. The owner, or any person having the care, custody or control (if not the owner) of any dog that violates this chapter shall be liable to a fine as provided in § 10-208 of this chapter. There shall be a presumption that any dog bearing an identification tag is owned and controlled by the person whose name appears on such tag. It is further presumed that any person having the care, custody or

control of any dog violating this chapter is the owner of said dog if the dog has no identification. (1976 Code, § 3-209)

## CHAPTER 3

### GRAZING FOR KUDZU ERADICATION

#### SECTION

- 10-301. Purpose.
- 10-302. Permit required.
- 10-303. Permit duration.
- 10-304. Permit application.
- 10-305. Enclosure.
- 10-306. Animal and site management.

**10-301. Purpose.** The purpose of this chapter is to establish regulations for the temporary use of goats and sheep in the eradication of invasive plant species such as Kudzu, within the City Limits of Gatlinburg. (as added by Ord. #2545, May 2020 *Ch14\_03-23-22*)

**10-302. Permit required.** It shall be unlawful for any property owner to conduct prescribed grazing on any lot within the City of Gatlinburg without first obtaining a permit from the city administration. (as added by Ord. #2545, May 2020 *Ch14\_03-23-22*)

**10-303. Permit duration.** Temporary permits for prescribed grazing shall be limited to periods not to exceed thirty (30) consecutive days from the time of issuance and only three (3) permits shall be issued on any given lot within a calendar year. (as added by Ord. #2545, May 2020 *Ch14\_03-23-22*)

**10-304. Permit application.** Prior to issuance of a permit, a temporary grazing permit application must be submitted by the property owner and/or person legally responsible for the property. The application must contain the following information:

- (1) The property owner's name and contact information.
- (2) The subject property's street address and/or property tax identification number.
- (3) Name and contact information of any person (if not the owner) responsible for the animals being used on the property for the prescribed grazing period.
- (4) The size of property and estimated square footage of grazing area.
- (5) A description of the type and number of animals that will be used during the grazing period.
- (6) A hold harmless agreement shall be provided by the property owner releasing the city from liability in the issuance of a temporary prescribed grazing permit. (as added by Ord. #2545, May 2020 *Ch14\_03-23-22*)

**10-305. Enclosure.** The proposed area for which the temporary prescribed grazing permit has been issued must be fully enclosed and secured with proper fencing. Fencing may be permanent or temporary and may be permitted to be electrified with the installation of proper warning signage noting the hazard. All warning signs shall be placed in a conspicuous place clearly visible from all adjoining public right-of-way areas and may not exceed four (4) square feet in size. **No barbed wire fencing shall be used for the enclosures.** In lieu of an enclosure, alternative means of securing the animals may be permitted; provided the applicant can show that the alternative is a safe and effective means by which to limit the animal to the property. (as added by Ord. #2545, May 2020 *Ch14\_03-23-22*)

**10-306. Animal and site management.** The owner and/or persons responsible for the animals shall be responsible for the health and wellbeing of any animals used in the prescribed grazing activities including, but not limited to, any veterinary treatment necessary to keep the animal healthy and free from injury. All animal food supply shall be stored and kept in a manner not to attract other wildlife and disease carrying vermin. All sites shall be kept clean and managed in a way as to not create obnoxious odors, health, and/or sanitation problems for the animals and any adjoining properties. Reasonable care must be taken to prevent erosion and water runoff especially in areas immediately adjacent to creeks, streams and rivers. (as added by Ord. #2545, May 2020 *Ch14\_03-23-22*)

**TITLE 11****MUNICIPAL OFFENSES<sup>1</sup>****CHAPTER**

1. GENERALLY.
2. ALCOHOL.
3. OFFENSES AGAINST THE PERSON.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
6. FIREARMS, WEAPONS AND MISSILES.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. MISCELLANEOUS.
9. OBSCENITY, MORALS.
10. LOITERING, ETC.

**CHAPTER 1****GENERALLY****SECTION**

11-101. Misdemeanors of the state adopted.

**11-101. Misdemeanors of the state adopted.** All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against this municipality also. Also any violation of any such law within the corporate limits is also a violation of this section. (1976 Code, § 10-101)

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<sup>1</sup>Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

## CHAPTER 2

### ALCOHOL<sup>1</sup>

#### SECTION

11-201. Drinking beer, etc., on streets, etc.

11-202. Minors in beer places.

11-203. Public display and drinking prohibited.

11-204. Public drunkenness.

**11-201. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on premises consumption. (1976 Code, § 10-228)

**11-202. Minors in beer places.** No minor shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1976 Code, § 10-221)

**11-203. Public display and drinking prohibited.** It shall be unlawful for any person to display or drink cans, containers, or bottles of intoxicating liquors upon the public streets, sidewalks, or other public places in the City of Gatlinburg. However, public places does not include the interior of the Gatlinburg Municipal Auditorium. (1976 Code, § 2-123)

**11-204. Public drunkenness.** It shall be unlawful for any person to be drunk or intoxicated in any public place or in any other place upon to public view. (1976 Code, § 10-227)

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<sup>1</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated, § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

## CHAPTER 3

### OFFENSES AGAINST THE PERSON

#### SECTION

11-301. Assault and battery.

11-302. Assault upon officer.

11-303. Use of laser pointers.

**11-301. Assault and battery.** It shall be unlawful for any person to commit an assault or an assault and battery. (1976 Code, § 10-201)

**11-302. Assault upon officer.** It shall be unlawful to commit any assault or assault and battery upon a duly authorized law enforcement officer acting in the course of his employment. “Assault” may include common law assault, assault while possessing a deadly weapon, assault with the intent to commit a felony or an attempt to commit a felony, and assault from ambush. (1976 Code, § 10-243)

**11-303. Use of laser pointers.** It is unlawful for any person to focus, point or shine a laser beam directly or indirectly on another person or animal in such a manner as to harass, annoy, or injure said person or animal.

## CHAPTER 4

### **OFFENSES AGAINST THE PEACE AND QUIET**

#### **SECTION**

11-401. Disturbing the peace.

11-402. Noise regulations.

**11-401. Disturbing the peace.** It shall be unlawful for any person to disturb the peace of others by any conduct calculated to provoke violence or in violation of the law. The word conduct as used in this section is to include, but is not limited to, profane, derisive, or abusive language and/or offensive gestures. (1976 Code, § 10-202)

**11-402. 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 signal device on any automobile, motorcycle, bus, streetcar, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) **Radios, phonographs, etc.** The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person more than fifty (50) feet away.

(c) **Yelling, shouting, hooting, etc.** Yelling, shouting, hooting, 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 more than fifty (50) feet away.

(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 more than fifty (50) feet away.

(e) Use of vehicle. The use of any automobile, motorcycle, streetcar, 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 municipal 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 district, other than between the hours of 8:30 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building official 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 8:30 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 8:30 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 is permitted unless it violates § 410 of the zoning ordinance.

(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) Municipal vehicles. Any vehicle of the municipality 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 municipality, 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 recorder. Hours for the use of an amplifier 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. (1976 Code, § 10-233)

## CHAPTER 5

### INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

#### SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. Resisting or interfering with an officer.

11-505. Coercing people not to work.

**11-501. Escape from custody or confinement.** It shall be unlawful for any person under arrest or otherwise in custody of or confined by the municipality to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1976 Code, § 10-209)

**11-502. Impersonating a government officer or employee.** No person other than an official police officer of the municipality shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the municipality. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1976 Code, § 10-211)

**11-503. False emergency alarms.** It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1976 Code, § 10-217)

**11-504. Resisting or interfering with an officer.** It shall be unlawful for any person to knowingly resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (1976 Code, § 10-210)

**11-505. Coercing people not to work.** It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1976 Code, § 10-230)

## CHAPTER 6

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

#### **SECTION**

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

**11-601. Air rifles, etc.** It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1976 Code, § 10-213)

**11-602. Throwing missiles.** It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1976 Code, § 10-214)

**11-603. Weapons and firearms generally.** It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm, firecracker, etc. within the municipality.

The officers of the Gatlinburg Police Department are hereby authorized and allowed to discharge firearms at a municipally approved firing range within the city limits of the City of Gatlinburg for the purpose of official training as a part of their police department duties. This exception only applies to Gatlinburg Police Department personnel and does not authorize anyone other than police officers to discharge weapons within the city limits of the City of Gatlinburg. (1976 Code, § 10-212)

## CHAPTER 7

### **TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC**

#### **SECTION**

11-701. Trespassing.

11-702. Criminal trespass.

11-703. Malicious mischief.

11-704. Interference with traffic.

11-705. Sale and use of noxious odor devices prohibited.

**11-701. Trespassing.** The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge. (1976 Code, § 10-225)

**11-702. Criminal trespass.** The wilful commission of any of the hereinafter listed acts shall be unlawful and shall constitute criminal trespass:

(1) To deface or disfigure any publicly owned building, property or fixture.

(2) To damage any spring, well, or water supply belonging to another.

(3) To carry away or destroy lumber belonging to another.

(4) To destroy or damage any tree, shrub, vine, flowers, fruit or vegetable on the premises of another.

(5) To remove or destroy any signpost, guide board, lamp post or mile stone belonging to any agency of the local, state or federal governments. (1976 Code, § 10-236)

**11-703. Malicious mischief.** It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1976 Code, § 10-224)

**11-704. Interference with traffic.** It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1976 Code, § 10-232)

**11-705. Sale and use of noxious odor devices prohibited.** The sale or discharge of any device which produces a noxious odor, whether designated

as a "stink bomb" or under any other name, is hereby prohibited. The discharge of same, whether through the breaking of glass or other means of mechanism of release of chemicals, is hereby declared to be a public nuisance and a danger to the persons and property within the City of Gatlinburg. This prohibition shall not apply to any device having a practical application such as the eradication of pests. (As added by Ord. #2220, Oct. 2000)

## CHAPTER 8

### MISCELLANEOUS

#### SECTION

- 11-801. Abandoned refrigerators, etc.
- 11-802. Caves, wells, cisterns, etc.
- 11-803. Curfew for minors.
- 11-804. Wearing masks.
- 11-805. Trapping prohibited.
- 11-806. Fishing prohibited generally.
- 11-807. Shoplifting.
- 11-808. False advertising of petroleum products.
- 11-809. Obtaining food or accommodations with intent to defraud.

**11-801. Abandoned refrigerators, etc.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1976 Code, § 10-222)

**11-802. Caves, wells, cisterns, etc.** It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1976 Code, § 10-231)

**11-803. Curfew for minors.** It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 11:00 P.M. unless upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1976 Code, § 10-223)

**11-804. Wearing masks.** It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1976 Code, § 10-235)

**11-805. Trapping prohibited.** It shall be unlawful to trap or set trapping devices for any purpose within the corporate limits of the City of Gatlinburg. (1976 Code, § 10-226)

**11-806. Fishing prohibited generally.** It shall be unlawful for any person to fish in any public stream within the corporate limits of the City of Gatlinburg unless otherwise permitted by law. (1976 Code, § 10-239)

**11-807. Shoplifting.** Any person who shall wilfully take possession of any goods, wares or merchandise offered for sale by any store or any other mercantile establishment with the intention of converting the same to his own use without paying the purchase price thereof, shall be guilty of the offense of shoplifting. (1976 Code, § 10-242)

**11-808. False advertising of petroleum products.** Any person, firm, corporation, or association, or agent or employee, thereof, who, with intent to sell gasoline, knowingly, makes, publishes, disseminates, circulates, or places before the public, or causes directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in the City of Gatlinburg in the form of pamphlets, handbills, posters, sign boards, or over any radio or television station, which advertisements contain any assertion, representation, or statement of fact, which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine in accordance with the general penalty clause of this code. (1976 Code, § 10-240)

**11-809. Obtaining food or accommodations with intent to defraud.** Any person who shall, at any hotel, inn, boardinghouse, motel, motor lodge, restaurant, or tourist court, order or receive or cause to be furnished, any food or accommodation; and any person who shall obtain credit at any hotel, inn, boarding house, motel, motor lodge, restaurant, or tourist court, by the use of any false pretense or device, or by fraudulently depositing at such hotel, inn, boarding house, motel, motor lodge, or tourist court any baggage or property of value less than the amount of such credit, or of the bill by such person incurred, unless credit be given by express agreement; and any person who, after obtaining accommodations at any hotel, inn, boarding house, motel, motor lodge, or tourist court, shall remove any property from the premises, with the intent to deprive the owner thereof; any person who, after obtaining credit or accommodations at any hotel, inn, boardinghouse, motel, motor lodge, tourist court, shall surreptitiously remove his or her baggage or property therefrom shall be guilty of a misdemeanor.

Proof that lodging, food, property or other accommodation was obtained by false pretense, or by false or fictitious show or pretense of baggage, or that the party fraudulently refused to pay for such food, lodging, property or accommodation on demand, or that he absconded without paying or offering to

pay for such food, lodging, property or accommodations, or that he surreptitiously removed or attempted to remove his baggage shall be prima facie proof of the fraudulent intent mentioned in this section. (1976 Code, § 10-237)

## CHAPTER 9

### OBSCENITY, MORALS

#### SECTION

- 11-901. Disorderly houses.
- 11-902. Immoral conduct.
- 11-903. Selling, distributing, etc., obscene material.
- 11-904. Indecent or improper exposure or dress.
- 11-905. Window peeping.
- 11-906. Profanity, etc.
- 11-907. Definitions.
- 11-908. Obscene material.
- 11-909. Display of certain material.

**11-901. Disorderly houses.** It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Furthermore, it shall be unlawful for any person to knowingly visit any such house. (1976 Code, § 10-203)

**11-902. Immoral conduct.** No person shall commit, offer, or agree to commit, nor shall any person secure or offer another for the purpose of committing, a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for such purpose. (1976 Code, § 10-204)

**11-903. Selling, distributing, etc., obscene material.** It shall be unlawful to sell, distribute, display or exhibit any obscene material or to possess with the intent to sell distribute, display or exhibit; to publish, produce or otherwise create any obscene material with the intent to sell, distribute, display or exhibit; to use any obscene material in any way to promote, exploit or further any business or commercial activity; to advertise or otherwise publicize the sale, distribution, display or exhibition, of any obscene material; to use any means that appeals to the erotic or prurient interest of customers or prospective customers in connection with the advertisement, representation, promotion, display or sale of obscene material, to sell, give or distribute any obscene material to any minor under the age of eighteen (18) years, or to display or

exhibit any such material at any public place open to such minors; to hire or employ any minor under eighteen (18) years of age to do any public act made unlawful by this section.

Provided that for the purpose of this section, obscene material shall mean:

(1) Any material, matter, object or thing, including but not limited to, any written or printed matter, film, picture, drawing, or any object or thing that is obscene if, considered as a whole, its predominate appeal is to prurient interest, that is a shameful or morbid interest in nudity, sex or excretion, and if in addition:

(a) It is patently offensive to the public or if it goes substantially beyond customary limits of candor in describing or representing such matters; and

(b) It is devoid of any literary, scientific or artistic value and is utterly without social importance. The phrase "predominate appeal" shall be considered with reference to ordinary persons.

(2) Person shall include the singular and the plural and shall also mean and include any person, firm or corporation, partnership, co-partnership, association, or any other organization of any character whatsoever.

(3) Knowingly shall include constructive knowledge as well as actual knowledge. The requirement of constructive knowledge shall be satisfied when a person has knowledge of facts which would put a reasonable and prudent man on notice of the matters in question. (1976 Code, § 10-205)

**11-904. Indecent or improper exposure or dress.** It shall be unlawful for any person to publicly appear naked or any dress not appropriate to his or her sex, or in any indecent or lewd dress, or to otherwise make any indecent exposure of his or her person. (1976 Code, § 10-206)

**11-905. Window peeping.** No person shall spy, peer, or peep into any window of any residence or dwelling premise that he does not occupy nor shall he loiter around or within view of any such window with the intent of watching or looking through it. (1976 Code, § 10-207)

**11-906. Profanity, etc.** No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or around any place of business open to the use of the public in general. (1976 Code, § 10-208)

**11-907. Definitions.** The following definitions apply in §§ 11-908 through 11-909, unless the context requires otherwise:

(1) "Actual or constructive knowledge" a person is deemed to have constructive knowledge of the contents of material who has knowledge of facts which would put a reasonable and prudent person on notice as to the suspect nature of the material;

(2) “Community” means the judicial district in which the city is located;

(3) “Distribute” means to transfer possession of, whether with or without consideration;

(4) “Harmful to minors” means that quality of any description or representation, in whatever form, of nudity, sexual excitement, sexual conduct, or sadomasochistic abuse when the matter or performance:

(a) Would be found by the average person applying contemporary community standards to appeal predominantly to the prurient, shameful or morbid interests of minors;

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(c) Taken as a whole lacks serious literary, artistic, political or scientific values for minors;

(5) “Indecent expression” means patently offensive descriptions of sexual or excretory activities or organs as measured by contemporary community standards.

(6) “Matter” means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture film, videocassette or other pictorial representation, or any statue, figure, device, theatrical production or electrical reproduction, or any other article, equipment, machine or material that is obscene or contains indecent expression, as defined herein;

(7) “Minor” means any person who has not reached eighteen (18) years of age and is not emancipated;

(8) “Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state;

(9) “Obscene” means:

(a) The average person applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;

(b) The average person applying contemporary community standards would find that the work depicts or describes, in a patently offensive way, sexual conduct; and

(c) The work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(10) “Patently offensive” means that which goes substantially beyond customary limits of candor in describing or representing such matters.

(11) “Prurient interest” means a shameful or morbid interest in sex.

(12) “Sadomasochistic abuse” means flagellation or torture or physical restraint by or upon a person for the purpose of sexual gratification of either person;

(13) “Sexual conduct” means:

(a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated. A sexual act is simulated when it depicts explicit sexual activity which gives the appearance of ultimate sexual acts, anal, oral or genital. “Ultimate sexual acts” means sexual intercourse, anal or otherwise, fellatio, cunnilingus or sodomy; or

(b) Patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals; and

(14) “Sexual excitement” means the condition of human male or female genitals when in a state of sexual stimulation or arousal. (1976 Code, § 10-244)

**11-908. Obscene material.** It is unlawful to knowingly produce, send or cause to be sent, or bring or cause to be brought, into this city for sale, distribution, exhibition or display, or in this city to prepare for distribution, publish, print, exhibit, distribute, or offer to distribute, or to possess with intent to distribute or to exhibit or offer to distribute any obscene matter. It is unlawful to direct, present or produce any obscene theatrical production, peep show or live performance, and every person who participates in that part of such production which renders the production or performance obscene is guilty of the offense. It is unlawful to hire, employ or use a minor to do or assist in doing any of the acts described in this section with knowledge that such person is a minor under eighteen (18) years of age, or while in possession of such facts that he should reasonably know that such person is a minor under eighteen (18) years of age. (1976 Code, § 10-245)

**11-909. Display of certain material.** It shall be unlawful and a violation of this section for a person to display obscene, or harmful to minors material, or material containing indecent expression in windows, doorways, openings, display cases or areas in any location where it is visible by a minor from any public street, sidewalk, alley, or from the outside of any such premises. (1976 Code, § 10-246)

## CHAPTER 10

### LOITERING, ETC.

#### SECTION

##### 11-1001. Loitering.

**11-1001. Loitering.** (1) It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such manner as to:

(a) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

(b) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon the facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon and thereto.

(2) When any person causes or commits any of the conditions enumerated in subsection (1) herein, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and move on or disburse. Any person who fails or refuses to obey such orders shall be guilty of violation of this section.

(3) For the purposes of this chapter, loitering shall mean remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and shall also include the colloquial expression "hanging around".

"Public place" shall mean any place to which the general public has access and a right of resort for business, entertainment or other lawful purpose but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or the immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks. (1976 Code, § 10-218)

## TITLE 12

### BUILDING, UTILITY, ETC. CODES

#### CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. INTERNATIONAL ENERGY CONSERVATION CODE.
6. EXCAVATION, GRADING, AND CLEARING CODE.
7. MECHANICAL CODE.
8. PROPERTY MAINTENANCE CODE.
9. INTERNATIONAL RESIDENTIAL CODE.

#### CHAPTER 1

#### BUILDING CODE<sup>1</sup>

#### SECTION

- 12-101. Building code adopted.
- 12-102. Exceptions.
- 12-103. Modifications.
- 12-104. Available in recorder's office
- 12-105. Reserved.
- 12-106. Variance procedure for handicapped code.
- 12-107. Permit fees.
- 12-108. Membership qualifications of board of appeals.
- 12-109. Violations.

**12-101. Building code adopted.** Pursuant to authority granted by §§ 6-54-501 et seq. of Tennessee Code Annotated, and for the purpose of regulating the construction, alteration, repair, use and 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, with revisions and the appendices listed below, as prepared and adopted by the International Code Council, is

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. The latest edition should be requested.

hereby adopted and incorporated by reference and made a part of this code, and is hereinafter referred to as the building code.

In addition to the 2018 code, with revisions, the city hereby adopts the following appendices to that code:

Appendix B "Board of Appeals," omitting sections B101.2, B101.2.1 and B101.2.2.

Appendix F "Rodent Proofing"

Appendix G "Flood-Resistant Construction"

Appendix I "Patio Covers." (1976 Code, § 4-101, as replaced by Ord. #2225, Nov. 2000, Ord. #2304, Nov. 2003, Ord. #2380, Dec. 2007, Ord. #2444, Nov. 2012, and Ord. #2556, Oct. 2020 ***Ch14\_03-23-22***)

**12-102. Exceptions.** (1) Chapter 27 (Electrical) of the building code is omitted.

(2) References to the following codes are omitted:

International Electrical Code

International Private Sewage Disposal Code

International Wildland-Urban Interface Code. (1976 Code, § 4-102, as replaced by Ord. #2225, Nov. 2000, Ord. #2304, Nov. 2003, Ord. #2380, Dec. 2007, Ord. #2444, Nov. 2012, and Ord. #2556, Oct. 2020 ***Ch14\_03-23-22***)

**12-103. Modifications.** Section 103 of the building code is hereby omitted. When the "building official" is named it shall, for the purposes of the building code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the building code. (1976 Code, § 4-103, as replaced by Ord. #2225, Nov. 2000, Ord. #2304, Nov. 2003, Ord. #2380, Dec. 2007, Ord. #2444, Nov. 2012, and Ord. #2556, Oct. 2020 ***Ch14\_03-23-22***)

**12-104. Available in recorder's office.** Pursuant to the requirements of § 6-54-502 of Tennessee Code Annotated, one (1) copy of the building code with the above modifications has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1976 Code, § 4-104, as replaced by Ord. #2225, Nov. 2000, Ord. #2304, Nov. 2003, Ord. #2380, Dec. 2007, Ord. #2444, Nov. 2012, and Ord. #2556, Oct. 2020 ***Ch14\_03-23-22***)

**12-105. Reserved.** (1976 Code, § 4-105, as replaced by Ord. #2225, Nov. 2000, Ord. #2304, Nov. 2003, Ord. #2380, Dec. 2007, Ord. #2444, Nov. 2012, and deleted and reserved by Ord. #2556, Oct. 2020 ***Ch14\_03-23-22***)

**12-106. Variance procedure for handicapped code.** The City of Gatlinburg hereby designates the Gatlinburg Board of Appeals to act as the responsible authority in place of the local building official to review and decide

requests for variances from the standards established by the "Tennessee Public Buildings Accessibility Act" as codified at Tennessee Code Annotated, §§ 68-120-201, et seq. Said board is hereby authorized to grant such variances as are authorized and upon the terms and conditions as provided in Tennessee Code Annotated, § 68-120-205. (1976 Code, § 4-106, as replaced by Ord. #2225, Nov. 2000, Ord. #2304, Nov. 2003, Ord. #2380, Dec. 2007, Ord. #2444, Nov. 2012, and Ord. #2556, Oct. 2020 *Ch14\_03-23-22*)

**12-107. Permit fees.** (1) Permit fees for all structures other than one- and two-family dwellings:

<u>Total valuation</u>	<u>Fee</u>
\$100 and less	No fee, unless inspection required, in which case a \$10.00 fee for each inspection shall be charged.
\$101 to \$2,000	\$10.00 per thousand or fraction thereof.
\$2,001 to \$15,000	\$20.00 for the first \$2,000.00 plus \$6.00 for each additional thousand or fraction thereof, to and including \$15,000.00.
\$15,001 to \$50,000	\$98.00 for the first \$15,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.
\$50,001 to \$100,000	\$273.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,001 to \$500,000	\$473.00 for the first \$100,000.00 plus \$2.50 for each additional thousand or fraction thereof, to and including \$500,000.00.
\$500,001 and up	\$1,473.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

(2) Plan-checking fees. When the valuation of the proposed construction exceeds one thousand dollars (\$1,000.00) and a plan is required to be submitted, a plan-checking fee shall be paid to the building official at the time of submitting plans and specifications for checking. Said plan-checking fee

shall be equal to one-half (1/2) of the building permit fee as set forth in this section.

(3) Moving fee. For the moving of any building or structure, the fee shall be one hundred dollars (\$100.00.)

(4) Demolition fee. For the demolition of any building or structure, the fee shall be:

(a) 0 - 100,000 cubic feet - \$50.00

(b) 100,000 cubic feet and over - \$0.50 per 1,000 cubic feet.

(1976 Code, § 4-107, as replaced by Ord. #2225, Nov. 2000, Ord. #2304, Nov. 2003, Ord. #2380, Dec. 2007, Ord. #2444, Nov. 2012, and Ord. #2556, Oct. 2020 **Ch14\_03-23-22**)

**12-108. Membership qualifications of board appeals.** Section 112.3 of the International Building Code, 2018 edition, is hereby amended by deleting that paragraph in its entirety and substituting a new sentence in lieu thereof as follows: 'Such board shall be composed of one architect, one member at large from the building industry, one building contractor, one member at large from the public, and either a second architect, a second building contractor, or a second member at large from the building industry.' (1976 Code, § 4-108, as replaced by Ord. #2225, Nov. 2000, Ord. #2304, Nov. 2003, Ord. #2380, Dec. 2007, Ord. #2444, Nov. 2012, and Ord. #2556, Oct. 2020 **Ch14\_03-23-22**)

**12-109. Violations.** 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. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such persons shall be punished by levying a fine not to exceed fifty dollars (\$50.00) per violation. (1976 Code, § 4-109, as replaced by Ord. #2225, Nov. 2000, Ord. #2304, Nov. 2003, Ord. #2380, Dec. 2007, Ord. #2444, Nov. 2012, and Ord. #2556, Oct. 2020 **Ch14\_03-23-22**)

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

- 12-201. Plumbing code adopted.
- 12-202. Exception.
- 12-203. Available in recorder's office.
- 12-204. Exceptions created for water fountain requirements.
- 12-205. Variance procedure for plumbing code.
- 12-206. Permit fees.
- 12-207. Violations.

**12-201. Plumbing code adopted.** Pursuant to authority granted by §§ 6-54-501 et seq. of the Tennessee Code Annotated, and for the purpose of regulating plumbing installations, including alterations and repairs, within or without the City of Gatlinburg, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code,<sup>2</sup> 2018 edition, with revisions and the below listed appendices, 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. (1976 Code, § 4-201, as replaced by Ord. #2229, Nov. 2000, Ord. #2381, Dec. 2007, Ord. #2449, Nov. 2012, and Ord. #2557, Oct. 2020 ***Ch14\_03-23-22***)

**12-202. Exception.** (1) Section 109 is hereby omitted from the plumbing code.

(2) Section 103 of the plumbing code is hereby omitted. When the "plumbing official" is named it shall, for the purposes of the plumbing code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the plumbing code. (1976 Code, § 4-202, as replaced by Ord. #2229, Nov. 2000, Ord. #2381, Dec. 2007, Ord. #2449, Nov. 2012, and Ord. #2557, Oct. 2020 ***Ch14\_03-23-22***)

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. The latest edition should be requested.

**12-203. Available in recorder's office.** Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated, one (1) copy of the International Plumbing Code with the above modifications has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1976 Code, § 4-203, as replaced by Ord. #2229, Nov. 2000, Ord. #2449, Nov. 2012, and Ord. #2557, Oct. 2020 *Ch14\_03-23-22*)

**12-204. Exception created for water fountain requirements.** Table 403.1 of the plumbing code is hereby amended by adding an additional footnote under the category of mercantile, said footnote being footnote h, as follows: 'h. The requirement for a drinking fountain may be eliminated when the building is one thousand (1,000) sq. ft. or less excluding fuel dispensing operations (i.e. service stations).' (1976 Code, § 4-204, as replaced by Ord. #2229, Nov. 2000, Ord. #2381, Dec. 2007, Ord. #2449, Nov. 2012, and Ord. #2557, Oct. 2020 *Ch14\_03-23-22*)

**12-205. Variance procedure for plumbing code.** The City of Gatlinburg hereby designates the Gatlinburg Board of Appeals to act as the responsible authority to review and decide requests for variances from the standards established by the plumbing code. Said board is hereby authorized to grant such variances as are authorized. (as added by Ord. #2229, Nov. 2000, and replaced by Ord. #2381, Dec. 2007, Ord. #2449, Nov. 2012, and Ord. #2557, Oct. 2020 *Ch14\_03-23-22*)

**12-206. Permit fees.**

Permit fees:

For issuing each permit. . . . . \$10.00

Plus the following when provided:

For each plumbing fixture, floor drain or trap (including water and drainage piping) . . . . .	2.50
For each house sewer . . . . .	5.00
For each house sewer having to be replaced or repaired. . . . .	5.00
For each cesspool. . . . .	5.00
For each septic tank and seepage pit or drainfield . . . . .	10.00
For each water heater and/or vent . . . . .	2.50
For installation, alteration or repair of water piping and/or water treating equipment . . . . .	5.00
For repair or alteration of drainage or vent piping . . . . .	5.00
For vacuum breakers or backflow protective devices installed subsequent to the installation of the piping or equipment served -	
One to five . . . . .	2.50
Over five, each . . . . .	1.50

(1976 Code, § 4-205, as replaced by Ord. #2229, Nov. 2000, Ord. #2381, Dec. 2007, Ord. #2449, Nov. 2012, and Ord. #2557, Oct. 2020 ***Ch14\_03-23-22***)

**4-207. Violations.** 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. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such persons shall be punished by levying a fine not to exceed fifty dollars (\$50.00) per violation. (as added by Ord. #2381, Dec. 2007, and replaced by Ord. #2449, Nov. 2012, and Ord. #2557, Oct. 2020 ***Ch14\_03-23-22***)

## CHAPTER 3

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

#### SECTION

- 12-301. Electrical code.
- 12-302. [Deleted.]
- 12-303. [Deleted.]
- 12-304. [Deleted.]
- 12-305. [Deleted.]
- 12-306. [Deleted.]

**12-301. Electrical code.** The electrical code, approval of plans and specifications, and inspections shall be under the direction of Sevier County Electric System and said electric system and the State of Tennessee are hereby authorized to adopt appropriate electrical codes and enforce same with the City of Gatlinburg. (1976 Code, § 4-301, as replaced by Ord. #2227, Nov. 2000, Ord. #2307, Nov. 2003, and Ord. #2451, Nov. 2012)

**12-302. [Deleted.]** (1976 Code, § 4-302, as replaced by Ord. #2227, Nov. 2000, Ord. #2307, Nov. 2003, and deleted by Ord. #2451, Nov. 2012)

**12-303. [Deleted.]** (1976 Code, § 4-303, as replaced by Ord. #2227, Nov. 2000, Ord. #2307, Nov. 2003, and deleted by Ord. #2451, Nov. 2012)

**12-304. [Deleted.]** (1976 Code, § 4-304, as replaced by Ord. #2227, Nov. 2000, Ord. #2307, Nov. 2003, and deleted by Ord. #2451, Nov. 2012)

**12-305. [Deleted.]** (1976 Code, § 4-305, as replaced by Ord. #2227, Nov. 2000, Ord. #2307, Nov. 2003, and deleted by Ord. #2451, Nov. 2012)

**12-306. [Deleted.]** (1976 Code, § 4-306, as replaced by Ord. #2227, Nov. 2000, Ord. #2307, Nov. 2003, and deleted by Ord. #2451, Nov. 2012)

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<sup>1</sup>Municipal code reference

Fire protection, fireworks and explosives: title 7.

## CHAPTER 4

### GAS CODE<sup>1</sup>

#### SECTION

- 12-401. Gas code adopted.
- 12-402. Exceptions.
- 12-403. Inspections.
- 12-404. Violations and penalty.
- 12-405. [Deleted.]

**12-401. Gas code adopted.** Pursuant to authority granted by §§ 6-54-501 et seq. of the Tennessee Code Annotated, the International Fuel Gas Code,<sup>2</sup> 2018 edition, as published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereby referred to as the gas code. (1976 Code, § 4-401, as replaced by Ord. #2306, Nov. 2003, Ord. #2367, Nov. 2006, Ord. #2450, Nov. 2012, and Ord. #2558, Oct. 2020 *Ch14\_03-23-22*)

**12-402. Exceptions.** (1) Section 109 is hereby omitted from the gas code.

(2) When the "gas official" is named it shall, for the purposes of the gas code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the gas code. (1976 Code, § 4-402, as replaced by Ord. #2306, Nov. 2003, and Ord. #2367, Nov. 2006, deleted by Ord. #2450 Nov. 2012, and replaced by Ord. #2558, Oct. 2020 *Ch14\_03-23-22*)

**12-403. Inspections.** Sevier County Utility District, its agents and employees, are hereby authorized to inspect all gas construction and installation of consumer's gas piping pursuant to the provisions of the International Fuel Gas Code. Sevier County Utility District shall certify to the City of Gatlinburg the compliance or non-compliance with the International Fuel Gas Code of all projects within the city limits of the City of Gatlinburg. The findings and certifications provided to the city shall be used for the purpose of approving such

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<sup>1</sup>Municipal code reference

Gas system administration: title 19, chapter 1.

<sup>2</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. The latest edition should be requested.

projects within the city limits without further inspections or certifications of natural gas construction by city employees. (1976 Code, § 4-403, as replaced by Ord. #2306, Nov. 2003, and Ord. #2367, Nov. 2006, deleted by Ord. #2450 Nov. 2012, and replaced by Ord. #2558, Oct. 2020 ***Ch14\_03-23-22***)

**12-404. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any of the provisions of the International Fuel Gas Code as herein adopted by reference. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such persons shall be punished by levying a fine not to exceed fifty dollars (\$50.00). (1976 Code, § 4-404, as replaced by Ord. #2306, Nov. 2003, and Ord. #2367, Nov. 2006, deleted by Ord. #2450 Nov. 2012, and replaced by Ord. #2558, Oct. 2020 ***Ch14\_03-23-22***)

**12-405. [Deleted.]** (as added by Ord. #2367, Nov. 2006, and deleted by Ord. #2450 Nov. 2012)

## CHAPTER 5

### ENERGY CONSERVATION CODE

#### SECTION

12-501. International energy conservation code adopted.

12-502. Reserved.

12-503. Available in recorder's office

12-504. Violations.

**12-501. International energy conservation code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, the International Energy Conservation Code,<sup>1</sup> 2018 edition, as published 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. (1976 Code, § 4-701, as replaced by Ord. #2305, Nov. 2003, Ord. #2382, Dec. 2007, Ord. #2447, Nov. 2012, and Ord. #2559, Oct. 2020 *Ch14\_03-23-22*)

**12-502. Reserved.** (1976 Code, § 4-702, as replaced by Ord. #2305, Nov. 2003, Ord. #2382, Dec. 2007, and Ord. #2447, Nov. 2012, and deleted and reserved by Ord. #2559, Oct. 2020 *Ch14\_03-23-22*)

**12-503. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Energy Conservation Code with the above modifications has been placed on file in the recorder's office for the use and inspection of the public. (1976 Code, § 4-703, as replaced by Ord. #2305, Nov. 2003, Ord. #2382, Dec. 2007, Ord. #2447, Nov. 2012, and Ord. #2559, Oct. 2020 *Ch14\_03-23-22*)

**12-504. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the International Energy Conservation Code as herein adopted by reference as modified. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such persons shall be subject to a civil penalty of up to fifty dollars (\$50.00). (1976 Code, § 4-704, as replaced by Ord. #2305, Nov. 2003, Ord. #2382, Dec. 2007, Ord. #2447, Nov. 2012, and Ord. #2559, Oct. 2020 *Ch14\_03-23-22*)

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<sup>1</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. The latest edition should be requested.

## CHAPTER 6

### **EXCAVATION, GRADING, AND CLEARING CODE**<sup>1</sup>

#### **SECTION**

- 12-601. Creation
- 12-602. Permit required.
- 12-603. Purpose.
- 12-604. Definitions.
- 12-605. Hazards.
- 12-606. Application.
- 12-607. Plans and specifications.
- 12-608. Fees and bonds.
- 12-609. Cuts.
- 12-610. Fills.
- 12-611. Setbacks.
- 12-612. Subsurface drainage.
- 12-613. Erosion control.
- 12-614. Excavation, grading, site clearing provisions.
- 12-615. Exceptions.
- 12-616. Corrective action for failure of the approved plan.
- 12-617. Penalty.
- 12-618. Conflicts.

**12-601. Creation.** There is hereby created and established an excavation, grading, and clearing code for the City of Gatlinburg. (1976 Code, § 4-601, as replaced by Ord. #2209, June 2000)

**12-602. Permit required.** No person shall do any excavation, grading, or site clearing without obtaining a permit for said work with the exception of work being performed in conjunction with construction previously authorized by a building permit and set out in the building permit so obtained. (1976 Code, § 4-602, as replaced by Ord. #2209, June 2000)

**12-603. Purpose.** The purpose of this chapter is to substantially reduce existing and future erosion and sedimentation damage in the City of Gatlinburg. This chapter has the further purpose of attempting to minimize the danger of

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

flood damage, to preserve and protect the natural beauty and aesthetics of the community and to decrease storm water runoff. The adoption of this chapter will also have the effect of preserving and protecting trees and vegetation which in turn will promote soil conservation and will reduce air pollution and noise. (As added by Ord. #2209, June 2000)

**12-604. Definitions.** (1) "Administrator." The building official and/or his/her designee.

(2) "Canopy." The outermost limit of a tree's branch tips.

(3) "Development." Any and all physical man-made changes or alterations to improved or unimproved land within the City of Gatlinburg which results in a land disturbance.

(4) "Diameter/diameter-breast-height (dbh)." The diameter of any tree trunk, measured at 4 ½ feet above the existing grade.

(5) "Disturbance." Any operation or occurrence by which the existing site surfaces and elevations are changed by cutting, filling, borrowing, stockpiling, stripping, trenching, clearing, or where any ground cover, natural or man-made, is removed, or any buildings or other structures are removed, or any watercourses or body of water, either natural or man-made, is relocated on any site, thereby creating unprotected area.

(6) "Dripline." An area encircling the base of a tree which is delineated by a vertical line extending from the outer limit of a tree's branch tips or tree canopy, down to the ground.

(7) "Essential root zone." The area encircling the base of a tree and located on the ground which is directly located under the canopy of the tree between the tree dripline and tree trunk.

(8) "Filling." The act of transporting or placing (by any manner or mechanism) material from, to, or on any soil surface or natural vegetation.

(9) "Grading." Any operation or occurrence by which the existing site surfaces and elevations are changed by cutting, filling, borrowing, stockpiling, stripping, trenching, clearing, or where any ground cover, natural or man-made, is removed, or any buildings or other structures are removed, or any watercourses or body of water, either natural or man-made, is altered and/or relocated on any site, thereby creating unprotected area. "Grading" shall be interchangeable with "land-disturbing activity."

(10) "Overstory." Those trees that compose the top layer or canopy of vegetation.

(11) "Protected tree/vegetation." A tree or area of understory vegetation to be retained, protected, or undisturbed during site clearing, construction, excavation, and/or grading.

(12) "Tree." Any self supporting woody plant usually having a single trunk but not limited to a single trunk with a dbh of two (2) inches or greater.

(13) "Tree crown." The uppermost portion of the tree consisting of the tree foliage.

(14) "Tree topping." The practice of severe cutting back of limbs within the tree's crown to stubs larger than three (3) inches in diameter to such a degree that the normal canopy is removed and the tree is disfigured.

(15) "Understory vegetation." Small trees, shrubs, and groundcover plants.

(16) "Undisturbed area." Areas of existing natural vegetation including but not limited to understory and overstory which has been undisturbed and maintained in a natural state. (As added by Ord. #2209, June 2000)

**12-605. Hazards.** Whenever the building official determines that any existing excavation, embankment or fill on private property has become a hazard to life or property, or adversely effects the safety, use, or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located or such other person or agent in control of said property, upon receipt of notice in writing from the building official, shall within the time period specified thereon, repair or eliminate such hazard and to otherwise conform with the specifications and requirements of this code. (1976 Code, § 4-603, as replaced by Ord. #2209, June 2000)

**12-606. Application.** To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the City of Gatlinburg for that purpose. Every application shall:

(1) Identify and describe the work to be covered by the permit for which application is made.

(2) Describe the land on which the proposed work is to be done, by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;

(3) Be accompanied by plans and specifications as required in § 12-607 of this code. These plans and specifications shall depict the entire boundary of said property and shall show areas of proposed development, land disturbances and areas which are not to be disturbed.

(4) Give other information as reasonably required by the building official. (1976 Code, § 4-604, as replaced by Ord. #2209, June 2000)

**12-607. Plans and specifications.** When required by the building official, each application for a excavation, grading, and site clearing permit shall be accompanied by two sets of plans and specifications.

(1) The plans and specifications for all developments shall be prepared by a civil engineer. The building official shall have the authority to waive this requirement for single family residences unless the building official determines that unusual topography or other circumstances necessitate the need for such plans and specifications.

(2) Plans shall be in compliance with all provisions of this chapter and other applicable City of Gatlinburg ordinances and codes.

(3) In all cases, when a subdivision plat, site plan, or Planned Unit Development (PUD) plan has been reviewed and approved by the Gatlinburg Municipal Planning Commission, the plan submitted for the excavation, grading, and site clearing permit shall be consistent with the approved subdivision plat, site plan, and PUD plan. (As added by Ord. #2209, June 2000)

**12-608. Fees and bonds.** (1) For any permit for excavation and/or fill, grading, and site clearing as regulated in this chapter, there shall be a ten dollar (10.00) fee.

(2) For any work done under an excavation/fill permit, grading, site clearing permit, a building permit or under any other authority, there shall be a responsibility to provide or to restore proper drainage, to correct any deficiencies in the existing drainage which is exacerbated by the work and to return the city streets to the condition found before the work was done and damaged thereby. This repair/restoration/improvement shall be done to the satisfaction of the building official. (1976 Code, § 4-606, as replaced by Ord. #2209, June 2000)

**12-609. Cuts.** The slope of cut surfaces shall be no steeper than is safe for the intended use, and under no circumstances shall cut slopes be any steeper than two horizontal to one vertical unless otherwise recommended and certified by a registered, licensed engineer. Further, cut areas shall be subject to the provisions of § 12-614 of this code. (1976 Code, § 4-607, as replaced by Ord. #2209, June 2000)

**12-610. Fills.** The slope of fill surfaces shall be no steeper than is safe for the intended use, and under no circumstances shall fill slopes be steeper than two horizontal to one vertical. Further fill slopes shall not be constructed on natural slopes steeper than two to one or where the fill slope toes out within twelve feet horizontally of the top of existing or planned cut slopes. No fill shall be placed until all trees, brush, hedge or other protruding obstructions are removed from the area upon which fill is to be placed. In all instances, the fill area shall be limited to the minimum area needed to accomplish the proposed development and shall not be placed within areas to remain as undisturbed. Further, fill areas shall be subject to the provisions of § 12-614 of this code. (1976 Code, § 4-608, as replaced by Ord. #2209, June 2000)

**12-611. Setbacks.** The tops and toes of cut and fill slopes shall be set back from the property boundaries as far as necessary for safety of the adjacent properties and to prevent damage resulting from water run-off or erosion of the slopes. The tops and toes of cuts and fill slopes shall be set back from structures as far as necessary for adequacy of foundation support and to prevent damage as a result of water run-off or erosion of the slopes. (1976 Code, § 4-609, as replaced by Ord. #2209, June 2000)

**12-612. Subsurface drainage.** All drainage facilities shall be designed to carry water to the nearest practical drainage way approved by the building official and/or the city engineer as a safe place to deposit such water. If drainage facilities discharge onto natural ground, riprap may be required. At least two percent gradient toward approved drainage facilities from building pads will be required unless waived by the building official for non-hilly terrain. (1976 Code, § 4-610, as replaced by Ord. #2209, June 2000)

**12-613. Erosion control.** The faces of cut and fill surfaces shall be prepared and maintained to control erosion. This control may consist of effective planting or other means of erosion control approved by the building official. Where it has been determined that cut slopes are not subject to erosion due to the erosion resistant character of the materials, such protection may be omitted. (1976 Code, § 4-611, as replaced by Ord. #2209, June 2000)

**12-614. Excavation, grading, site clearing provisions.** The following provisions shall apply to all developments and properties located within the City of Gatlinburg. These provisions shall be in addition to all other applicable ordinances and codes of the City of Gatlinburg:

(1) Excavation, grading, and site clearing and other land disturbances shall be limited to the areas shown as such on the approved plans. All other areas including the essential root zone, shall remain as undisturbed areas unless otherwise permitted under these provisions. In the event areas outside the boundaries of identified development require disturbance, the applicant shall be required to show reason for the disturbance. The reason shall be submitted in writing to the building official and shall require the certification of the project architect and or engineer.

(2) In the event no development is planned for a parcel of property, the applicant shall be permitted to clear no more than 25 percent of the property within a 5 year period. A site clearing plan shall be submitted to the building official which bears the certification of a registered engineer showing proposed clearing areas and all methods of erosion control and site drainage management in order to stabilize and protect the disturbed area from erosion.

(3) In all instances, areas of disturbance shall be stabilized within seven (7) calendar days of the initial disturbance, by an approved method of erosion/sedimentation control, and/or ground cover. Grading commencement shall be limited to fifteen (15) days prior to the initiation of construction. In addition, areas of disturbance shall be included in a long range plan for permanent vegetation and shall have the approval of the building official and/or the planning commission through its site development review process.

(4) A protection plan shall be required for all areas adjoining an area of disturbance including any existing areas proposed to be retained on the site as natural vegetated areas, which have been previously shown and approved on the site plan. The protection plan shall indicate the methods by which the

natural vegetation will be protected from adjoining areas of disturbance. Prior to commencement, tree fencing shall be provided around areas to remain undisturbed and no filling or covering of tree root areas above the natural grade will be permitted.

(5) Grading and benching shall be restricted so that no cut slopes be any steeper than two (2) horizontal to one (1) vertical, except as provided in subsection (6) below. There shall be a fifteen foot (15') maximum height for un-terraced slope. Intense landscaping will be required for all terraced slopes. The maximum height for terracing standards and engineered walls shall be fifteen feet (15'). The minimum horizontal distance between any two (2) terraced slope or wall sections shall be five feet (5'). Retaining walls shall be designed and constructed parallel to pre-disturbed slopes and/or with the property contour rather than across property contour.

(6) Certification by an approved professional shall be required for all slope construction for slopes in excess of two (2) horizontal to one (1) vertical.

(7) A twenty-five foot (25') buffer from all permanent and intermittent streams will be required with all fill and borrow.

(8) Mass grading is prohibited prior to construction. In addition, a planting schedule for replanting of all artificial slopes is required with a cashier's check for one hundred percent (100%) of all materials and labor costs associated with the replanting activities. Any such amounts shall be deposited into an escrow account. Interest earned, if any, on said account shall accrue to the city to cover its cost of administration.

(9) Roadway (public or private) grades, including common driveways and all other roadways that are components of any development vehicular circulation system, shall not exceed a fifteen percent (15%) maximum grade, unless a variance is granted by the Gatlinburg Municipal Planning Commission in accordance with adopted variance procedures. All roadway and street construction shall be done with the natural contour of the property and not across the contour. All grading of roadways shall be done in a manner to limit the area of disturbance to the minimum extent practical.

(10) The grading and clearing for pioneer roads shall be limited to no more than ten feet (10') in width. Grading and clearing for property surveys shall be limited to areas needed to conduct the survey. Grading and clearing for soils testing shall be limited to selective patches with a minimum separation of one hundred feet (100') between testing areas. All areas of grading and clearing shall be limited to areas designated by a licensed civil engineer. (As added by Ord. #2209, June 2000, and amended by Ord. #2407, April 2009)

**12-615. Exceptions.** (1) Emergencies. In case of emergency such as windstorms, icestorms, floods, or other disasters, the requirements of these provisions may be waived by the building official when he/she has determined that strict adherence would constitute a danger to the public good and welfare.

(2) These provisions shall not apply to individuals wishing to removed overstory or understory from a parcel of property when the overstory and/or understory has become hazardous or diseased as such to create potential danger to private and/or public property. This shall be subject to the determination of the building official and/or a licensed arborist prior to removal. In the event it is determined that the vegetation has been intentionally diseased or damaged, the building official may require replacement vegetation in order to restore the site.

(3) Tree trimming for installation and/or protection of public utilities i.e., electric, water and sewer, gas, cable T.V., or other public utilities, under the authorization of a governmental authority or its contractor, shall be exempt from the permit requirements of this code. (As added by Ord. #2209, June 2000)

**12-616. Corrective action for failure of the approved plan.** If the administrator determines that significant erosion/sedimentation or related problems are occurring on a graded site despite application and maintenance of the approved protective practices, he/she shall require the permit holder to take additional corrective actions to protect the adversely affected area. If at any time, the administrator determines that any portion of the approved excavation, grading, and site clearing plan or any other applicable provisions of city ordinances and codes have been violated, the permit may be revoked and a stop work order may be issued until corrective actions have been completed. After receipt of such stop work and/or revocation from the administrator, the land owner and/or applicants shall cease all excavation, grading, and site clearing and shall stabilize the site immediately. A new plan shall be prepared within ten (10) days to show a permanent plan of correction. (As added by Ord. #2209, June 2000)

**12-617. Penalty.** Any person, firm, or corporation or agent who shall violate a portion of the herein adopted code, or shall fail to comply therewith, or who shall cause excavation, grading, fills, or other land disturbances in violation of the plans and drawings approved by the City of Gatlinburg, shall be deemed guilty of a violation of this code and each day shall constitute a separate violation of same. Upon conviction of any said violation, such person shall be subject to a civil penalty of up to five hundred dollars (\$500.00) per violation. (1976 Code, § 4-612, as replaced by Ord. #2209, June 2000)

**12-618. Conflicts.** All ordinances and parts of ordinances in conflict herewith are hereby repealed; however, nothing contained herein shall be construed to repeal the provisions of Title 16, Chapter 2, of the Gatlinburg Municipal Code. The provisions of Title 16, Chapter 2 are expressly in addition to this chapter and are not intended to be replaced or repealed. (1976 Code, § 4-613, as replaced by Ord. #2209, June 2000)

## CHAPTER 7

### MECHANICAL CODE

#### SECTION

- 12-701. Mechanical code adopted.
- 12-702. Exception.
- 12-703. Available in recorder's office.
- 12-704. Permit fees.
- 12-705. Variance procedure for mechanical code.
- 12-706. Violations.

**12-701. Mechanical code adopted.** Pursuant to authority granted by §§ 6-54-501, et seq., of the Tennessee Code Annotated, the International Mechanical 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 mechanical code. (1976 Code, § 4-801, as replaced by Ord. #2228, Nov. 2000, Ord. #2383, Dec. 2007, Ord. #2448, Nov. 2012, and Ord. #2560, Oct. 2020 ***Ch14\_03-23-22***)

**12-702. Exception.** (1) Section 109 is hereby omitted from the mechanical code.

(2) Section 103 is hereby omitted from the mechanical code. (1976 Code, § 4-802, as replaced by Ord. #2228, Nov. 2000, Ord. #2383, Dec. 2007, Ord. #2448, Nov. 2012, and Ord. #2560, Oct. 2020 ***Ch14\_03-23-22***)

**12-703. Available in recorder's office.** Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated, one (1) copy of the mechanical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1976 Code, § 4-803, as replaced by Ord. #2228, Nov. 2000, Ord. #2383, Dec. 2007, Ord. #2448, Nov. 2012, and Ord. #2560, Oct. 2020 ***Ch14\_03-23-22***)

**12-704. Permit fees.** Mechanical permit fees are assessed on all new construction, renovation and remodeling which involve the installation, repair or replacement of heating, ventilating, ductwork, air conditioning and refrigeration systems.

For issuing each permit. . . . . \$10.00  
Plus the following:

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<sup>1</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. The latest edition should be requested.

First \$1,000.00 of valuation or fraction thereof . . . . . \$10.00

Each additional \$1,000.00 valuation or fraction thereof . . \$2.00

Fee for inspection repairs, alterations and additions to existing mechanical systems shall be five dollars (\$5.00) plus two dollars (\$2.00) for each one thousand dollars (\$1,000.00) or fraction thereof. (as added by Ord. #2383, Dec. 2007, and replaced by Ord. #2448, Nov. 2012, and Ord. #2560, Oct. 2020 *Ch14\_03-23-22*)

**12-705. Variance procedure for mechanical code.** The City of Gatlinburg hereby designates the Gatlinburg Board of Appeals to act as the responsible authority to review and decide requests for variances from the standards established by the mechanical code. (as added by Ord. #2383, Dec. 2007, and replaced by Ord. #2448, Nov. 2012, and Ord. #2560, Oct. 2020 *Ch14\_03-23-22*)

**12-706. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as hereinafter adopted by reference and modified. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such persons shall be punished by levying a fine not to exceed fifty dollars (\$50.00). (as added by Ord. #2448, Nov. 2012, and replaced by Ord. #2560, Oct. 2020 *Ch14\_03-23-22*)

## CHAPTER 8

### PROPERTY MAINTENANCE CODE

#### SECTION

- 12-801. Property maintenance code.
- 12-802. Applicability.
- 12-803. Code official.
- 12-804. Availability in recorder's office.
- 12-805. Inspection fee.
- 12-806. Violations.

**12-801. Property maintenance code.** Pursuant to authority granted by §§ 6-54-501 et seq. of the Tennessee Code Annotated, and for the purpose of regulating the maintenance of rental property, the International Property Maintenance Code,<sup>1</sup> 2018 edition, as prepared by the International Code Council, is hereby adopted and incorporated by reference and made a part of this code and is hereby referred to as the property maintenance code. (as added by Ord. #2361, Sept. 2006, and replaced by Ord. #2452, Nov. 2012, and Ord. #2561, Oct. 2020 *Ch14\_03-23-22*)

**12-802. Applicability.** The property maintenance code, as adopted herein, shall apply to rental units not otherwise inspected by the City of Gatlinburg, through its overnight tourist rental program or inspected by the State of Tennessee, either as a bed and breakfast or as a hotel or motel. This code shall not apply to single family residences, duplexes, or other rental properties unless it is a rental property not originally intended for permanent residency, in which case it shall apply. For purposes of this section, "permanent residency" means a structure with separate bathroom and kitchen facilities apart from any sleeping quarters and containing more than two hundred twenty (220) square feet. The owner of units covered by this chapter shall be responsible for compliance with the property maintenance code. (as added by Ord. #2361, Sept. 2006, and replaced by Ord. #2452, Nov. 2012, and Ord. #2561, Oct. 2020 *Ch14\_03-23-22*)

**12-803. Code official.** Section 103 of the property maintenance code is hereby omitted. The building official of the City of Gatlinburg is hereby designated as the code official for purposes of the property maintenance code. (as added by Ord. #2361, Sept. 2006, and replaced by Ord. #2452, Nov. 2012, and Ord. #2561, Oct. 2020 *Ch14\_03-23-22*)

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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.

**12-804. Available in recorder's office.** Pursuant to the requirements of § 6-54-502 of Tennessee Code Annotated, one (1) copy of the property maintenance code has been placed on file in the recorder's office and shall be kept there for use and inspection of the public. (as added by Ord. #2361, Sept. 2006, and replaced by Ord. #2452, Nov. 2012, and Ord. #2561, Oct. 2020 *Ch14\_03-23-22*)

**12-805. Inspection fee.** Rental units, as defined in § 12-802, shall be inspected at least once per year. There shall be a fee for each inspection. The fee shall be for the purpose of defraying the cost of the city in making said inspection. Said fee shall be in the amount of twenty-five dollars (\$25.00) per unit. Any unit found to have deficiencies and requiring a second inspection to determine if the deficiency has been corrected, shall be charged a fee of seventy-five dollars (\$75.00). Any subsequent re-inspections or complaints where violations of the code are found to have occurred, shall be charged an additional seventy-five dollars (\$75.00) per unit found to be in violation. The fee called for herein shall be paid by the owner of the rental units. Any violation of the code not cured by the third inspection shall be vacated and not rented again until it has passed inspection. (as added by Ord. #2361, Sept. 2006, and replaced by Ord. #2428, Dec. 2010, Ord. #2452, Nov. 2012, and Ord. #2561, Oct. 2020 *Ch14\_03-23-22*)

**12-806. Violations.** It shall be unlawful for any person to violate or fail to comply with any provisions of the property maintenance code as herein adopted by reference. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such person shall be punished by levying a fine not to exceed fifty dollars (\$50.00) per violation. Said penalty shall be in addition to any inspection fee or cost of remediation of any deficiency found on the premises and shall be in addition to any actual out of pocket cost or expense incurred by the city in assuring compliance with this code. (as added by Ord. #2361, Sept. 2006, and replaced by Ord. #2452, Nov. 2012, and Ord. #2561, Oct. 2020 *Ch14\_03-23-22*)

## CHAPTER 9

### RESIDENTIAL CODE

#### SECTION

- 12-901. Residential code adopted.
- 12-902. Exceptions.
- 12-903. Modifications.
- 12-904. Available in recorder's office.
- 12-905. Variance procedure for handicapped code.
- 12-906. Permit fees.
- 12-907. Violations.
- 12-908. [Deleted.]

**12-901. Residential code adopted.** Pursuant to authority granted by §§ 6-54-501 et seq. of Tennessee Code Annotated, and for the purpose of regulating the construction, alteration, repair, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Residential Code,<sup>1</sup> 2018 edition, with revisions and the appendices listed below, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference and made a part of this code, and is hereinafter referred to as the residential code.

In addition to the 2018 code, with revisions, the city hereby adopts the following appendices to that code:

Appendix H	"Patio Covers"
Appendix J	"Existing Buildings and Structures"
Appendix Q	"Tiny Homes." (as added by Ord. #2384, Dec. 2007,
	and replaced by Ord. #2445, Nov. 2012, and Ord. #2562, Oct. 2020
	<b><i>Ch14_03-23-22)</i></b>

**12-902. Exceptions.** (1) Chapters 34-43 (electrical provisions) are omitted.

- (2) References to the following codes are omitted:
  - International Electrical Code
  - International Private Sewage Disposal Code
- (3) Section 103 is omitted.
- (4) Section R112 is omitted.

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<sup>1</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. The latest edition should be requested.

(5) Section R313.1 is hereby amended by substituting the following language: "Exception: An automatic residential fire sprinkler system shall not be required if a 2 hour fire resistance rated wall exists between units, if such walls do not contain plumbing and/or mechanical equipment, ducts, or vents in the common wall."

(6) Section R313.2 is hereby omitted from the code. (as added by Ord. #2384, Dec. 2007, replaced by Ord. #2445, Nov. 2012, amended by Ord. #2524, March 2015 *Ch14\_03-23-22*, and replaced by Ord. #2562, Oct. 2020 *Ch14\_03-23-22*)

**12-903. Modifications.** (1) When the "building official" is named it shall, for the purposes of the residential code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the residential code.

(2) Notwithstanding any provision of the residential code, the guard rail system for tourist residency structures, as defined in § 5-701 of the Gatlinburg Municipal Code, shall be a minimum of forty-two inches (42") in height.

(3) Every building permit shall expire two (2) years from the date of issue or upon the issuance of the certificate of occupancy unless:

(a) The building official, or designee, determines that substantial progress has been made in the work authorized by the permit; and

(b) The permit holder is granted an exception or extension after submitting a written request to the building official, or designee. (as added by Ord. #2384, Dec. 2007, and replaced by Ord. #2445, Nov. 2012, and Ord. #2562, Oct. 2020 *Ch14\_03-23-22*)

**12-904. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code with the above modifications has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2384, Dec. 2007, and replaced by Ord. #2445, Nov. 2012, and Ord. #2562, Oct. 2020 *Ch14\_03-23-22*)

**12-905. Variance procedure for handicapped code.** The City of Gatlinburg hereby designates the Gatlinburg Board of Appeals to act as the responsible authority in place of the local building official to review and decide requests for variances from the standards established by the "Tennessee Public Buildings Accessibility Act" as codified in Tennessee Code Annotated, §§ 68-120-201, et seq. Said board is hereby authorized and upon the terms and conditions as provided in Tennessee Code Annotated, § 68-120-205. (as added by Ord. #2384, Dec. 2007, and replaced by Ord. #2445, Nov. 2012, and Ord. #2562, Oct. 2020 *Ch14\_03-23-22*)

**12-906. Permit fees.** (1) Permit fees for one- and two-family dwellings:

<u>Total valuation</u>	<u>Fee</u>
\$100 and less	No fee, unless inspection required, in which case a \$10.00 fee for each inspection shall be charged.
\$101 to \$2,000	\$10.00 per thousand or fraction thereof.
\$2,001 to \$15,000	\$20.00 for the first \$2,000.00 plus \$6.00 for each additional thousand or fraction thereof, to and including \$15,000.00.
\$15,001 to \$50,000	\$98.00 for the first \$15,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.
\$50,001 to \$100,000	\$273.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,001 to \$500,000	\$473.00 for the first \$100,000.00 plus \$2.50 for each additional thousand or fraction thereof, to and including \$500,000.00.
\$500,001 and up	\$1,473.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

(2) Plan-checking fees. When the valuation of the proposed construction exceeds one thousand dollars (\$1,000.00) and a plan is required to be submitted, a plan-checking fee shall be paid to the building official at the time of submitting plans and specifications for checking. Said plan-checking fee shall be equal to one-half (1/2) of the building permit fee as set forth in this section.

(3) Moving fee. For the moving of any building or structure, the fee shall be one hundred dollars (\$100.00).

(4) Demolition fee. For the demolition of any building or structure, the fee shall be:

- (a) 0 - 100,000 cubic feet - \$50.00

(b) 100,000 cubic feet and over - \$0.50 per 1,000 cubic feet. (as added by Ord. #2384, Dec. 2007, and replaced by Ord. #2445, Nov. 2012, and Ord. #2562, Oct. 2020 ***Ch14\_03-23-22***)

**12-907. Violations.** 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. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such persons shall be punished by levying a fine not to exceed fifty dollars (\$50.00) per violation. (as added by Ord. #2384, Dec. 2007, and replaced by Ord. #2445, Nov. 2012, and Ord. #2562, Oct. 2020 ***Ch14\_03-23-22***)

**12-908. [Deleted.]** (as added by Ord. #2384, Dec. 2007, and deleted by Ord. #2445, Nov. 2012)

## CHAPTER 10

### EXISTING BUILDING CODE

#### SECTION

- 12-1001. Existing building code adopted.
- 12-1002. Modifications.
- 12-1003. Available in recorder's office.
- 12-1004. Permit fees.
- 12-1005. Board of appeals.
- 12-1006. Violations.

**12-1001. Existing building code adopted.** Pursuant to authority granted by §§ 6-54-501 et seq. of Tennessee Code Annotated and for the purpose of regulating the repair, alteration, change of occupancy, addition to and relocation of existing buildings, the Existing Building Code,<sup>1</sup> 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference and made a part of this code, and is hereinafter referred to as the existing building code. (as added by Ord. #2563, Oct. 2020 *Ch14\_03-23-22*)

**12-1002. Modifications.** Section 103 of the existing building code is hereby deleted. The term "code official" as referenced in the existing building code shall mean that the building official or such person as appointed by the city manager to oversee and enforce the provisions of the existing building code. (as added by Ord. #2563, Oct. 2020 *Ch14\_03-23-22*)

**12-1003. Available in recorder's office.** Pursuant to the requirements of § 6-54-502 of Tennessee Code Annotated, one (1) copy of the existing building code with the above modifications has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2563, Oct. 2020 *Ch14\_03-23-22*)

**12-1004. Permit fees.**

- (1) Permit fees for all structures other than one- and two-family dwellings:

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<sup>1</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. The latest edition should be requested.

<u>Total valuation</u>	<u>Fee</u>
\$100 and less	No fee, unless inspection required, in which case a \$10.00 fee for each inspection shall be charged.
\$101 to \$2,000	\$10.00 per thousand or fraction thereof.
\$2,001 to \$15,000	\$20.00 for the first \$2,000.00 plus \$6.00 for each additional thousand or fraction thereof, to and including \$15,000.00.
\$15,001 to \$50,000	\$98.00 for the first \$15,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.
\$50,001 to \$100,000	\$273.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,001 to \$500,000	\$473.00 for the first \$100,000.00 plus \$2.50 for each additional thousand or fraction thereof, to and including \$500,000.00.
\$500,001 and up	\$1,473.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

(2) Plan-checking fees. When the valuation of the proposed construction exceeds one thousand dollars (\$1,000.00) and a plan is required to be submitted, a plan-checking fee shall be paid to the building official at the time of submitting plans and specifications for checking. Said plan-checking fee shall be equal to one-half (1/2) of the building permit fee as set forth in this section.

(3) Moving fee. For the moving of any building or structure, the fee shall be one hundred dollars (\$100.00).

(4) Demolition fee. For the demolition of any building or structure, the fee shall be:

(a) 0 - 100,000 cubic feet - \$50.00

(b) 100,000 cubic feet and over - \$0.50 per 1,000 cubic feet. (as added by Ord. #2563, Oct. 2020 ***Ch14\_03-23-22***)

**12-1005. Board of appeals.** Section 112 of the existing building code is repealed and the Gatlinburg Board of Appeals is designated to hear and decide appeals of orders, decisions and determinations under this code. (as added by Ord. #2563, Oct. 2020 *Ch14\_03-23-22*)

**12-1006. Violations.** 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. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such persons shall be punished by levying a fine not to exceed fifty dollars (\$50.00) per violation. (as added by Ord. #2563, Oct. 2020 *Ch14\_03-23-22*)

## CHAPTER 11

### SWIMMING POOL AND SPA CODE

#### SECTION

- 12-1101. Swimming pool and spa code adopted.
- 12-1102. Modifications.
- 12-1103. Available in recorder's office.
- 12-1004. Permit fees.
- 12-1005. Board of appeals.
- 12-1006. Violations.

**12-1101. Swimming pool and spa code adopted.** Pursuant to authority granted by §§ 6-54-501 et seq. of Tennessee Code Annotated, for the purpose of regulating the construction, alteration, movement, renovation, replacement, repair and maintenance of aquatic recreation facilities, pools and spas, the Swimming Pool and Spa Code,<sup>1</sup> 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference and made a part of this code, and is hereinafter referred to as the swimming pool and spa code. (as added by Ord. #2564, Oct. 2020 *Ch14\_03-23-22*)

**12-1102. Modifications.** Section 103 of the swimming pool and spa code is hereby deleted. The term "code official" as referenced in the swimming pool and spa code shall mean that the building official or such person as appointed by the city manager to oversee and enforce the provisions of the swimming pool and spa code. (as added by Ord. #2564, Oct. 2020 *Ch14\_03-23-22*)

**12-1103. Available in recorder's office.** Pursuant to the requirements of § 6-54-502 of Tennessee Code Annotated, one (1) copy of the swimming pool and spa code with the above modifications has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2564, Oct. 2020 *Ch14\_03-23-22*)

**12-1104. Permit fees.**

- (1) Permit fees for all structures other than one- and two-family dwellings:

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<sup>1</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. The latest edition should be requested.

<u>Total valuation</u>	<u>Fee</u>
\$100 and less	No fee, unless inspection required, in which case a \$10.00 fee for each inspection shall be charged.
\$101 to \$2,000	\$10.00 per thousand or fraction thereof.
\$2,001 to \$15,000	\$20.00 for the first \$2,000.00 plus \$6.00 for each additional thousand or fraction thereof, to and including \$15,000.00.
\$15,001 to \$50,000	\$98.00 for the first \$15,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.
\$50,001 to \$100,000	\$273.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,001 to \$500,000	\$473.00 for the first \$100,000.00 plus \$2.50 for each additional thousand or fraction thereof, to and including \$500,000.00.
\$500,001 and up	\$1,473.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

(2) Plan-checking fees. When the valuation of the proposed construction exceeds one thousand dollars (\$1,000.00) and a plan is required to be submitted, a plan-checking fee shall be paid to the building official at the time of submitting plans and specifications for checking. Said plan-checking fee shall be equal to one-half (1/2) of the building permit fee as set forth in this section.

(3) Plumbing and mechanical fees. Fees for plumbing and mechanical components are as set forth in the plumbing and mechanical codes adopted by the city. (as added by Ord. #2564, Oct. 2020 ***Ch14\_03-23-22***)

**12-1105. Board of appeals.** Section 108 of the swimming pool and spa code is repealed and the Gatlinburg Board of Appeals is designated to hear and decide appeals of orders, decisions and determinations under this code. (as added by Ord. #2564, Oct. 2020 ***Ch14\_03-23-22***)

**12-1106. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool and spa code as herein adopted by reference and modified. Each day shall constitute a separate violation of same. Upon conviction of any said violation, such persons shall be punished by levying a fine not to exceed fifty dollars (\$50.00) per violation. (as added by Ord. #2564, Oct. 2020 ***Ch14\_03-23-22***)

## TITLE 13

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

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Regulation of trailer parks, etc.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Use of water from wells, etc. prohibited, generally.
- 13-108. Weeds, trash, rubbish and refuse prohibited.
- 13-109. Raking, piling of weeds and rubbish, placement.
- 13-110. Notice.
- 13-111. Appeal.
- 13-112. Non-compliance; abatement at owner's expense; non-payment.
- 13-113. Penalties.

**13-101. Regulation of trailer parks, etc.** It shall be unlawful and a misdemeanor for any person to park, locate or occupy any trailer or portable building for the purposes of residing therein, on any street, lot, or parcel of land within the city outside of a duly permitted trailer camp as hereinafter provided:

(1) Any person desiring to install and operate a trailer camp within the City of Gatlinburg shall make application to the city manager for a permit for said trailer camp. Said application shall be accompanied by a sketch or plan drawn to scale showing the number and arrangement of trailer lots, roadways, water supply, water outlets, location and type of sewage, liquid and garbage disposal, and the location of the buildings for toilets, baths, laundries and other facilities. The city manager may issue a permit for the installation and

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

operation of said trailer camp if the application therefor meets the requirements of this section.

(2) No trailer camp shall be located in a known area of mosquito breeding and any trailer site shall be well drained to avoid pools of water. All trailer camps must be located in an industrial district zone according to the zoning ordinance of the city.

(3) The lot for each trailer shall be plainly staked off or marked, and each lot shall have an area of not less than eight hundred square feet. No two trailers shall be parked closer than ten feet of each other. At least a twenty-foot roadway shall be provided between each block of lots.

(4) An adequate supply of water under pressure, from a source and of a quality approved by the Tennessee Department of Health, shall be provided in all trailer camps. There shall be a water outlet within twenty-five (25) feet of each trailer lot and in each shower room, washroom, laundry room, sink and night waste container washing facility.

(5) Approved flush toilets connected to an approved sewer or an approved septic tank shall be provided in the ratio of one toilet seat for each sex, for each ten trailer lots or fraction thereof, plus at least one urinal for each men's public toilet room. A minimum of three persons is assumed for each trailer with the sexes assumed equal in number. When not in use, the sewer connection shall be covered with a fly-tight cap or screen.

(6) Public shower nozzles and lavatories shall be provided in the same ratio as toilet seats, and shall be supplied with an adequate quantity of hot water. Shower rooms shall be provided with two sets of slatted walkways.

(7) Liquid wastes from showers, sinks, hoppers, laundry rooms and lavatories shall be piped to an approved sewer.

(8) If cooking is done in any trailer which is not provided with a sewer connection and sink, a hopper, kitchen or laundry sink shall be provided within one hundred fifty feet of all such lots for the disposal of dishwater, and the hopper for the disposal of night wastes and the washings from night waste containers, shall be separate.

(9) If trailers do not have inside toilets which are connected to a sewer, a hopper for the disposal of night waste, which is connected to a sewer, shall be provided within one hundred fifty feet of all such trailer lots. Provisions for washing night waste containers shall also be provided and the wash water from these shall be conducted into an approved sewer or septic tank.

(10) A laundry room with adequate laundry trays, tubs or washing machines and adequate facilities for heating water shall be provided.

(11) A fly-tight metal can shall be provided by each trailer camp for each trailer lot.

(12) The camp shall be under the supervision of a caretaker who shall be responsible for the maintenance of physical equipment, for cleanliness of the grounds, surrounding toilets, showers, lavatories and laundry facilities, and for the general conduct of the camp operation. All contact surfaces (sinks, toilets

and showers) shall be washed daily, then disinfected with a two percent U.S.P. creosol solution, 200 P.P.M. chlorine solution or an equivalent disinfectant, and dried.

(13) A complete and permanent register shall be kept at the trailer camp, listing car license number and state, names, age and sex of occupants of each trailer, and dates of admission and departure from the camp. The city manager shall be notified immediately of communicable diseases in camp.

(14) The following definitions shall apply in the interpretation and the enforcement of this section:

(a) The term "portable building" shall mean any small, compact structure, similar to a trailer, intended for or capable of human habitation, mounted on skids or otherwise so constructed that it is capable of being readily moved from one location to another without change in structure or design except for foundation or method of support.

(b) The term "trailer" shall mean any structure intended for or capable of human habitation, mounted, or designed for mounting, upon wheels or capable of being mounted on wheels and of being driven, propelled or towed from place to place without change in structure or design, regardless of whether such structure is actually mounted on wheels or whether the same is placed on a temporary or permanent foundation; provided, that this definition shall not include transport trucks or vans equipped with sleeping space for the driver, and shall not include a structure or car used exclusively upon fixed tracks or rails.

(c) The term "trailer camp" shall mean any site, privately or publicly owned or operated, upon which two or more trailers, used for living, eating or sleeping quarters are, or are intended to be, located, whether operated for or without compensation. (1976 Code, § 8-404)

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1976 Code, § 8-405)

**13-103. Stagnant water.** It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1976 Code, § 8-406)

**13-104. Weeds.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city manager, or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1976 Code, § 8-407)

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1976 Code, § 8-408)

**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 in the vicinity. (1976 Code, § 8-409)

**13-107. Use of water from wells, etc. prohibited generally.**

(1) Every dwelling house, tenement, or other building must be supplied with city water, provided there is a water main in the front, rear, or on either side of such premises.

(2) It shall be unlawful for any person located on any premises where there is provided a water main in front, rear, or on either side of such premises, to use water from wells or springs if such premises are open to the general public, or the general public is invited upon said premises.

(3) It shall be hereafter unlawful for any person to dig wells upon any premises where there is a water main in front, rear, or on either side of such premises; provided, however, wells may be used for the purpose of being a source of supply for water-based heat pump systems, watering lawns, or agricultural uses but not for human consumption. All pipes carrying well water shall be color coded and marked 'non-potable water'. Said wells are in no way to be connected or cross-connected to the potable water system, unless isolated by the use of an approved air-gap system. Water obtained from any such well may not be discharged into the sanitary sewer system without approval of the City of Gatlinburg.

(4) The city manager of the City of Gatlinburg is hereby empowered and directed to have the Tennessee Department of Health inspect and examine all springs and wells which he has reason to believe are polluted, unhealthy, unsanitary and carrying in their waters the germs of infectious and contagious diseases, and also to make or have made an analysis of the waters thereof for the purpose of ascertaining their sanitary condition.

(5) If, as a result of such examination, inspection and analysis, as provided in paragraph 4 of this section, the city manager or the Tennessee Department of Health ascertains that any spring or well is unsanitary, unhealthy, and infected with the germs of contagious and infectious diseases, the city manager shall at once condemn such spring or well as a public nuisance, and shall post a notice on or near thereto stating that such source of water

supply has been condemned as unsanitary and dangerous to health, and shall at once serve written notice upon the owner of such well or spring, if he be a resident of the city, to abate such nuisance within ten (10) days by permanently closing such well or spring and so abating it as to render the taking of water therefrom impossible. If the owner thereof resides outside of the city, the said city manager shall give him such notice in writing as above provided by registered mail, and should the owner thereof be unknown and his identity cannot be established by diligent inquiry, a suitable notice shall be published for ten (10) days in a newspaper in the city, requiring the unknown owner of such spring or well to so close and obstruct such spring or well and abate such nuisance within ten (10) days from date of the last publication of such notice.

(6) If any owner of a spring or well shall fail to comply with a notice provided for in paragraph 5 of this section within ten (10) days from the receipt thereof by closing and obstructing same and abating such nuisance to the public health, he shall be guilty of a misdemeanor.

If any owner shall fail to close and obstruct such well or spring and abate such nuisance after the expiration of ten (10) days from the receipt of such aforesaid notice or the making of said publication for an unknown owner, it shall then be the duty of the chief of police upon the request of the city manager to abate, obstruct and close up such well or spring so as to prevent persons from obtaining and using water therefrom, and the cost and expense of closing shall be chargeable to the owner of such well or spring and shall be payable to the city on demand.

(7) The words "polluted", "unhealthy", "unsanitary", and "infected", as used in paragraph 4 to 6 of this section apply only and solely to the use of the waters in question for human consumption. Nothing in the provisions of paragraph 4 to 6 shall be held to prohibit their use for domestic or commercial uses.

(8) Every pool, pond, or other place within the limits of the city which shall be offensive or dangerous to health is hereby declared to be a public nuisance, and may be abated at the cost of the offender, unless renovated, cleansed, or purified within three days of notification from the city manager. (1976 Code, § 8-413)

**13-108. Weeds, trash, rubbish and refuse prohibited.** It shall be unlawful for any person owning, leasing, occupying, or having control of property in the city to permit or suffer weeds or other vegetation to grow and/or trash, rubbish, and refuse to accumulate on such property to such an extent that a nuisance is created injurious to the health and welfare of the inhabitants of the city. Weeds which have attained a height of twelve (12) inches or more shall be presumed to be a detriment to the public health and a public nuisance. The prohibition set out herein shall specifically include abandoned and non-operable automobiles if they present a health concern or are deemed to be a nuisance. (1976 Code, § 8-414, as replaced by Ord. #2299, Sept. 2003)

**13-109. Raking, piling of weeds and rubbish, placement.** In complying with the provisions of § 13-108, it shall be unlawful for any person owning, leasing, occupying, or having control of property in the city to rake up, cut up or pile said weeds, grass, brush, vegetation, dead or broken tree limbs, dead trees or rubbish or other trash into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct the flow of water drainage. (1976 Code, § 8-415, as replaced by Ord. #2299, Sept. 2003)

**13-110. Notice.** Upon failure of any owner of property or person having control of same within the limits of the city to cut or have cut such obnoxious growths or weeds or other vegetation or to remove or have removed such accumulations of vegetation, trash, rubbish and refuse as described in § 13-108, it shall be the duty of the city manager, acting through his/her designated agent, to serve a notice on the owner, lessee, occupant or person having control of such property ordering said person or persons to cut or have cut such obnoxious weeds and/or to remove or have removed such accumulations of trash, rubbish or refuse within ten (10) days of the service of such notice. Such notice may be served by:

- (1) Personally serving the same on the owner, lessee, occupant, or person having control of such property; or
- (2) By mailing the same to the last known address of such owner, lessee, occupant, or person having control of such property by certified mail; or
- (3) By posting the same on the property on which such condition or conditions exist. Service of notice by any of the above methods shall be due notice within the meaning of this chapter, provided however, that no owner not in actual possession shall be liable to the penalty imposed by § 13-113 unless there shall be personal service of such notice upon him, or such notice mailed to him by certified mail as aforesaid. (1976 Code, § 8-416, as replaced by Ord. #2299, Sept. 2003)

**13-111. Appeal.** The owner, lessee, occupant, or person having control of such property who is aggrieved by the determination and order of the city may appeal therefrom to the board of adjustment and appeals within five (5) days from the date of service of the notice. The board of adjustments and appeals is hereby designated as the appropriate board to hear such matters. Such appeal shall be taken by filing with the city manager, a notice of appeal stating in a brief and concise form the grounds therefore. The board shall hear and determine such appeal as promptly as practicable but within thirty (30) calendar days of the filing of the appeal and shall have the power to reverse or modify the order of the city manager. The decision of the board, together with the reasons therefore, shall be in writing and filed with the city manager as a public record. The order of the city manager may be reversed or modified only by the affirmative vote of a majority of the members of the board. Unless it is

made to appear that the order of the city is contrary to the provisions of this chapter or other law or ordinance or is arbitrary and constitutes an abuse of discretion, the board shall affirm the order of the city. An owner, agent, or occupant who fails, refuses or neglects to comply with the orders of the city if and as modified by the board shall be in violation of the provisions of this chapter. Any party aggrieved by the action of the board of adjustments and appeals may appeal the decision of the board as provided by law in cases of certiorari. (1976 Code, § 8-417, as replaced by Ord. #2299, Sept. 2003)

**13-112. Non-compliance; abatement at owner's expense; non-payment.** If the owner or other person described in § 13-110 shall fail to remedy such conditions within the time prescribed therein, the city manager shall certify such failure to the public works director who shall thereupon remedy the condition or conditions and abate the nuisance so certified by the city manager or cause the same to be done by city personnel. Upon completion of such work, the public works director shall determine the reasonable cost thereof plus fifteen percent (15%) for inspection and other incidental costs in connection therewith and bill the owner therefor. Upon failure of the owner to remit to the director of finance the amount of charge within sixty (60) days from the date of such notice a ten percent (10%) penalty shall be added and the total amount of the bill and the penalty shall be certified to the director of finance by the city manager and shall constitute a lien upon the property for which the expenditure is made, which lien shall be enforced by a suit in the Chancery Court as are other tax liens of the city. The provisions of this section are not exclusive but are cumulative and in addition to the penalties and requirements of § 13-113 shall be in addition to the burden placed upon the owner of the property set out in the provisions of this section. (1976 Code, § 8-418, as replaced by Ord. #2299, Sept. 2003)

**13-113. Penalties.** Any person, firm or corporation violating the provisions of this chapter shall be guilty of a misdemeanor and subject to a civil penalty of up to fifty dollars (\$50.00) plus costs per offense and each day's violation shall constitute a separate offense. (1976 Code, § 8-419, as replaced by Ord. #2299, Sept. 2003)

## CHAPTER 2

### JUNKYARDS

#### SECTION

#### 13-201. Junkyards.

**13-201. Junkyards.**<sup>1</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

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

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

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1976 Code, § 8-410)

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<sup>1</sup>State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

## TITLE 14

### ZONING AND LAND USE CONTROL<sup>1</sup>

#### CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.
4. TREE PROTECTION ORDINANCE.

#### CHAPTER 1

### MUNICIPAL PLANNING COMMISSION

#### SECTION

- 14-101. Membership.
- 14-102. Organization, rules, staff and finances.
- 14-103. Powers and duties.

**14-101. Membership.** The municipal planning commission shall consist of nine (9) members. One (1) of the members shall be the Mayor of Gatlinburg or his designee, one (1) shall be a member of the board of commissioners selected by the said board and the seven (7) remaining members shall be citizens, appointed by the mayor. The terms of the seven (7) appointive members shall be for five (5) years. Any vacancy in the appointed membership shall be filled for the unexpired term by the mayor who shall have the authority to remove any appointive member at his pleasure. The term of the member selected from the board of commissioners shall run concurrently with his membership on the board. All members shall serve without compensation. (1976 Code, § 11-101, modified, as replaced by Ord. #2434, Aug. 2011)

**14-102. Organization, rules, staff and finances.** The municipal planning commission shall elect its chairman from amongst its appointive members. The term of chairman shall be one year with eligibility for re-election. The commission shall adopt rules for the transactions, findings and determinations, which record shall be a public record. The commission may appoint such employees and staff as it may deem necessary for its work and may contract with city planners and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within

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<sup>1</sup>Municipal code reference

Environmental design review board: title 2, chapter 3.

the amounts appropriated for the purpose by the board of commissioners. (1976 Code, § 11-102)

**14-103. Powers and duties.** The municipal planning commission shall have all of the powers, duties and responsibilities set forth in Tennessee Code Annotated, § 13-4-103, relating to duties and powers of municipal planning commissions. (1976 Code, § 11-103)

## CHAPTER 2

### ZONING ORDINANCE

#### SECTION

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

**14-201. Land use to be governed by zoning ordinance.** Land use within the City of Gatlinburg shall be governed by Ordinance #830, titled "Zoning Ordinance, Gatlinburg, Tennessee," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance #830, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## CHAPTER 3

### **FLOOD DAMAGE PREVENTION ORDINANCE**

#### **SECTION**

- 14-301. Findings of fact.
- 14-302. Statement of purpose.
- 14-303. Objectives.
- 14-304. Definitions.
- 14-305. General provisions.
- 14-306. Administration.
- 14-307. Provisions for flood hazard reduction.
- 14-308. Variance procedures.

**14-301. Findings of fact.** (1) The city board of commission wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(2) Areas of the City of Gatlinburg, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(3) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages. (as added by Ord. #2404, April 2009, and replaced by Ord. #2427, Dec. 2010)

**4-302. Statement of purpose.** It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(1) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(2) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (as added by Ord. #2404, April 2009, and replaced by Ord. #2427, Dec. 2010)

**14-303. Objectives.** The objectives of this ordinance are:

- (1) To protect human life, health, safety and property;
- (2) To minimize expenditure of public funds for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;
- (6) To help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize blight in flood areas;
- (7) To ensure that potential homebuyers are notified that property is in a floodprone area; and
- (8) To maintain eligibility for participation in the NFIP. (as added by Ord. #2404, April 2009, and replaced by Ord. #2427, Dec. 2010)

**14-304. Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure located on the same lot and, for the purpose of this ordinance, shall conform to the following:

- (a) Accessory structures shall only be used for parking of vehicles and storage.
- (b) Accessory structures shall be designed to have low flood damage potential.
- (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
- (e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Act" means the statutes authorizing the national flood insurance program that are incorporated in 42 USC 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard" see "special flood hazard area."

(8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(9) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Building" see "structure."

(11) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(12) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event; or where applicable under this ordinance during the 500-year flood event.

(13) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(14) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(15) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(16) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(18) "Existing structures" see "existing construction."

(19) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(20) "500-year flood" means the flood having a 0.2 percent chance of being equaled or exceeded in any given year. This flooding event is also referred to as the 0.2 percent annual chance flood.

(21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(22) "Flood elevation" means the water surface elevation of a flood of defined magnitude and frequency; and for the purposes of this ordinance shall include the one percent (1%) chance (100-year) flood and 0.2 percent chance (500-year) flood elevations identified or designated by any FIRM, FIS, or other flood study/report adopted for use by the community.

(23) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(24) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(25) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(26) "Flood hazard area" for the purposes of this ordinance shall include all special flood hazard areas designated on any FHBM or FIRM, along with any areas of 100-year and 500-year flooding identified by any other flood study/report adopted for use by the community.

(27) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(28) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(29) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(30) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(31) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(32) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(33) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(34) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(35) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(36) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge a given size flood event ("base flood" or "500-year flood") without cumulatively increasing the water surface elevation more than a designated height.

(37) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(38) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(39) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(40) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Gatlinburg, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior, or

(ii) Directly by the Secretary of the Interior.

(41) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(42) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage

devices, which are constructed and operated in accordance with sound engineering practices.

(43) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(44) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(45) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(46) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(47) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(48) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(49) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(50) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(51) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(52) "100-year flood" see "base flood."

(53) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(54) "Reasonably safe from flooding" means floodwaters will not inundate the land or damage structures to be removed from the flood hazard area and that any subsurface waters related to a regulated flooding event will not damage existing or proposed structures.

(55) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(56) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(57) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(58) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, or A99.

(59) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(60) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main

structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(61) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(62) "Structure" for purposes of this ordinance means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

(63) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(64) (a) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure, during a one (1) year period, in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(i) The appraised value of the structure prior to the start of the initial improvement; or

(ii) In the case of substantial damage, the value of the structure prior to the damage occurring.

(b) The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(65) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(66) "Variance" is a grant of relief from the requirements of this ordinance.

(67) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(68) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #2404, April 2009, and replaced by Ord. #2427, Dec. 2010)

**14-305. General provisions.** (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Gatlinburg, Tennessee.

(2) Basis for establishing flood hazard areas. Areas of special flood hazard (one percent (1%) annual chance flood) and additional floodprone areas corresponding to the 500-year floodplain (0.2% annual chance flood) within the City of Gatlinburg, Tennessee shall include all such areas identified by the Federal Emergency Management Agency's "Sevier County, Tennessee and Incorporated Areas" Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) 47155C0265E, 0270E, 0330E, 0332E, 0333E, 0334E, 0351E, 0352E, 0353E, and 0356E, dated May 18, 2009. Said FIS and FIRM, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance. In addition, areas of regulated flood hazard shall also include all 100-year and 500-year flood areas as identified by "Floods on West Prong Little Pigeon River, Dudley Creek, Roaring Fork Creek, Baskins Creek, and Le Conte Creek in the Vicinity of Gatlinburg, Tennessee" a report by the Tennessee Valley Authority, TVA/OECD/FPM-82/20, dated September 1982. Said report is adopted by reference and declared to be a part of this ordinance for use as best available information in connection with these regulations.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside identified flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Gatlinburg, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Gatlinburg, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #2404, April 2009, and replaced by Ord. #2427, Dec. 2010)

**14-306. Administration.** (1) Designation of ordinance administrator. The building official and/or his/her designee is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where flood elevations

are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-307(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within all flood hazard areas, where flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within flood hazard areas, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which

approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-306(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-306(2).

(h) When floodproofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-306(2).

(i) Where interpretation is needed as to the exact location of boundaries of a flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in floodprone areas meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #2404, April 2009, and replaced by Ord. #2427, Dec. 2010)

**14-307. Provisions for flood hazard reduction.** (1) General standards. In all flood hazard areas, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-307(2);

(m) When proposed new construction and substantial improvements are partially located in a flood hazard area, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple flood elevations, the entire structure shall meet the applicable standards for the most hazardous flood hazard risk zone and the highest flood elevation.

(2) Specific standards. In all flood hazard areas, the following provisions, in addition to those set forth in § 14-307(1), are required:

(a) Residential structures. Within all flood hazard areas where flood elevation data is available; all new construction and/or substantial improvement of any residential building (including manufactured homes) or other buildings utilized for overnight accommodations/occupancy shall have the lowest floor, including basement, elevated at least to or above the greater (highest elevation) of:

(i) One foot (1') above the base flood elevation as established by the applicable FIRM and FIS; or

(ii) The "With (500-year) Floodway, Water Surface Elevation" as established by the adopted TVA Flood Report, TVA/OECD/FPM-82/20, when provided; or one foot (1') above the 500-year flood elevation where "With Floodway" elevations are not provided by said report.

Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within flood hazard areas where flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-304). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. Within all flood hazard areas where flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation (100-year flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within flood hazard areas where flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-304). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all flood hazard areas may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-306(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria:

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iv) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-307(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) The lowest floor of the manufactured home is elevated on a permanent foundation in accordance with subsection (2)(a) (residential structures) of this section in all flood hazard areas with flood elevations; or

(B) In flood hazard areas without flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-304).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-307(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all flood hazard areas require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals flood elevation data (see § 14-307(5)).

(3) Standards for flood hazard areas with established flood elevations and with floodways designated. Located within the flood hazard areas established in § 14-305(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood and 500-year flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within any identified floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of flood elevations, velocities, or floodway widths during the occurrence of the base flood and 500-year flood discharges at any point within the community. A Tennessee registered professional engineer must provide supporting technical data using the same methodologies as in the effective flood insurance study, and certification thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-307(1) and (2).

(4) Standards for flood hazard areas with established flood elevations but without floodways designated. Located within the flood hazard areas established in § 14-305(2), where streams exist with flood elevation data provided but where floodways have not been designated, the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevations of the base flood and 500-year flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-307(1) and (2).

(5) Standards for streams without established flood elevations and floodways. Located within the flood hazard areas established in § 14-305(2), where streams exist, but no flood elevation data has been provided and where floodways have not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in such flood hazard areas meet the requirements of § 14-307(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals flood elevation data.

(c) Within flood hazard areas, where flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-304). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-306(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-307(2).

(d) Within flood hazard areas, where flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed

development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood and 500-year flood more than one foot (1') at any point within the City of Gatlinburg, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-307(1) and (2). Within flood hazard areas, require that those subsections of § 14-307(2), dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones on FIRM). Located within the flood hazard areas established in § 14-305(2) may be areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths (100-year flood) of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-307(1) and (2), apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-307(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-306(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones on FIRM). Located within the flood hazard areas established in § 14-305(2) may be areas of regulated floodplains protected by a flood protection system but where flood elevations have not been determined. Within these areas (A-99 Zones) all applicable provisions of §§ 14-306 and 14-307 shall apply.

(8) Standards for unmapped streams. Located within the City of Gatlinburg, Tennessee, are unstudied or unmapped streams where flood hazard areas are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood and 500-year flood more than one foot (1') at any point within the locality.

(b) Whenever a new flood hazard risk zone is determined, and/or flood elevation and floodway data become available for such streams, new construction and substantial improvements shall meet all standards established in accordance with §§ 14-306 and 14-307. (as added by Ord. #2404, April 2009, and replaced by Ord. #2427, Dec. 2010)

**14-308. Variance procedures.** (1) Board of floodplain review.

(a) Creation and appointment. The municipal board of zoning appeals is hereby designated to serve as the board of floodplain review and shall consist of five (5) members appointed by the city commission.

(b) Procedure. Meetings of the board of floodplain review shall be held at the call of the chairperson or by a majority of the membership and at such other times as the board may determine. Such chairperson, or in his/her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question if other than a unanimous vote, or if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record. Compensation of the members of the board of floodplain review, when authorized, shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the administrator (building official) based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken within a reasonable time, as provided by the board, by filing with the building official and with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) for the cost of processing the application, document reproduction, and publishing a notice of such hearings shall be paid by the appellant. The building official shall transmit forthwith to the board all papers constituting the record upon which the appeal action was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest, and decide the same within a reasonable time which shall not be more than sixty-five (65) days from the date of the hearing. Upon hearing, any party may appear in person or by agent or attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Gatlinburg, Tennessee, Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood and 500-year flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-308(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud

on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that construction below flood elevations increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #2404, April 2009, and replaced by Ord. #2427, Dec. 2010)

## CHAPTER 4

### **TREE PROTECTION ORDINANCE**

#### **SECTION**

- 14-401. Purpose and intent.
- 14-402. Definitions.
- 14-403. Applicability.
- 14-404. Trees protected.
- 14-405. Review process and application requirements.
- 14-406. Approval/denial of application.
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- 14-409. Tree credit provision.
- 14-410. Tree conservation and landscaping requirements.
- 14-411. Tree replacement for non-construction activities.
- 14-412. Standards for crediting existing trees.
- 14-413. Tree protective measures.
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- 14-415. Administration and enforcement.
- 14-416. Penalties.

**14-401. Purpose and intent.** The purpose and intent of this chapter is to promote the health, safety, and public welfare of the inhabitants of the City of Gatlinburg and, consistent with forestry policy and practice as promulgated by the Department of Agriculture, Division of Forestry of the State of Tennessee, to promote and encourage the protection of existing trees and root systems; to regulate the preservation, replacement, and indiscriminate removal of trees; and to establish procedures and practices and minimum design standards for fulfilling these purposes.

The standards established herein are intended to: promote air quality; reduce noise, heat and glare; lessen soil erosion and minimize flooding; ensure that development activities in one (1) area do not adversely affect activities within adjacent areas; minimize the unnecessary removal of trees during development; stress the importance of trees as a visual screen; promote the development of open space corridors for wildlife and recreational activities; beautify and enhance improved and unimproved land; promote the preservation of the city's historical "rural community" heritage; and, minimize the cost of construction and maintenance of drainage systems necessitated by increased flow and diversion of surface waters. (as added by Ord. #2408, April 2009)

**14-402. Definitions.** (1) For the purpose of this chapter, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular

number; the word "shall" is mandatory and not directory; the word "may" is permissive. Any word or term not defined within this section of the municipal code or in Article III, Definitions, in the Gatlinburg Zoning Ordinance shall be construed to be used in this chapter as defined by the latest edition of Webster's Unabridged Dictionary. Any word or term not defined in the city's ordinance or the latest edition of Webster's Unabridged Dictionary shall have the meaning customarily assigned to it.

(2) The following words and terms are defined as follows: (a) "Area of disturbance." Any developed or undeveloped area of land that by any operation or occurrence by which the existing site surfaces and elevations are changed by cutting, filling, borrowing, stockpiling, stripping, trenching, clearing, or where any ground cover, natural or man-made, is removed, or any buildings or other structures are removed, or any watercourses or body of water, either natural or man-made, is relocated thereby creating unprotected areas.

(b) "Caliper." The diameter of the stem of a tree as measured six inches (6") above the ground for trees up to four inches (4") in diameter and twelve inches (12") above the ground for larger diameter trees. Caliper is used as a measurement standard for relatively small trees.

(c) "Certified arborist." A practicing arborist certified by the National Arborist Association.

(d) "Commercial logging and timber harvesting." The cutting and removal of trees from a site for commercial purposes, leaving the stump and root mass intact.

(e) "Construction activity." Any activity which requires a site plan and/or a preliminary plat to be reviewed by the Gatlinburg Municipal Planning Commission. Such activities might include, but not be limited to, the following: the construction of new buildings or expansions to existing buildings and the development of new roadways and other improvements.

(f) "Diameter-at-breast-height (DBH)." The diameter, in inches, of a tree trunk as measured four and one-half feet (4 1/2') above the ground. If the tree splits into multiple trunks below four and one-half feet (4 1/2'), the trunk is measured at its most narrow point beneath the split. Diameter-at-breast-height is used as a measurement standard for relatively large trees.

(g) "Dripline." A vertical line extending from the outermost portion of the tree canopy to the ground.

(h) "Ephemeral stream." A wet weather stream which flows in a diffuse manner and not within a well-defined channel. Such streams are created in response to a heavy rainstorm and continue only for a short period after rainfall ceases.

(i) "Environmentally sensitive areas." Areas where tree removal could create adverse impacts on storm water runoff, erosion control and/or water quality. Such areas include, but are not necessarily limited to, mapped floodplains and wetlands, sinkholes, streamside management zones, areas adjacent to perennial, intermittent, and/or ephemeral streams, and/or steep slopes.

(j) "Hazardous tree." A diseased, dead, structurally unsound, or otherwise unsafe tree that is likely to endanger the public, an adjoining property owner, and/or other trees. Hazardous trees shall not include trees which are otherwise healthy but which are made hazardous as a result of proposed construction or non-construction-related activities. Where a tree is questionable as to whether it is hazardous, a written determination shall be made by the town administrator or his/her designee in consultation with a certified arborist or forestry professional.

(k) "Intermittent stream." A stream which contains water within a well-defined channel that only flows temporarily following a major rainstorm or as long as the water table is elevated.

(l) "Invasive exotic pest tree." Any tree which is included on the "Invasive Exotic Pest Plants in Tennessee" list which is maintained by the Research Committee of the Tennessee Exotic Pest Council.

(m) "Land disturbance permit." A permit issued for a proposed activity which would lead to the removal or disturbance of existing tree cover, including clearing and grubbing operations, but would not involve the alteration of the prevailing topography.

(n) "Licensed landscape architect." A current Tennessee licensed landscape architect, as defined by the Tennessee Board of Architecture and Engineering Examiners.

(o) "Natural regeneration." The natural establishment of trees and other vegetation with at least four hundred (400) woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least twenty feet (20') at maturity.

(p) "Non-construction activity." Any alteration of the natural environment which would involve the removal or destruction of any tree protected in this chapter but which is not in association with a site plan and/or preliminary plat required to be reviewed by the Gatlinburg Municipal Planning Commission.

(q) "Perennial stream." A stream which contains water within a well-defined channel the majority of the year.

(r) "Public tree." A tree growing on land owned by a unit of government (federal, state, county, town, or any agency thereof).

(s) "Replacement tree." Any tree planted on a site to replace a protected tree which has been removed or destroyed as a result of construction and/or non-construction activities.

(t) "Specimen tree." A particularly impressive or unusual example of a species due to its size, shade, shape, age, or any other trait that, in the opinion of the professional responsible for preparing the tree preservation/removal plan, epitomizes the character of the species. This would include, but not necessarily be limited to, the following:

(i) Any non-hazardous tree which has a particularly uncommon or widely valued characteristic and which has a DBH of more than twenty-four inches (24");

(ii) Any non-hazardous tree which has been declared as rare or endangered by an agency of the state or federal government and which is protected by the laws of the State of Tennessee or the laws of the United States; and/or

(iii) Any tree which is associated with a historic event or historic structure or is otherwise commonly recognized within the community to have historical significance.

Where a tree is questionable as to whether it is a specimen, a written determination shall be made by the town administrator or his/her designee in consultation with a certified arborist or forestry professional.

(u) "Tree." Any self-supporting woody plant which is capable of growing to a height of twenty feet (20') or more and which usually provides one (1) main trunk and produces a more or less distinct and elevated head with many branches.

(v) "Tree cover." The area directly beneath the crown and within the dripline of a tree.

(w) "Tree farming." Includes nursery stock trees for resale in commercial nurseries or garden centers and trees specifically grown to be harvested as Christmas trees.

(x) "Tree regeneration." The act of re-creating a stand or entire forest by replacing older trees with new trees. (as added by Ord. #2408, April 2009)

**14-403. Applicability.** The following activities shall be considered exempt from the requirements of this ordinance:

- (1) Provisions for utilities and vehicular and pedestrian ways within platted easements and rights-of-way;
- (2) Removal of hazardous trees;
- (3) Removal of invasive exotic pest trees;
- (4) Tree farming. (as added by Ord. #2408, April 2009)

**14-404. Trees protected.** The following protected tree groups shall not be removed or otherwise destroyed without first obtaining approval of a tree preservation/removal plan from the Gatlinburg Municipal Planning Commission (GMPC) or, where applicable, the building official or his/her designee:

(1) Any hardwood tree which has a DBH of ten inches (10") or greater, any evergreen tree which has a DBH of fifteen (15") inches or greater, except as provided for elsewhere in this ordinance;

(2) Any specimen tree;

(3) Any public tree;

(4) Any grouping of trees which are significant by virtue of their size, species, location, appearance, or other distinguishing feature, characteristic, or function; and/or

(5) Any trees located within environmentally sensitive areas. (as added by Ord. #2408, April 2009)

**14-405. Review process and application requirements.** (1) Tree preservation/removal plan. When an activity requires the submission of a preliminary plat or a site plan, as required by the Gatlinburg Zoning Ordinance or subdivision regulations, to be reviewed by the GMPC, a tree preservation/removal plan shall be provided and shall, at a minimum, include the following:

(a) The name and location of the project;

(b) A north arrow and a written and graphic scale;

(c) The name, address, telephone number, and seal or statement of professional qualifications of the professional responsible for the preparation of the plan;

(d) An indication of proposed improvements and the proposed area of disturbance;

(e) The general location and approximate square footage and acreage of all covered areas;

(f) The approximate density, predominant species, general distribution of predominant species, and predominant level of maturity of trees within all tree covered areas. Maturity levels shall be classified as follows: "young stands" would be used where the predominant tree cover is from trees that are less than six inches (6") at DBH; "intermediate stands" would be used where the predominant tree cover is from trees that are six to ten inches (6"-10") at DBH; and "mature stands" would be used where the predominant tree cover is from trees that are greater than ten inches (10") at DBH;

(g) The species, exact location, as determined by a licensed surveyor, and size of any hardwood tree which has a DBH of ten inches (10") or greater, any evergreen tree which has a DBH of fifteen inches (15") or greater. Such trees shall be shown only if they are within and/or twenty-five feet (25') beyond the proposed area of disturbance. In association with a preliminary plat, however, such trees, unless they are classified as specimen trees, shall not be required to be individually identified.

- (h) The species, exact location, as determined by a licensed surveyor, and size of any specimen tree which is within and/or twenty-five feet (25') beyond the proposed area of disturbance;
- (i) An indication of whether an identified tree is proposed to be saved or is proposed for removal;
- (j) An indication of those trees which are considered to be hazardous;
- (k) The location of any environmentally sensitive areas;
- (l) The location of any required buffer strips;
- (m) A detail and an indication of the location, height, and material used for tree protective fencing;
- (n) An indication, including, where applicable, a detail of any other tree protective measures, such as dry wells, retaining walls, mulched aisle ways, etc.;
- (o) Proposed location for temporary construction activities such as equipment or worker parking, materials storage, burn holes, and equipment wash down areas; and
- (p) A written indication of any treatments, pruning, or other measures which may be needed to promote the preservation of an existing tree.

In all cases, the tree preservation/removal plan shall be consistent with other subdivision and site development elements, such as stormwater and erosion control measures, proposed grading, and utility provisions which are included as part of the preliminary plat or site plan. Where such consistency is in question, the applicant may be required to overlay these other site development elements onto the tree preservation/removal plan.

The tree preservation/removal plan shall be prepared by either a licensed landscape architect, a certified arborist, or any other person with proven equivalent qualifications based on the nature and scale of the proposed project.

(2) Landscape plan. In addition, where a landscape plan is required per the Gatlinburg Zoning Ordinance, the number, species, size, and location of any replacement trees and/or existing trees to be saved must be included as part of the landscape plan. In all cases, in terms of the trees shown to be either removed or saved, the information shown on the landscape plan shall be consistent with the approved tree preservation/removal plan. A tree replacement/credit summary, as provided for in this chapter, shall be included on both plans.

(3) Administrative review. Where the removal of protected trees is not associated with a construction related activity, such removal shall only be permitted if a tree preservation/removal plan is approved by the building official or his/her designee. If the scale of the proposed removal is deemed to be significant, the building official or his/her designee may require the plan to be reviewed by the GMPC. In all cases, the applicable information noted in this chapter shall be provided on the plan. (as added by Ord. #2408, April 2009)

**14-406. Approval/denial of application.** (1) Approval. A tree preservation/removal plan may be approved if it can be determined that:

(a) The plan is consistent with stormwater, erosion, and sedimentation control measures which are in accordance with the City of Gatlinburg's Stormwater Ordinance;

(b) Where commercial logging and timber harvesting are involved, the plan is, at a minimum, in accordance with Tennessee Department of Agriculture, Division of Forestry Best Management Practices (BMPs);

(c) The plan addresses the preservation of existing trees;

(d) The plan, provides for sufficient and timely replanting of trees, where required, to compensate for the removal of trees and other vegetation; and

(e) The applicant intends to complete the proposed activity within a reasonable time frame, determined by the size of the development, and will take steps to prevent any negative impacts resulting from the work proposed.

(2) Denial. A tree preservation/removal plan may be denied where:

(a) In association with a site plan, less than fifteen percent (15%) of the existing tree cover, not counting any buffer strips required per the Gatlinburg Zoning Ordinance, would remain;

(b) In association with a preliminary plat, tree removal is proposed beyond the area reasonably necessary for cut and fill associated with provisions for on-site public improvements and/or the installation of utilities;

(c) For non-construction related activities, the removal of over twenty-five percent (25%) of a site's protected trees, not counting any required buffer strips, is proposed;

(d) A specimen tree which could reasonably be saved is proposed for removal;

(e) Obvious problems related to storm water runoff, erosion, and siltation would result;

(f) Tree removal is proposed in environmentally sensitive areas;

(g) Where commercial logging and timber harvesting are involved, proposed tree removal is not in accordance with established Tennessee Department of Agriculture, Division of Forestry Best Management Practices (BMPs);

(h) The extent of clearing would result in obvious damage to the property of others;

(i) The proposed activity could be reasonably conducted in a manner which would better preserve existing trees and/or further promote the intent of this ordinance; and/or

(j) Tree removal activities are otherwise inconsistent with the purpose and intent of this ordinance.

(3) Upon initial presentation, the GMPC, building official and/or his/her designee shall have forty-five (45) days to grant, deny, approve, or approve with, conditions, restrictions, limitations, or alterations such tree preservation/removal plans in conjunction with the preliminary plat, site plan, or landscape plan. In the event that an application is denied, the specific reasons for denial shall be set forth in writing and a copy of same shall be forwarded to the applicant. (as added by Ord. #2408, April 2009)

**14-407. Appeal.** Any applicant or aggrieved party with legal standing may appeal any decision or action of the GMPC or building official to the board of zoning appeals. Such appeal, however, must be submitted in writing to the city planner within thirty (30) days of the decision or action in question. Upon receipt of an appeal, the board shall have forty-five (45) days to affirm, reverse, or modify a decision of the GMPC, building official or his/her designee. (as added by Ord. #2408, April 2009)

**14-408. Tree replacement provision.** Where the GMPC or the building official or his/her designee has approved the removal of an existing healthy, nonhazardous hardwood tree with a DBH of ten inches (10") or greater and/or an existing healthy, nonhazardous evergreen tree with a DBH of fifteen inches (15") or greater, a replacement tree(s) shall be provided based on the following schedule:

#### Tree Replacement Schedule

<u>Size of Tree Proposed for Removal</u> <u>Required</u>	<u>Number of New Trees</u>
10" - 15" DBH	2
between 15" and 20" DBH	3 for a hardwood tree removed; 1 for an evergreen tree removed
>20" DBH	4 for a hardwood tree removed; 2 for an evergreen tree removed

All replacement trees shall be at least one and one-half inches (1.5") DBH and from the following list:

Alder	Fir	Oak
Ash	Franklinia	Pagodatree
Bald Cypress	Fringe Tree	Paw Paw
Basswood	Ginkgo	Persimmon
Beech	Golden Chain Tree	Pine
Birch	Golden Rain Tree	Plum
Black Gum	Hackberry	Redbud
Buckeye	Hawthorn	Sassafras
Cedar	Hemlock	Service Berry
Cherry, Flowering	Hickory	Silverbell
Chestnut	Holly	Sourwood
Chinkapin	Honey Locust (thornless)	Spruce
Coffeetree, Kentucky	Horn Beam	Stewartia
Crab Apple, Flowering	Ironwood	Sweetgum
Crape Myrtle	Katsura Tree	Sycamore
Cypress	Linden	Tulip Tree
Dawn Redwood	Locust	Walnut
Dogwood	Magnolia	Willow
Elm	Maple	Yellowwood
False Cypress	Mulberry Red (fruitless male)	Zelkova

Where replacement trees cannot be reasonably accommodated on the subject property, as certified by a licensed landscape architect, the developer shall be required to dedicate the excess required replacement trees to a public property approved by the Gatlinburg Tree Board. (as added by Ord. #2408, April 2009)

**14-409. Tree credit provision.** An existing healthy, nonhazardous tree to be saved and which has a DBH of ten inches (10") or greater and is located

within an approved area of disturbance may be credited toward fulfilling a portion of the landscape requirements specified in the Gatlinburg Zoning Ordinance. Tree credits shall be based on the following schedule:

Tree Credit Schedule

<u>Size of Existing Tree to be Saved</u>	<u>Credited Number of New</u>
<u>Trees</u>	
10" - 15" DBH	4 for a hardwood tree saved; 2 for an evergreen tree saved
between 16" and 20" DBH	6 for a hardwood tree saved; 3 for an evergreen tree saved
>20" DBH	8 for a hardwood tree saved; 4 for an evergreen tree saved

The preservation of clusters of healthy, non hazardous hardwood trees, which are less than ten inches (10") at DBH but more than four inches (4") in caliper and are located within an approved area of disturbance may also be credited toward fulfilling a portion of the landscaping requirements. For every five (5) caliper inches preserved, a credit may be given toward the planting of one (1) new tree. Where the resultant number of credited trees contains a fraction, any fraction less than one-half (1/2) may be dropped and any fraction one-half (1/2) or more shall be counted as one (1) credited tree. In all cases, trees proposed for credit must comply with all applicable provisions specified in this chapter and the landscaping requirements in the Gatlinburg Zoning Ordinance. (as added by Ord. #2408, April 2009)

**14-410. Tree conservation and landscaping requirements.** Should the number of required replacement trees exceed the number of credited trees, the difference shall be planted as an addition to the number required per the landscaping requirements specified in the Gatlinburg Zoning Ordinance. All required replacement trees shall meet the minimum size requirements, as specified in the landscaping requirements. Such species and their proposed location(s) shall be shown on the landscape plan.

Any tree which is to be saved and which does not survive a two (2) year time frame shall be replaced based on the requirements specified in this chapter. (as added by Ord. #2408, April 2009)

**14-411. Tree replacement for non-construction activities.** For non-construction activities, a plan for tree replacement shall be presented to the building official or his/her designee. Replacement trees shall be provided per the

requirements specified in this chapter and the minimum landscape requirements of the Gatlinburg Zoning Ordinance.

Where land is to be reused for commercial logging and timber harvesting, an alternate plan involving natural or other forms of tree regeneration may be considered if such a plan is prepared and recommended by a licensed landscape architect. At a minimum, the plan shall clearly promote the purpose and intent of this chapter and shall be in accordance with Tennessee Department of Agriculture, Division of Forestry Best Management Practices. (as added by Ord. #2408, April 2009)

**14-412. Standards for crediting existing trees.** Existing trees will only be credited as fulfilling landscaping requirements where such trees meet the following minimum specifications:

- (1) They are healthy, safe, and meet the size, location, and other applicable provisions of the landscaping requirements;
- (2) They are comparable, in terms of species classification and general characteristics, to new trees that would be permitted in the proposed location per the landscaping requirements specified in this chapter and the Gatlinburg Zoning Ordinance; and
- (3) They do not and are not likely to interfere with existing or planned utilities or vision clearance standards. (as added by Ord. #2408, April 2009)

**14-413. Tree protective measures.** Where any tree and/or grouping of trees are to be saved, the following minimum preservation measures shall apply:

- (1) Protective fencing shall be located to correspond to the existing drip line of the individual tree or clusters of trees to be protected;
- (2) Protective fencing shall be at least three feet (3') high, upright and highly visible, and shall be constructed of a durable material that will last until construction is completed. Throughout the construction process, the tree fencing shall remain undisturbed and no activity or storage of any materials or vehicles shall be permitted within the fenced area; and
- (3) Where trees are to be removed, such trees shall be flagged and shall be felled away from, rather than into areas with existing trees to be preserved. (as added by Ord. #2408, April 2009)

**14-414. Permit issuance.** (1) Grading permit. A grading permit shall be required as set out in Gatlinburg Municipal Code § 12-602.

(2) Land disturbance permit. A land disturbance permit shall be required as set out in Gatlinburg Municipal Code § 18-403. (as added by Ord. #2408, April 2009)

**14-415. Administration and enforcement.** The provisions of this chapter shall be administered and enforced by the building official. (as added by Ord. #2408, April 2009)

**14-416. Penalties.** At a minimum, where any protected tree is removed without first obtaining the required permission, such tree shall be replaced with a tree or trees approved by the city staff. The required minimum number of replacement trees shall be equal to, in caliper inches, the caliper inches of the tree or trees removed.

In addition, any person, firm, partnership or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed fifty dollars (\$50.00). Each day a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

The foregoing provisions relative to replacement trees and fines shall not in any way prevent the City of Gatlinburg from also issuing stop work orders, withholding inspections, cashing bonds or letters of credit, or seeking injunctive relief against a violator of this chapter. (as added by Ord. #2408, April 2009)

## 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.
8. BOOTING VEHICLES ON PRIVATE PROPERTY.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.

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<sup>1</sup>Municipal code reference

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

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 5-10-501.

- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.
- 15-122. Bicycle riders, etc.
- 15-123. Selling merchandise, etc. from vehicles.
- 15-124. Riding horses on streets prohibited.
- 15-125. Report of traffic accident required.
- 15-126. Three wheeled vehicles.
- 15-127. Unnecessary running of engines.
- 15-128. Compliance with financial responsibility law required.
- 15-129. Adoption of state traffic statutes.
- 15-130. Dockless small vehicles and scooters prohibited.

**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. (1976 Code, § 9-101)

**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. (1976 Code, § 9-106)

**15-103. Reckless driving.** Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1976 Code, § 9-107)

**15-104. 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. (1976 Code, § 9-109)

**15-105. Unlaned streets.** (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
- (b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the municipality 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. (1976 Code, § 9-110)

**15-106. 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. (1976 Code, § 9-111)

**15-107. 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. (1976 Code, § 9-112)

**15-108. 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 municipality unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1976 Code, § 9-113)

**15-109. General requirements for traffic-control signs, etc.** All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: § 15-504--15-508.

Highways,<sup>1</sup> published by the U. S. Bureau of Public Roads, and shall, so far as practicable, be uniform as to type and location throughout the municipality. This section shall not be construed as being mandatory but is merely directive. (1976 Code, § 9-114)

**15-110. Unauthorized traffic-control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1976 Code, § 9-115)

**15-111. 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 municipal authority. (1976 Code, § 9-116)

**15-112. 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. (1976 Code, § 9-117)

**15-113. 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. (1976 Code, § 9-118)

**15-114. 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. (1976 Code, § 9-120)

**15-115. 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

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<sup>1</sup>This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

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. (1976 Code, § 9-121)

**15-116. 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. (1976 Code, § 9-122)

**15-117. 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 (½) hour after sunset and one-half (½) 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 (200) feet from the rear of such vehicle. (1976 Code, § 9-123)

**15-118. 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. (1976 Code, § 9-124)

**15-119. 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 Motor Vehicle Operators’ and Chauffeurs’ License Law.” (1976 Code, § 9-125)

**15-120. 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. (1976 Code, § 9-126)

**15-121. Damaging pavements.** No person shall operate upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1976 Code, § 9-119)

**15-122. Bicycle riders, etc.** Every person riding or operating a bicycle, motorcycle, or motor scooter 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, or motor scooters.

No person operating or riding a bicycle, motorcycle, or motor scooter 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.

No bicycle, motorcycle, or motor scooter shall be used to carry more persons at one time than the number for which it is designated and equipped.

No person operating a bicycle, motorcycle, or motor scooter shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor scooter while any other person is a passenger upon said motor vehicle.

No person shall operate or ride upon any motorcycle, motorbike, or motor scooter unless such person is equipped with and wearing on the head a safety helmet with a secured chin strap and suspension lining, which said helmet shall conform to the type and design manufactured for the use of the operators and riders of such motor vehicles. (1976 Code, § 9-127)

**15-123. Selling merchandise, etc. from vehicles.** It shall be unlawful for any person to sell goods, wares or merchandise from any vehicle within the business district or in any congested area of the city. (1976 Code, § 9-128)

**15-124. Riding horses on streets prohibited.** It shall be unlawful for any person to move or ride a horse upon any street within the corporate limits unless participating in a community sponsored parade or activity. (1976 Code, § 9-129)

**15-125. Report of traffic accident required.** It shall be unlawful for any motorist involved in a traffic accident when there has been physical injury or death suffered by any person or persons, or there has been damage to property in excess of four hundred dollars (\$400.00) to fail to report such accident to the police department. Further, the driver of such vehicle shall remain at the scene of the accident until the investigation is completed or until he is relieved by the police department. Any such motorist who reports the accident to the police, who do not arrive for more than thirty (30) minutes after the accident is reported, may leave the scene of such accident. (1976 Code, § 9-131)

**15-126. Three wheeled vehicles.** Any vehicles having three (3) or more wheels in contact with the ground and which is propelled by human power shall not be operated or used upon any street of the city except upon an improved sidewalk in areas designated by the board of commissioners or the chief of police. Motor vehicles shall be excluded from any area or areas thus specifically designated for temporary use by the vehicles propelled by human power during the periods of such designated temporary use. (1976 Code, § 9-132)

**15-127. Unnecessary running of engines.** The continuous running of engines on buses, trucks, and other large commercial vehicles while parked on city parking lots or at city parking garages is prohibited. This prohibition shall include the continuous running of compressors on such vehicles. For purposes of this section, the running of such engines for more than ten (10) minutes while remaining parked shall be a violation. This prohibition shall not include the municipal parking lot adjacent to City Hall on Highway 321 and the Welcome Center parking lot on the spur since these are staging areas for the city's mass transit service and tour bus operations. (Ord. #2173, Feb. 1999)

**15-128. Compliance with financial responsibility law required.**

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of the 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.

(3) For purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance

company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

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

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent. (as added by #2283, Nov. 2002)

**15-129. Adoption of state traffic statutes.** By the authority granted under Tennessee Code Annotated, § 16-18-302, the City of Gatlinburg adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, and §§ 55-8-133 through 55-8-180. Additionally, the City of Gatlinburg adopts Tennessee Code Annotated, §§ 55-4-101 through 55-4-128, 55-4-130 through 55-4-133, 55-4-135 through 55-4-138, 55-8-181 through 55-8-191, 55-8-193, 55-8-199, 55-9-401 through 55-9-408, 55-9-601 through 55-9-606, 55-12-139, and 55-50-351, by reference as if fully set forth in this section. (as added by Ord. #2363, Oct. 2006, and replaced by Ord. #2541, Sept. 2019 *Ch14\_03-23-22*, and Ord. #2574, July 2021 *Ch14\_03-23-22*)

**15-130. Dockless small vehicles and scooters prohibited.** As used in this section, the following definitions apply:

(1) "Dockless small vehicle system" or "system" means a system which provides bicycles, scooters, electric bicycles, electric scooters, or other small vehicles for short-term rentals for point-to-point trips and which may be locked and unlocked without the requirement of a bicycle rack or other docking station.

(2) "Dockless small vehicle" means a bicycle, scooter, electric bicycle, electric scooter, and other small, wheeled vehicle designed specifically for shared use utilizing GPS technology and can be deployed as part of a dockless small vehicle system.

(a) It is unlawful to operate a dockless small vehicle in a public right-of-way, on a city street, on public sidewalks, or on public property anywhere within the city.

(b) It is unlawful to park, leave standing, leave lying, abandon, or otherwise place a dockless small vehicle in a public right-of-way or on public property anywhere within the city.

(c) A violation of this section is punishable by a fine not to exceed fifty dollars (\$50.00) for each offense. In addition, dockless small vehicles found to be abandoned at any location within the city, shall be impounded by the city and the owner thereof shall be required to pay an impound fee as established by the city in order to recover the vehicle. (as added by Ord. #2542, Oct. 2019 ***Ch14\_03-23-22***)

## 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. (1976 Code, § 9-102)

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

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

(3) 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 500 feet 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.

(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. (1976 Code, § 9-103)

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<sup>1</sup>Municipal code reference

Operation of other vehicle 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 travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1976 Code, § 9-104)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1976 Code, § 9-105)

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones and near playgrounds.

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 twenty-five (25) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1976 Code, § 9-201)

**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. (1976 Code, § 9-202)

**15-303. In school zones and near playgrounds.** It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by authority of the municipality. This section shall not apply at times when children are not in the vicinity of a school and such posted signs have been covered by direction of the chief of police. (1976 Code, § 9-203)

**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 municipality. (1976 Code, § 9-204)

## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

**15-401. Generally.** 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> (1976 Code, § 9-301)

**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. (1976 Code, § 9-302)

**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 line of the two roadways. (1976 Code, § 9-303)

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1976 Code, § 9-304)

**15-405. U-turns.** U-turns are prohibited. (1976 Code, § 9-305)

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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 “stop” signs.
- 15-505. At “yield” signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.
- 15-510. Pedestrians given right-of-way.

**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, or of a police vehicle properly and lawfully making use of an audible signal only, 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. (1976 Code, § 9-401)

**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. (1976 Code, § 9-402)

**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. (1976 Code, § 9-403)

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

**15-504. 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. (1976 Code, § 9-404)

**15-505. 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. (1976 Code, § 9-405)

**15-506. 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.

(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. (1976 Code, § 9-406)

**15-507. At flashing traffic-control signals.** Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected by the municipality it shall require obedience by vehicular traffic as follows:

(1) **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.

(2) **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. (1976 Code, § 9-407)

**15-508. 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 municipality, 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. (1976 Code, § 9-408)

**15-509. 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. (1976 Code, § 9-409)

**15-510. Pedestrians given right-of-way.** When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be, to so yield, to a pedestrian crossing the roadway within a cross walk when the pedestrian is upon the half

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. No pedestrian shall suddenly leave the curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. (1976 Code, § 9-410)

## 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. Presumption with respect to illegal parking.
- 15-607. Municipal parking facilities.
- 15-608. Illegally parking motor vehicles on private property.
- 15-609. Penalties.

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

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

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

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1976 Code, § 9-501)

**15-602. Angle parking.** On those streets which have been signed or marked by the municipality for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1976 Code, § 9-502)

**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 such space or protrudes beyond the official markings on the

street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1976 Code, § 9-503)

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

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within twenty (20) feet 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 (75) feet of the entrance.
- (7) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (8) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (9) Upon any bridge.
- (10) Alongside any curb painted yellow or red by the municipality.
- (11) For any vehicle other than a bus or taxicab to park in a taxicab stand, or bus stop or for the driver of a taxicab or bus to park in the business district on any street, other than in a designated taxicab stand or bus stop, provided, that such cabs or buses may park a reasonable length of time upon any street for the purpose of picking up or discharging passengers. (1976 Code, § 9-504)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the municipality as a loading and unloading zone. (1976 Code, § 9-505)

**15-606. Presumption with respect to illegal parking.** When any unoccupied 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. (1976 Code, § 9-506)

**15-607. Municipal parking facilities.** (1) The parking rate for the Aquarium and the Fred W. McMahan (Parkway) parking garages is hereby established at a flat rate of ten dollars (\$10.00) per visit.

(2) The Bishop Lane Parking Lot, formerly known as the Anna Porter Library Lot is hereby designated at permit parking only. The Highway 441 Parking Lot shall be a meter-pay lot at the rate of one dollar (\$1.00) per hour.

(3) The rates shall be doubled for any vehicle that requires more than one (1) designated parking space in which to park. In addition, no overnight or long-term parking will be allowed in any city parking facility.

(4) A monthly permit in the amount of thirty dollars (\$30.00) per month may be purchased for the Fred W. McMahan (Parkway) Parking Garage, Highway 441 Parking Lot and the Parking Lot on Bishop Lane (Old Library Lot). This monthly permit shall be good only at the Highway 441 and Library lots, and the Fred W. McMahan Parking Garage. The fee shall be fifteen dollars (\$15.00) for the current month when the purchase of the current month permit is made on or after the 15th day of the month. Permits shall expire on the first working day for city offices after the last day of the month. Holders of such permits shall not be charged an exit fee. A parking permit for the Aquarium Parking Garage shall be sixty dollars (\$60.00) per month.

(5) Permits will be sold only for the use of employees of Gatlinburg businesses and will not be sold for use by transients or tourists.

(6) Reserved.

(7) The city manager shall administratively determine the opening and closing dates for municipal parking facilities.

(8) Any paper permit issued by the city shall be prominently displayed on a vehicle at all times it is at a City of Gatlinburg parking facility. Any permit which is lost or stolen will be replaced upon request, and the lost permit number placed on a void list, so that it will no longer be valid. There will be a replacement fee of ten dollars (\$10.00) for misplaced permit cards that are used at the automated facilities. (1976 Code, § 9-507, as amended by Ord. #2147, March 1997, Ord. #2169, Aug. 1998, Ord. #2182, June 1999, Ord. #2203, May 2000, modified, Ord. #2254, Sept. 2001, Ord. #2294, July 2003 and Ord. #2362, Sept. 2006, replaced by Ord. #2368, April 2007, amended by Ord. #2540, Sept. 2019 *Ch14\_03-23-22*, replaced by Ord. #2553, Aug. 2020 *Ch14\_03-23-22*, amended by Ord. #2565, March 2021 *Ch14\_03-23-22*, Ord. #2579, Aug. 2021 *Ch14\_03-23-22*, and Ord. #2586, March 2022 *Ch14\_03-23-22*)

**15-608. Illegally parking motor vehicles on private property.** It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property or person having control of the property. (1976 Code, § 9-508)

**15-609. Penalties.** Any person violating the provisions of § 15-608 shall be fined three dollars (\$3.00) for the violation thereof together with court costs of the cause. That in addition thereto the vehicle owner shall pay the towing and storage charge for the removal of the vehicle involved. The owner of the vehicle shall be afforded an opportunity for a hearing to contest the charge of illegal parking and the cost of same, however, the owner of said vehicle may waive his right to said trial by posting a cash bond sufficient to cover the cost of the fine, court costs, towing and storage charged. (1976 Code, § 9-510)

## 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. Violation and penalty.

**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 does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1976 Code, § 9-601)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1976 Code, § 9-602)

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1976 Code, § 9-603, modified)

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any vehicle which is illegally parked, abandoned, or otherwise

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<sup>1</sup>State law reference

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

parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for impounding a vehicle shall be ten dollars (\$10.00) and a storage cost of ten dollars (\$10.00) per day. (1976 Code, § 9-604)

**15-705. Violation and penalty.** Any violation of this title shall be a civil offense punishable as follows:

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

(2) **Parking citations.** For all parking citations, the offender may waive his/her right to a judicial hearing by the payment of the sum of fifty dollars (\$50.00) within ten (10) days of the citation. All others shall appear on the date specified on the citation for a hearing. (1976 Code, § 9-603, modified, as amended by Ord. #2575, July 2021 ***Ch14\_03-23-22***)

## CHAPTER 8

### **BOOTING VEHICLES ON PRIVATE PROPERTY**

#### **SECTION**

- 15-801. Purpose.
- 15-802. Definitions.
- 15-803. License required, prohibited acts.
- 15-804. Application.
- 15-805. License fee.
- 15-806. License suspension/revocation/refusal to issue.
- 15-807. Term of license.
- 15-808. Exhibition of license.
- 15-809. Conditions.
- 15-810. Fee charged for removing booting device.
- 15-811. Penalty.

**15-801. Purpose.** The purpose of this chapter shall be the protection of the health, safety and welfare of the citizens of Gatlinburg and their vehicles, and those of its visitors, by imposing reasonable regulations on the use of vehicle immobilization operations within the city limits upon private property. (as added by Ord. #2348, June 2006)

**15-802. Definitions.** (1) "Private parking facility" shall mean a parking facility owned by a private party, entity or organization or managed by a party other than the city.

(2) "Vehicle" shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, whether or not operational.

(3) "Vehicle immobilization" shall mean the impounding, incapacitating or immobilizing of any vehicle, whether motorized or not, without the permission of the owner or agent of the owner of the vehicle by the use of any device, wheel clamp, object barrel, "car boot," mechanism, or method, either attached to the vehicle or not, by the owner or agent of the property upon which the vehicle is parked, that does not allow the owner of the vehicle, or his or her authorized agent, to freely move the vehicle from the place where it is immobilized. (as added by Ord. #2348, June 2006)

**15-803. License required, prohibited acts.** It shall be unlawful for any person, individual, corporation or agent or employee of such to:

- (1) Operate a booting business within the city without first applying for and receiving a license as set out herein;
- (2) Immobilize a vehicle of another person for breach of condition not stated on the signage required by this chapter;

- (3) Charge a fee for release of an immobilized vehicle in excess of the fee stated on the signage required by this chapter;
- (4) Use any device, object, barrel, "car boot," mechanism, or method that injures or damages the vehicle when installed, removed or while the owner or agent of the owner of the vehicle does not move or attempt to move the vehicle; or
- (5) Violate any provision of this chapter. (as added by Ord. #2348, June 2006)

**15-804. Application.** All applicants for a vehicle immobilization license under this chapter must file with the city an application furnished by the city. The applicant shall furnish the following information:

- (1) Name or trade name, address and telephone number of the licensee's permanent and fixed place of business. A permanent or fixed place of business shall be a physical location, building, office or similar, and must have a street address and shall not be a post office box or drop box.
- (2) Telephone number of 24-hour access for complaints that must have a person respond to the phone call/complaint within twelve (12) hours of receipt.
- (3) Name, address and telephone number of insurance carrier for the business. Insurance shall be carried at all times during the licensing period in the amount of at least ten thousand dollars (\$10,000.00) per claim and the vehicle immobilization license shall be canceled upon notice of lapse of insurance.
- (4) Current fee schedule charged for the release of all vehicles immobilized.
- (5) Copy of the notice that will be attached to vehicles pursuant to § 15-809(c). (as added by Ord. #2348, June 2006)

**15-805. License fee.** There shall be accompanied with a completed application for license an agent photo identification card for each agent of the licensee that will be performing immobilization of vehicles and a non-refundable administration fee in the amount of twenty-five dollars (\$25.00).

- (1) The license shall be for the business or individual that requests said license. The license allows the licensee and all of its actual employees to engage in the business of vehicle immobilization.
- (2) A license is not transferable or assignable. (as added by Ord. #2348, June 2006)

**15-806. License suspension/revocation/refusal to issue.** The city shall refuse to approve issuance or revoke a license for failure to maintain any condition of this chapter, a violation of the Gatlinburg Municipal Code, or one or more of the following reasons:

(1) The making of any false statement as to a material matter in an application for a license, or license renewal, or in a hearing concerning the license.

(2) Violation by the licensee, applicant, or an employee of licensee or applicant of any provision of this chapter. (as added by Ord. #2348, June 2006)

**15-807. Term of license.** Each license issued under this chapter shall be one (1) calendar year expiring on December 31<sup>st</sup> of each year. Each renewal for license shall be considered an application for a new license with satisfaction of all conditions and qualifications under the chapter. The fee for the issuance of a lost, destroyed or mutilated license shall be ten dollars (\$10.00). (as added by Ord. #2348, June 2006)

**15-808. Exhibition of license.** Each license or agent photo identification card shall be carried and visibly displayed by the licensee and their employees or agents when engaged in vehicle immobilization at a private parking facility and shall be presented by the licensee, employee, or agent upon contact with any person. License may not be covered or obscured by any article of clothing. (as added by Ord. #2348, June 2006)

**15-809. Conditions.** Each licensee or employee or agent of the licensee under this chapter shall observe all the following:

(1) Any devices used in the immobilization of any vehicle shall be in safe and proper working condition.

(2) Emergency vehicles used in police, fire, or medical emergencies shall not be immobilized for any reason. Upon proof that an unmarked vehicle is used for the same purpose, the vehicle immobilization unit shall be removed immediately at no charge.

(3) An easily removed notice must be affixed to the driver's side window of each vehicle immobilized notifying the owner of the vehicle of the reason for the immobilization as well as the requirements necessary for the release of the vehicle. Upon payment of the release fee, the sticker shall be removed. The notice shall contain the following information:

(a) Name and telephone number of company or person to contact for the release of the vehicle.

(b) Cost of the release of the vehicle.

(c) Acceptable forms of payment for the release of the vehicle.

(d) Time and reason vehicle immobilized.

(4) All licensees shall have twenty-four (24) hour service and access. Licensees shall respond to all calls for release of a vehicle within thirty (30) minutes of a request for response and must remain at the facility until the immobilization device is removed, unless the payment of the fee is refused. The licensee, employees or agents of the licensee may exceed the thirty (30) minute response requirement if they are actively engaged in the release of another

vehicle. It shall be an affirmative defense for the licensee, employees or agents of the licensee to prove that the delay was caused by the normal operation of the business and not dilatory actions of the licensee, employee or agent of the licensee.

(5) No vehicle shall be immobilized at a parking facility unless signs required by this chapter are posted at the designated locations on the site. All signs shall be posted so that the bottom of the sign is at least thirty-six (36) inches, but no more than seventy-two (72) inches off the ground. All signs as designated by the city shall be lighted for nighttime visibility. The city may require additional lighted signs upon review of the site plan and visual inspection of the lot. The signs shall be white with red lettering at least two (2) inches in height and shall contain the following language in the following format:

PERMIT PARKING		NO PARKING
ONLY	or	ANYTIME

(Hours of Operation or 24 Hours)

VIOLATORS WILL BE BOOTED  
AT THE OWNER'S EXPENSE  
(Fee \$ \_\_\_\_\_)

[Phone #] for Release (Licensee's Name)

No additional language may appear on these required signs. The city may approve all signs.

(6) All signs must be readable and unobstructed.

(7) No attended vehicle may be immobilized without first requesting the occupant to remove the vehicle.

(8) All parking spaces shall be visibly striped. No striping is required if the property prohibits the parking of cars at any time. Striping is also not required on gravel parking lots.

(9) No delivery vehicle, in service, may be immobilized.

(10) Various forms of payment must be allowed with at least two (2) methods being an alternative to cash, specifically, personal checks, credit cards or debit cards.

(11) Licensee shall provide a written receipt to each person making a payment for having their car booted. (as added by Ord. #2348, June 2006, and amended by Ord. #2360, Sept. 2006)

**15-810. Fee charged for removing booting device.** The maximum fee to remove a booting device shall not exceed fifty dollars (\$50.00). (as added by Ord. #2389, June 2008)

**15-811. Penalty.** Any person, individual or corporation who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed fifty dollars (\$50.00). Each incident of violation shall be a separate offense and punishable as herein described. (as added by Ord. #2348, June 2006, and renumbered by Ord. #2389, June 2008)

## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. BANNERS AND SPECIAL EVENT SIGNAGE.
4. CHURCH AND BUSINESS DIRECTIONAL SIGNAGE.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Placement of benches.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Sidewalk construction, repair and maintenance.
- 16-110. Parades regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Street numbering system.
- 16-114. Public survey markers (monuments).

**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. (1976 Code, § 12-201)

**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 out over any street, alley, or sidewalk at a height of less than fourteen (14) feet. (1976 Code, § 12-202)

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

**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, hedge, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1976 Code, § 12-203)

**16-104. Projecting signs and awnings, etc., restricted.**

Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code and § 16-211.<sup>1</sup> (1976 Code, § 12-204)

**16-105. Placement of benches, etc.**

It shall be unlawful for any person to place benches, flag holders, waste containers, drinking fountains, clocks, planters, telephone booths, or other large items, which might impede pedestrian traffic upon the public sidewalks and rights of way without the express written approval of the placement of these items as to location and position by the city manager.

Any items so located, erected or positioned not belonging to the City of Gatlinburg, may be permitted by the city manager after an application in writing is submitted to him. The city manager may approve same, if he finds that the placement or erection of same would not further impede congestion or safety. If the application for placement or erection of the requested item is approved, the applicant shall provide to the city manager a Certificate of Insurance for public liability and property damage in the amount commonly known as \$100,000, \$300,000, \$10,000 holding the city harmless from liability incurred as a result of locating such items or items. Such certificate shall name the City of Gatlinburg as a co-insured with the applicant.

The provisions of this section shall not prohibit the placement of waste containers upon the city sidewalks for the temporary purpose of collection by the City of Gatlinburg Sanitation Department. (1976 Code, § 12-205)

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.**

It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1976 Code, § 12-206)

**16-107. Littering streets, alleys, or sidewalks prohibited.**

It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere

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<sup>1</sup>Municipal code reference

Building code: title 12, chapter 1.

with the use of such public ways and places for their intended purposes. (1976 Code, § 12-207)

**16-108. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1976 Code, § 12-208)

**16-109. Sidewalk construction, repair and maintenance.** The occupants of property abutting on a sidewalk area are required to keep the public and private sidewalk and landscape areas, including the set-back area, in front of said business in a clean and sanitary condition, free from all litter, debris and spills and in a safe condition for the benefit of the pedestrian traffic. Occupants shall not sweep or deposit debris or litter into the city street or gutter. In addition to maintaining a clean and sanitary sidewalk, immediately after a snow or sleet, such occupants are required to remove all accumulated snow or ice from the abutting sidewalk and private property abutting the public sidewalk, which is used by pedestrians.

All sidewalks on public property shall be constructed, repaired and maintained by the city. Private development necessitating repair or construction of sidewalks on public property shall be charged the cost incurred by the city for said repair or construction. Private improvements to the publicly owned sidewalks are not allowed. (Ord. #2146, Feb. 1997, as amended by Ord. #2191, Sept. 1999)

**16-110. Parades regulated.** It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city manager. No permit shall be issued by the city manager unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1976 Code, § 12-210)

**16-111. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1976 Code, § 12-212)

**16-112. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1976 Code, § 12-213)

**16-113. Street numbering system.** All streets in the City of Gatlinburg shall be numbered in accordance with the following numbering system:

(1) All streets west of Parkway shall be designated by the addition of the word "west".

(2) All streets east of Parkway shall be designated by the addition of the word "east".

(3) All streets running westwardly from Parkway shall be numbered westwardly to the westernmost limits of the city with odd numbers on the north side of the street and the even numbers on the south side.

(4) All streets running north and south shall be numbered from the northernmost limits of the city to the southernmost limits with odd numbers on the west side of the street and even numbers on the east side.

(5) All numbering shall begin with the figures "100" and progress consecutively for the first block. The second block shall begin with the figure "200" and the third block with the figures "300" and so on until the city limits are reached.

(6) All streets not coming within the preceding paragraphs of this section shall begin with the hundredth number designating the distance of blocks of their beginning point from Parkway or the northernmost limits as shown by those numbers on those street connecting with said streets.

(7) Fractional numbers or letters may be used when necessary for a more explicit description.

(8) All street numbers shall be assigned by the city manager in accordance with the provisions of this section. No number assigned any premises by the city manager shall be displayed in numbers less than two and one-half (2-1/2) inches in height.

(9) No person shall remove or deface any numbers assigned or put on any building in accordance with this section or retain any improper number or substitute any improper number.

(10) It shall be unlawful for any person, firm or corporation to violate the provisions of this section. (1976 Code, § 12-214)

**16-114. Public survey markers (monuments).** (1) City survey markers are identified as being 2" diameter brass monuments, permanently placed on public property and bearing the name "Gatlinburg" and an identifying number.

(2) No such marker may be disturbed without the knowledge and consent of the City of Gatlinburg (city manager or city engineer).

(3) Any person who by necessity or accident shall disturb one or more of the survey markers shall, at his expense, restore the marker to its original location and elevation or to an alternate location, approved by the city.

(4) Any removal or replacement shall be done by a licensed land surveyor using a level of control no less than the second order and the surveyor shall provide a plat, showing the location, with his certification that it has been so placed.

(5) If a monument is disturbed and not properly replaced, the city shall cause its replacement, the costs being assessed to the person or persons responsible, if known, or to the abutting property owner.

(6) Violation of the provisions of this section shall be punishable by the maximum fine provided for violations of the Gatlinburg Municipal Code. (1976 Code, § 12-215)

## CHAPTER 2

### EXCAVATIONS AND CUTS<sup>1</sup>

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.
- 16-211. Plans for driveway cuts.
- 16-212. Maximum slope.
- 16-213. Paving.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the building official is open for business, and said permit shall be retroactive to the date when the work was begun. (1976 Code, § 12-101, as amended by Ord. #2342, March 2006)

**16-202. Applications.** Applications for such permits shall be made to the building official, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation 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).

tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1976 Code, § 12-102, as amended by Ord. #2342, March 2006)

**16-203. Fee.** At the time an applicant secures an excavation permit, he shall pay to the recorder a fee for resurfacing the affected street area, and in addition, a fee for those instances in which the city shall be required to refill the excavation, to wit:

- (1) \$0.05 per cubic foot of refilling,
- (2) .75 per square foot of concrete paving,
- (3) .50 per square foot of sidewalk paving,
- (4) .35 per square foot of oil macadam paving,
- (5) .25 per square foot of loose rock macadam paving,
- (6) 1.00 per square foot of concrete base asphalt surface paving,
- (7) 3.00 minimum fee. (1976 Code, § 12-103)

**16-204. Bond.** Any person, firm or corporation who desires to do any work in streets, sidewalks, or alleys, or on or under any public property, shall file with the City of Gatlinburg, a corporate surety bond in the sum of two thousand dollars (\$2,000.00) to indemnify and save harmless the City of Gatlinburg from all loss or damage of any kind or character resulting to persons or property from any work done by the applicant, and to indemnify and save harmless the City of Gatlinburg from all loss or damage resulting from the failure of the applicant to perform fully all the obligations and liabilities imposed upon the applicant by this section for the replacement and maintenance of all streets, alleys, sidewalks and other property of the City of Gatlinburg, such bond to be approved by the city manager. (1976 Code, § 12-104)

**16-205. Manner of excavating--barricades and lights--temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1976 Code, § 12-105)

**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 municipality shall restore said street, alley, or

public place to its original condition except for the surfacing, which shall be done by the municipality, but shall be paid for by such person, firm, corporation, association, or others. In case of unreasonable delay in restoring the street, alley, or public place, the building official shall give notice to the firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the municipality 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 municipality, 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. (1976 Code, § 12-106, as amended by Ord. #2342, March 2006)

**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 building official in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1976 Code, § 12-107)

**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 municipality. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the building official. (1976 Code, § 12-108, as amended by Ord. #2342, March 2006)

**16-209. Supervision.** The building official 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 of Gatlinburg 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. (1976 Code, § 12-109, as amended by Ord. #2342, March 2006)

**16-210. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the building official. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. (1976 Code, § 12-110)

**16-211. Plans for driveway cuts.** All plans submitted to the building official for construction within the City of Gatlinburg, both residential and commercial, shall include plans for the driveways to be constructed and used in conjunction with the proposed structure or structures. Said plans shall include the number of driveway cuts, the length and width of same, as well as the grade of the driveways. Adequate drainage tile shall be required when needed, based upon the drainage area to be served. Said size shall be determined by the supervisor of the street department. Driveways should be constructed with the property topography rather than across topography to reduce disturbance areas and should be done in a manner to limit the area of disturbance to the minimum extent practical. Driveways shall be constructed pursuant to Gatlinburg Municipal Code Title 16, Chapter 2. (1976 Code, § 12-111, as amended by Ord. #2406, April 2009)

**16-212. Maximum slope.** No portion of a driveway shall exceed a fifteen percent (15%) slope within the required set back area as determined by the zoning ordinance, however, this provision shall not apply to existing lots of record with street frontage of less than fifty (50) feet or lots which have a topographical slope greater than thirty percent (30%). In no instance shall any portion of any new driveway exceed a grade of twenty-five percent (25%).

Where a driveway connects to the adjoining street there shall be a transition area not exceeding a maximum grade of twelve percent (12%) for a minimum length of sixteen feet (16') measured from the edge of the street pavement. Residential driveways that will have an uphill grade from the street shall be constructed at a grade not exceeding a maximum grade of twelve percent (12%) to a point across the developed drainage ditch before starting an incline or in the case of no ditch, to a point not less than sixteen feet (16') in length. In no case shall the driveway apron extend out onto the paved street. Residential driveways that will have a downhill grade from the roadway shall not cut into the shoulder or pavement of the developed roadway and in no case shall the driveway undermine the roadway. (1976 Code, § 12-112, as replaced by Ord. #2342, March 2006)

**16-213. Paving.** All driveways shall be paved with asphalt, concrete or other permanent paving or a surface equivalent to the adjacent street a distance of twenty-four feet (24') beginning at the edge of the road paving with a minimum width of ten feet (10'). This paving shall be done as completion of construction and weather permits and under no circumstances more than six (6)

months after completion. No permanent certificate of occupancy (see title 12, chapter 1 and the zoning ordinance) shall be issued until this provision is complied with. (1976 Code, § 12-113, as replaced by Ord. #2342, March 2006)

## CHAPTER 3

### **BANNERS AND SPECIAL EVENT SIGNAGE**

#### **SECTION**

- 16-301. Purpose.
- 16-302. Definitions.
- 16-303. Permit required.
- 16-304. Applications.
- 16-305. Approval.
- 16-306. Minimum sign standards.
- 16-307. Size and location.
- 16-308. Installation, maintenance and removal.
- 16-309. Time limits.
- 16-310. Insurance.
- 16-311. Entrance signs.
- 16-312. Special event signage at McMahan Parking Garage.

**16-301. Purpose.** It is the purpose of this chapter to promote the general economic prosperity of the City of Gatlinburg through the orderly display of banners and public event signs on public streets, sidewalks, grounds, and facilities which advertise community sponsored events. This chapter is not intended to promote individual business activities, but rather the quality of the city's general appearance through events which support business activities in general. (1976 Code, § 12-401)

**16-302. Definitions.** Unless the context specifically indicates otherwise, the meaning of the terms used in this chapter shall be as follows:

(1) "Administrator" shall mean the city manager or his/her duly authorized representative charged with the administration of this chapter.

(2) "Applicant" shall be any person, firm, corporation, or association requesting a permit to install special event banners under the provisions of this chapter.

(3) "Banner" shall be any flexible announcement device affixed to public property for the purpose of announcing or promoting community events.

(4) "City" shall mean the Board of Commissioners of the City of Gatlinburg, acting through its city manager or other agents authorized to conduct business on behalf of the commissioners.

(5) "Copy" shall include all the words and/or pictorial graphics contained on the display area of the banner.

(6) "Display area" shall include the net geometric area enclosed by the display surface area of the banner per side.

(7) "Horizontal banner" shall mean a banner affixed at both ends to existing poles and projecting across a street, alley, sidewalk, or other public way.

(8) "Special event" shall be a community activity or circumstance occurring on at least one day sponsored by the city or through its agent the chamber of commerce. These events shall be limited to those specifically listed on the city's contractual agreement with the chamber of commerce, and any such other event consistent with the purpose of this chapter as may be approved by the city.

(9) "Vertical banner" shall mean a banner affixed to and projecting from an existing pole with the greatest dimension running perpendicular to the ground. (1976 Code, § 12-402)

**16-303. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others to place a banner on any public street, sidewalk, alley, or public place without having first obtained a permit as herein required, and without complying with all the provisions of this chapter. (1976 Code, § 12-403)

**16-304. Applications.** Applications for such permits shall be made to the administrator and shall describe the nature, type, and duration of the special event to be advertised or promoted; state the number, size, type, color and locations of the banners; the name and address of the applicant; and any such other information, drawings, maps, and/or plans deemed appropriate by the administrator to ensure compliance with the provisions of this chapter. (1976 Code, § 12-404)

**16-305. Approval.** Upon receiving a request for permit, the administrator shall review such request to determine compliance with the provisions of this chapter. Once compliance has been determined, the application shall then be submitted to the city manager for consideration for approval. Upon approval by the city manager, the administrator shall then issue a permit to the applicant stipulating any conditions that may have been attached to the approval, the duration of the permit, and the responsibilities of the applicant as it related to the installation, maintenance and removal of the banner. (Ord. #2168, Aug. 1998)

**16-306. Minimum sign standards.** All banners installed under the provisions of this chapter shall be aesthetically pleasing using colorful and cheerful architectural design standards complimenting Gatlinburg's unique character, and shall comply with the following minimum standards:

(1) Banner materials shall be three (3) ply, eighteen (18) ounce nylon woven fabric, or a similar material of the same strength and durability with grommets every three feet around the edge or pockets at top and/or bottom for insertion of cable or rope and any other necessary attachments to make installation secure.

(2) Banner copy shall be painted using a flat vinyl paint, silk screened, woven, heat transfer, or cut-out lettering and/or graphics for exterior use.

(3) Banner attachment materials shall be a three-eighths (3/8) inch nylon or monofilament ropes sewn in the top and bottom, or metal brackets safely securing the banner so as to withstand all loads subjected by wind and other weather conditions, except horizontal banners spanning ten (10) feet or more shall be secured with steel cables.

(4) Horizontal banners shall have a minimum of one vent hole for every four (4) square feet of total display area.

(5) All materials shall be water repellant, mildew and rust resistant. (1976 Code, § 12-406)

**16-307. Size and location.** All banners installed under the provisions of this chapter shall be limited to vertical and horizontal installations, and shall be restricted to placement on public property, the use of which is either owned or controlled by the city, and meets the following requirements:

(1) Vertical banners shall be limited to fifteen (15) square feet in display area on each side and no more than two (2) banners per pole and must meet existing bracket size and specifications.

(2) Horizontal banners shall be limited to a height of three (3) feet with a length that runs parallel to the ground and does not exceed the length of the street, alley, sidewalk, or other public way which it spans and can only be placed over city streets and not state highways.

(3) The number and location of banners installed shall be limited by the number and location of poles available for installation; however, whenever possible, equal spacing distance between banners shall be used and no banner shall be installed within fifty (50) feet of the intersection of two major thoroughfares.

(4) Banners which overhang a public way reserved for the movement of pedestrians shall maintain a minimum clearance of nine (9) feet above grade. Likewise, banners which overhang a public way reserved for the movement of vehicles shall maintain a minimum clearance of seventeen (17) feet above grade. (1976 Code, § 12-407)

**16-308. Installation, maintenance and removal.** All banners permitted under the provisions of this chapter shall be installed, maintained and removed by the city, except where other arrangements for installation, maintenance and removal by the applicant have been approved by the city. In the event of such approval, the applicant shall make every effort to ensure that the banners are installed, maintained and removed in an orderly and safe manner. (1976 Code, § 12-408)

**16-309. Time limits.** The issuance of a permit to install special event banners shall be limited to one special event at any given time, and shall not

begin until ten (10) days prior to the event and expire within three (3) days following the event. (1976 Code, § 12-409)

**16-310. Insurance.** Applicants other than the City of Gatlinburg shall provide insurance coverage for the erection of any banner. (1976 Code, § 12-410)

**16-311. Entrance signs.** Special event signage meeting the criteria set forth in this chapter may also be erected on the Gatlinburg entrance signs. The application for same shall meet the requirements set forth in § 16-304. Any sign advertising a special event which meets all other requirements of this chapter may be permitted to be attached to the Gatlinburg entrance sign. Such sign shall be three (3) feet tall and five (5) feet wide and constructed of three-fourths inch (3/4") plywood. The color and message on said sign shall be as approved by the EDRB and shall be restricted to an announcement regarding the name of the event, the date, time and location, etc. (1976 Code, § 12-411)

**16-312. Special event signage at McMahan Parking Garage.** Special event signage may be placed on the Fred W. McMahan (Parkway) Parking Garage if it meets the criteria set forth herein. For the purpose of this section only, special event signage is defined as signage advertising events which are open to the public, occurring at the city-owned Gatlinburg Convention Center/Mills Auditorium, which have a duration of no less than three (3) days. The placement of such signage must comply with the following:

(1) File an application with the City Planner for the City of Gatlinburg at least fourteen (14) days prior to the placement of the signage and pay an application fee in the amount of \$10.00 to defray the expense of processing said application;

(2) The proposed signage shall only contain language indicating the official name of the event, time and duration of the event, and the location (Gatlinburg Convention Center) of the event;

(3) The proposed signage shall be of the flexible announcement device type (i.e. a banner) as set forth more fully in § 16-306 hereinabove;

(4) If approved, the applicant must purchase and pay for the appropriate signage;

(5) The banner shall be six (6) feet in height and twenty-three (23) feet in length;

(6) Said signage shall be delivered to the City of Gatlinburg at the location designated by the city planner and shall be placed on the parking garage by city employees. The location on the parking garage shall be determined by the city;

(7) The sign shall be placed on the garage no more than two (2) days prior to the event and shall be removed within twenty-four (24) hours following the conclusion of the event. Signage must be picked up by the applicant within three (3) business days of the removal of said signage. Any sign not picked up

by the applicant within three days will be disposed of by the city. (as added by Ord. #2273, June 2002)

## CHAPTER 4

### **CHURCH AND BUSINESS DIRECTIONAL SIGNAGE**

#### **SECTION**

16-401. Church directional signage program.

16-402. Business directional signs.

**16-401. Church directional sign program.** There is hereby established a church directional sign program for churches located within the corporate limits of the City of Gatlinburg, Tennessee other than in the C-1 zoning district. Churches which qualify under the requirements of this program will be allowed to place church directional signs on city-owned public property at the intersection of a major thoroughfare and minor street on which said church is located. In order to qualify for the program:

- (1) The church must not be visible from the proposed intersection.
- (2) The church must submit a proposed design for the sign.
- (3) The sign should not block visibility at the intersection.
- (4) The church must agree to install the sign.
- (5) The sign may be no larger than 12 square feet.
- (6) The sign design and location must be approved by the board of commissioners. (1976 Code, § 12-501)

**16-402. Business directional signs.** A business directional sign is a standardized sign placed by the city at the intersection where a minor street intersects a major thoroughfare indicating the directions to a business with access located on the minor street. A business may qualify for a business directional sign if said business is not visible upon approaching the intersection. A business directional sign may be located either on public or private property and may be either constructed of an aluminum, wood, or other material as deemed appropriate by the city.

(1) Businesses may request that a sign be placed on the city's business directional sign by completing an application form and if approved, paying the costs associated with the fabrication and installation of the directional sign. In addition to the initial fabrication and installation fees, a fifty dollar (\$50.00) annual maintenance fee shall be required and collected by the city for the maintenance and upkeep of said sign.

(2) Such directional sign(s) shall be constructed by the city and shall be of the type determined by the city. Such sign(s) shall replace the normal directional sign(s).

(3) No such device shall be erected without the approval of the board of commissioners.

(4) Business directional signs are provided by the city for the convenience of the public and are subject to removal at any time.

(5) Failure to pay the annual maintenance fee will result in removal of the sign. (1976 Code, § 12-502, as replaced by Ord. #2566, March 2021 ***Ch14\_03-23-22***)

**TITLE 17****REFUSE AND TRASH DISPOSAL<sup>1</sup>****CHAPTER**

1. REFUSE.
2. SOLID WASTE.

**CHAPTER 1****REFUSE****SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Rules and regulations authorized.
- 17-110. Procedure for adoption.
- 17-111. Animal resistant garbage collection devices.
- 17-112. Enclosures.
- 17-113. Grease.
- 17-114. Restaurants.
- 17-115. Garbage collection.
- 17-116. Financial assistance.
- 17-117. Injunctive or other rules.
- 17-118. Penalty.

**17-101. Refuse defined.** Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1976 Code, § 8-101)

**17-102. Premises to be kept clean.** All persons within the municipality are required to keep their premises in a clean and sanitary

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

condition, free from accumulations of refuse except when stored as provided in this chapter. (1976 Code, § 8-102)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within this municipality where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the municipality handles mechanically. Furthermore, except for containers which the municipality handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. The owner(s) of all properties consisting of four (4) or more non transient residential rental units shall provide a minimum of one (1) dumpster for use by the occupants of the units. The location of the dumpster(s) shall be approved by the sanitation department, prior to placement. (1976 Code, § 8-103, as amended by Ord. #2486, Sept. 2015)

**17-104. Location of containers.** Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the municipality for the collection of refuse therefrom. (1976 Code, § 8-104)

**17-105. Disturbing containers.** No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1976 Code, § 8-105)

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the city manager shall designate. Collections shall be made regularly in accordance with an announced schedule. (1976 Code, § 8-106)

**17-107. Collection vehicles.** The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1976 Code, § 8-107)

**17-108. Disposal.** The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of commissioners is expressly prohibited. (1976 Code, § 8-108)

**17-109. Rules and regulations authorized.** The city manager is hereby authorized to promulgate rules and regulations as may, from time to time, be required, including, but not limited to:

(1) Precollection practices, including the types of containers authorized, the use and maintenance of such containers, methods of accumulation and separation and authorized places and methods of storage.

(2) Collection practices, including times of collection, prohibited items, location of collection and placement of refuse containers, maximum size and weight of containers and special collection procedures for certain items.

(3) Post collection practices, including hauling and disposal of waste substances, repair of containers, cleanliness of collection sites and containers. (1976 Code, § 8-109)

**17-110. Procedure for adoption.** Any rules and regulations proposed by the city manager shall first be presented to the board of commissioners of the City of Gatlinburg for their review.

Following such presentation, the proposed rules and regulations shall become effective thirty days after a public notice is published in a newspaper of general circulation in the city that such rules and regulations are being adopted. From and after this publication, three copies of the rules and regulations shall be on file and available at city hall for public inspection.

Any regulations adopted by the procedures set forth in this section shall be deemed to have been ratified and adopted by the board of commissioners. (1976 Code, § 8-110)

**17-111. Animal resistant garbage collection devices.** From and after June 1, 2000, all garbage containers, dumpsters or equipment used to store garbage, not otherwise located within an approved enclosure prior to municipal or private pick-up in the areas described as follows: The entire area within the city limits on the west side of the Foothills Parkway; the area north of the National Park Service boundary on either side of the western prong of the Little Pigeon River between Parkway and the Foothills Parkway boundary bounded

on the north by LeConte Street and the Skyland Park and Winfield Heights Subdivisions; the entire area between the National Park Service boundary on the South and Southeast city limits from Low Gap Road on the east and to the South of Highway 321 and Parkway, and as shown on a map dated December,

1994 (revised as of February 18, 1998), on file at the offices of the city manager and incorporated herein by reference, shall be of a type which shall be resistant to animals being able to open, overturn or remove garbage from them. Each type of container shall be of a design approved by the city building official. This requirement shall not apply to containers that are also enclosed within fences or other enclosures which do not allow entry by scavenging animals or are located inside a structure such as a house, building or other enclosed structure and are taken to a city or county approved garbage collection site by the owner. (Ord. #2188, Sept. 1999)

**17-112. Enclosures.** All garbage containers in said areas of a type which do not meet city standards as being animal resistant shall be fully enclosed in a manner to prevent entry by animals. Such enclosures shall be approved in advance by the city building official. Any such enclosure which does not prevent the entry of animals and removal of garbage from the enclosure shall be modified by the owner to prevent such entry and removal. Owners who are notified of a deficient enclosure shall have sixty (60) days to cure such deficiency. All garbage containers of a type not resistant to animals shall be so enclosed by June 1, 2000. Every animal resistant enclosure shall be properly secured. Failure to keep such enclosure secured and closed shall also be a violation of this section. (Ord. #2188, Sept. 1999)

**17-113. Grease.** The provisions of §§ 17-111 and 17-112 shall also apply to containers and enclosures used to store grease and the contents of grease traps. (Ord. #2188, Sept. 1999)

**17-114. Restaurants.** All restaurants within the city limits of the City of Gatlinburg shall be required to comply with the provisions of §§ 17-111 through 17-113 with regard to garbage containers and/or enclosures for the storage of garbage containers and grease. (Ord. #2188, Sept. 1999)

**17-115. Garbage collection.** The city will not collect garbage which is not placed in an animal resistant container unless it is placed within an approved enclosure, as required in §§ 17-111 through 17-114. The provisions of §§ 17-111 and 17-112 shall not apply to curbside garbage collection containers within the downtown business district. (Ord. #2188, Sept. 1999)

**17-116. Financial assistance.** Those persons living within the areas where animal resistant containers or enclosures are required may be eligible for

financial assistance to defray a portion of the cost of compliance. Those persons who qualify for project assistance as determined by the Douglas Cherokee Economic Authority shall be eligible for a grant from the city in an amount not to exceed 50% of the actual cost of compliance. (Ord. #2188, Sept. 1999)

**17-117. Injunctive or other relief.** In addition to any penalty, violation of the provisions of this chapter may be remedied by obtaining injunctive relief, or by a restraining order, or other appropriate equitable remedy by the city. (Ord. #2188, Sept. 1999)

**17-118. Penalty.** Every person who shall violate any provision of this chapter shall be punished by a fine not to exceed \$500 per offense. Each day that a violation shall occur shall be a separate offense. (Ord. #2188, Sept. 1999)

## CHAPTER 2

### SOLID WASTE

#### SECTION

- 17-201. Solid waste pick-up/disposal fees.
- 17-202. Residential rates.
- 17-203. Financial assistance.
- 17-204. Commercial rates.
- 17-205. Temporary discontinuance of service.
- 17-206. Collection and discontinuance of service.
- 17-207. Placement and pick-up of commercial waste.

**17-201. Solid waste pick-up/disposal fees.** There are hereby established solid waste pick-up/disposal fees for the collection of garbage and refuse within the city limits of the City of Gatlinburg. The rates and charges for the user fees so established shall be as set forth in this chapter. (1976 Code, § 13-601)

**17-202. Residential rates.** The rates for residential availability and services are as follows:

- \$3.00 per month availability of service fee.
- \$6.00 per month for once per week pick-up.
- \$9.00 per month for three times per week pick-up.

Residential solid waste customer within the zone required to have animal resistant containers as set forth in Gatlinburg Municipal Code § 17-111, et seq. shall be provided additional hardware by the city to secure the residential garbage containers. Said hardware will be installed by city employees at no expense to the residential customers. The city hereby imposes a one-time charge to each residential customer being provided said hardware in the amount of \$5.00. Said charge shall be added to the customer's solid waste bill the month following installation. Residential customers within the zone not placing their garbage outside for city pick-up and those who have installed such hardware approved by the city building official shall be exempt from this requirement. (1976 Code, § 13-602, as amended by Ord. #2277, Sept. 2002)

**17-203. Financial assistance.** Residents who are financially unable to bear the cost of these fees shall be eligible for assistance. Residents meeting the eligibility criteria for project assistance as established by the board of commissioners of the City of Gatlinburg in Resolution #560 and who are so certified by the Douglas Cherokee Economic Authority shall be exempt from the user fees set forth in § 17-202 above. (1976 Code, § 13-603)

**17-204. Commercial rates.** The rates for commercial services shall be as follows:

\$10.00 per month for businesses without dumpsters receiving every other day pick-up.

\$15.00 per month for businesses without dumpsters receiving daily pick-up.

\$ 8.00 per dumpster per month for every other day pick-up.

\$12.00 per dumpster per month for every day pick-up.

\$ 8.00 per month for businesses without dumpsters receiving once per week pick-up.

\$ 6.00 per month for businesses with dumpsters receiving once per week pick-up.

(1976 Code, § 13-604)

**17-205. Temporary discontinuance of service.** Residential or commercial customers may temporarily discontinue their service when the residence or business is temporarily unoccupied upon notifying the City of Gatlinburg in writing. Any customer who has temporarily discontinued service shall remain liable for the \$3.00 per month availability charge set forth in § 17-202.

Customers presently receiving more than once per week pick-up may request less frequent garbage pick-ups and will be billed accordingly. (1976 Code, § 13-605)

**17-206. Collection and discontinuance of service.** Solid waste pick-up/disposal fees shall be collected by the finance department and shall be included on customer's utility bills for water and sewer services. Any customer failing to pay the fees so imposed shall be subject to discontinuance of garbage collection service and cut-off procedures shall be the same as those established and used by the water and sewer departments. (1976 Code, § 13-606)

**17-207. Placement and pick-up of commercial waste.** Commercial waste may be placed curbside only at closing each night, with all trash bagged and boxes broken down. Curbside pick-up of commercial trash, where available, will occur after hours only, with times to be set seasonally by the city manager. Special-need commercial waste pick-ups may be obtained from the city at an additional charge of \$25.00. The curbside receptacles placed by the City of Gatlinburg shall be limited to non-commercial, visitor use only and may not be used for the placement of commercial waste. (Ord. #2192, Sept. 1999)

**TITLE 18****WATER AND SEWERS<sup>1</sup>****CHAPTER**

1. WATER.
2. SEWERS.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
4. STORMWATER ORDINANCE.

**CHAPTER 1****WATER****SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Main extensions to developed areas.
- 18-108. Main extensions to undeveloped areas.
- 18-109. Variances from and effect of preceding rules as to extensions.
- 18-110. Meters.
- 18-111. Meter test.
- 18-112. Schedule of rates.
- 18-113. Multiple services through a single meter.
- 18-114. Billing.
- 18-115. Discontinuance or refusal of service.
- 18-116. Reconnection, minimum bill and service charges.
- 18-117. Termination of service by customer.
- 18-118. Access to customers' premises.
- 18-119. Inspections.
- 18-120. Customer's responsibility for system's property.
- 18-121. Customer's responsibility for violations.
- 18-122. Supply and resale of water.
- 18-123. Unauthorized use or interference with water supply.
- 18-124. Limited use of unmetered private fire line.
- 18-125. Damages to property due to water pressure.

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

- 18-126. Liability for cutoff failures.
- 18-127. Restricted use of water.
- 18-128. Interruption of service.
- 18-129. Connection with fire hydrant.
- 18-130. Definitions.
- 18-131. Application of regulations.
- 18-132. New construction and renovation.
- 18-133. State of emergency.
- 18-134. Certain uses prohibited.
- 18-135. Enforcement
- 18-136. Penalties.
- 18-137. Utility deposits.
- 18-138. Add-on fees.

**18-101. Application and scope.** These rules and regulations are a part of all contracts for receiving water service from the municipality and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1976 Code, § 13-101)

**18-102. Definitions.** (1) "Customer" means any person, firm or corporation who receives water service from the municipality under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water main of the municipality to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the municipality's water main to and including the meter and meter box.

(4) "Discount date" means the last date upon which water bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling.

(7) "Department" means the Gatlinburg Water Department. (1976 Code, § 13-102)

**18-103. Obtaining service.** A formal application for either original or additional service must be made and approved by the department before connection or meter installation orders will be issued and work performed. (1976 Code, § 13-103)

**18-104. Application and contract for service.** Each prospective customer desiring water service will be required to sign a standard form of contract before service is supplied. Customers requiring the installation of special equipment by the department may be required to sign a form of contract guaranteeing a minimum charge for such period of time as may be agreed upon between the department and customer. If, for any reason, a customer, after signing a contract for water service, does not take the service by reason of not occupying the premises or otherwise, he shall reimburse the municipality for the expense incurred by reason of its endeavor to furnish said service.

Whenever an application is made for service to premises concerning which the department knows there is a dispute as to the ownership or the right of occupancy, and one or more of the claimant's attempts to prevent such service being furnished, the department reserves the right to adopt either one of the following alternative courses:

(1) To treat the applicant in actual possession of the premises to be served as being entitled to such service, irrespective of the rights or claims of other persons.

(2) To withhold service, pending a judicial or other settlement of the rights of the various claimants. (1976 Code, § 13-104)

**18-105. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1976 Code, § 13-105)

**18-106. Connection charges.** Service lines will be laid by the municipality from the water main to the property line at the expense of the applicant for service. The location of such lines will be determined by the department.

Before a new service line will be laid by the municipality, the applicant shall pay a tap fee in the following amounts with the department.

(1) <u>WATER METER SIZE</u>	<u>TAP FEE</u>
5/8" or 3/4"*	\$ 750.00
1" or Larger	1,500.00 per inch diameter of water meter
Fire Line Service*	700.00 per inch diameter of service line

For water service outside the corporate limits, the tap fee amounts shall be two times the above.

\*The tap fee does not include the cost of service assembly, i.e. connecting to main water line and furnishing and installing service line, meter, meter box, yoke, fittings, pavement repair, or other restoration work, all of which is to be borne by the customer requesting the service.

(2) When a service line is completed, the department shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box and such portion of the service line shall belong to the municipality. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer even though the meter and meter box are located within said property line.

(3) Public schools shall be exempt from the requirement for paying tap fees as set forth in this section. (1976 Code, § 13-106, as amended by Ord. #2193, Sept. 1999, and replaced by Ord. #2317, May 2004, and amended by Ord. #2393, Aug. 2008)

**18-107. Main extensions to developed areas.** The provisions of this section shall apply only to water main extensions of 500 feet or less to areas where there is a demand for water service by the occupants of existing houses. This section shall in no event be applicable to land development projects and subdivision promotions, even though accompanied by the erection of occasional houses within areas.

Owners of property to be served by a proposed water main extension of the character to which this section applies shall pay to the department the regular charge for each connection desired immediately and shall also assume one minimum monthly bill for each 100 feet, or fraction thereof, of said proposed extension. The connection charge shall be paid and the agreement to pay the minimum monthly bill shall be signed before the work is begun. The department reserves the right to require an advance cash deposit as security for such minimum bill agreement in an amount not to exceed the estimated cost of the main extension.

Beginning with the completion of the water main extension, such persons shall pay to the department water bills at least equal to the minimum monthly charges agreed upon, until the obligation for the payment of such minimum monthly water bills shall have been assumed by other persons acceptable to the department. Where these minimum bill agreements require a minimum bill or bills in excess of the minimum bill prescribed by the regular rate schedule of the department, such excess portion of the minimum bill or bills shall be reduced by the amount of the minimum bill assumed by each additional customer who connects to the extension. Such reduction will be prorated among the persons liable for the excess minimum bills. No such reduction shall be made except during months when such new customer pays at least a minimum monthly water bill. (1976 Code, § 13-107)

**18-108. Main extensions to undeveloped areas.** The provisions of this rule shall apply to all areas to which § 18-107 is not applicable.

Customers desiring water main extensions pursuant to this section must pay all of the cost of making such extensions.

The size, type and installation of water mains pursuant to this rule must be approved by the department. All such mains shall be constructed either by the department's forces or by other forces working directly under the supervision of the department. In the event of the work being done is by the water department an advance deposit may be required in an amount not to exceed the estimated cost of the proposed extension.

Upon the completion of such extensions and their approval by the department such water mains shall become the property of the department; and the persons paying the cost of constructing such mains shall execute any written instruments requested by the department to provide evidence of the department's title to such mains.

In consideration of such mains being transferred to the department, said mains shall be incorporated as an integral part of the water system and the department shall furnish water therefrom in accordance with its rules, regulations and rate schedules, subject always to such limitations as may exist because of the size and elevation of said mains.

As a further consideration, the department shall, for a period of five years (and no longer), repay to the person or persons who pay the cost of such a water main extension in the amount of the then existing tap fee charge for each new service line connection attached to said extension within a five-year period. The total payments for new service connections shall in no event exceed the cost of said extension to the person or persons who paid therefor. Payment for new connections shall not include those of a temporary nature such as circuses, fairs, temporary construction and other temporary requirements for water service.

No payment shall be made for service line connections not made directly to the water main extension in question, even though such service line connections are made to a main extending from, or receiving water through, the main extension in question.

The cost of any extension of water mains and/or service lines which are installed pursuant to this section shall be paid in full by the property owners and/or developers. Repayments will not be made except as provided herein.

The size, type and installation of such water mains must be approved by the department. All such mains shall be constructed either by the department's forces or by other forces working directly with the water department.

All pipe used for such water mains shall be of such type and size as determined by the department.

If such water main extension is to be made by the water department's forces, the customer must deposit with the department, in advance of any work, a sum equal to the estimated cost of the extension. All such estimates shall be made by the department. After the completion of the work, any difference in the

actual and estimated cost will be refunded or billed additional, as the case may be.

Upon completion of such water main extensions and their approval by the water department, such water mains shall become the property of the water department. (1976 Code, § 13-108)

**18-109. Variances from and effect of preceding rules as to extensions.** Whenever the water department is of the opinion that it is to the best interest of the water system to construct a water main extension without requiring strict compliance with §§ 18-107 and 18-108, such extension may be constructed upon such terms and conditions as shall be approved by the department.

The authority to make water main extensions under §§ 18-107 and 18-108 is permissive only and nothing contained therein shall be construed as requiring the municipality to make water main extensions or to furnish service to any person or persons, even though such prospective customers meet all of the requirements contained in §§ 18-107 and 18-108 so as to authorize the department to make a main extension. (1976 Code, § 13-109)

**18-110. Meters.** Any customer shall have the right to purchase and furnish a meter, provided such meter meets the requirements and standards of new meters then being installed by the city. When a customer furnishes his own meter, it shall remain the property of the customer. The city will test, repair, and maintain the meter, but the customer shall be responsible for the cost of such maintenance and repair. No one shall tamper with or work on a water meter without the written approval of the water department. No one shall cause water to pass through or around a water meter without the passage of such water being registered fully by the meter. (1976 Code, § 13-110)

**18-111. Meter tests.** The municipality will, at his own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall be within the accuracy limits as stated in the ANSI/AWWA C700 Standards for Cold Water Meters.

The municipality will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the cost of such meter test shall be borne by the customer.

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the municipality. (1976 Code, § 13-111, modified)

**18-112. Schedule of rates.** (1) For water furnished entirely within the corporate limits of the City of Gatlinburg, effective on the first billing due after July 1, 2021:

2,000 gallons per month or less \$7.75

For all amounts over 2,000 gallons, the rate shall be \$3.88 per 1,000 gallons.

The minimum monthly bill shall be as follows:

<u>Water Meter Size</u>		<u>Minimum Water Bill</u>
5/8" to 3/4"	0-2,000 Gal.	\$ 7.75
1" Meter	0-2,000 Gal.	19.86
1 - 1/2" Meter	0-2,000 Gal.	26.47
2" Meter	0-2,000 Gal.	26.47
3" Meter	0-2,000 Gal.	39.72
4" Meter	0-2,000 Gal.	52.97
6" Meter	0-2,000 Gal.	79.44
8" Meter (and above)	0-2,000 Gal.	119.16

(2) In addition to the above, there is hereby imposed a one dollar (\$1.00) administrative charge for all water accounts. This administrative charge shall also cover a combined water and sewer account.

(3) In order to defray the additional cost, a charge of fifty cents (\$0.50) per one thousand (1,000) gallons of water used is hereby added to all customers at or above an elevation of one thousand seven hundred fifty feet (1,750') above sea level.

(4) For water furnished to premises upon which any water faucet or other outlet is outside the corporate limits of the City of Gatlinburg, the above rates and minimum bills shall be increased by twenty-five percent (25%).

(5) For each main sprinkler connection of six inch (6") diameter or smaller, the rate shall be fifty dollars (\$50.00) per year plus five cents (\$0.05) per year for each sprinkler outlet in excess of five hundred (500). For each sprinkler connection of eight inch (8") diameter, the rate shall be seventy dollars (\$70.00) per year plus five cents (\$0.05) per year for each sprinkler outlet in excess of five hundred (500). Yearly charges for sprinkler connections shall be paid one-twelfth (1/12th) per month.

(6) For each unmetered fire hose closet or fire hose connection, the rate shall be five dollars (\$5.00) per year, and yearly charges for fire hose connections shall be paid one-twelfth (1/12th) each month.

(7) All water used by other departments of the city shall be metered or otherwise accounted for and paid for at the above rates.

(8) The City of Gatlinburg shall pay to the water department a fire service charge at the rate of forty-five dollars (\$45.00) per year for each public fire hydrant, the total yearly charge being payable one-twelfth (1/12th) each month. (1976 Code, § 13-112, as replaced by Ord. #2416, Sept. 2009, and amended by Ord. #2569, April 2021 ***Ch14\_03-23-22***)

**18-113. Multiple services through a single meter.** No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the municipality.

Where the municipality allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water charge for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the municipality's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1976 Code, § 13-113)

**18-114. Billing.** All rates are net, the gross rate shall be ten percent (10%) higher.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the municipality.

Water bills and sewer bills must be paid jointly on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before the discount date, service may be discontinued without further notice. The municipality shall not be liable for any damages resulting from discontinuing service under the provisions of this section even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for

payment at the net rate will be accepted by the municipality if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the municipality reserves the right to render an estimated bill based on the best information available. (1976 Code, § 13-114)

**18-115. Discontinuance or refusal of service.** The department shall have the right to discontinue service or refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.
- (4) The payment of any obligation due the department, including any required deposit.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

The city shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, company or firm to which such service is furnished, is in default in the payment of any obligation to the city or has heretofore had his service disconnected because of a violation of the rules and regulations of the city.

If the city should for any reason begin to render service to an applicant to whom the city has a good and valid reason for refusing to render such service, the city shall have the right to discontinue such service at any time within one year after such service is begun, even though such customer does nothing to justify the discontinuance of service during the time such service is being rendered. (1976 Code, § 13-115)

**18-116. Reconnection, minimum bill and service charges.**

(1) When service is disconnected for non-payment, a \$50.00 reconnection fee shall be charged to reconnect service in addition to the outstanding bill, if any, on said account before water service is restored.

(2) There shall be imposed a service charge of \$25.00 to disconnect water service made at the request of the customer or on a seasonal basis.

(3) All residences and businesses shall be required to pay a minimum bill during any month that they are closed whether or not water service is disconnected.

(4) All residences and businesses which have water service available from the City of Gatlinburg, whether or not used, shall be required to pay a

minimum monthly charge for said availability, said charge being equal to the minimum monthly water bill. (1976 Code, § 13-116)

**18-117. Termination of service by customer.** Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise and the city shall have the right to continue such service not to exceed 10 days from receipt of notice. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

Under no circumstance will the continuance or discontinuance of service be used as a means of forcing the occupant of the premises to surrender possession thereof.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the city reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the city shall have the right to continue such service for a period of not to exceed ten days after receipt of such written notice, during which time the customer shall be responsible to the city for all charges for such service. If the city should continue service after such ten day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible to the city for such charges for any service furnished after the expiration of such ten day period.

(2) During such ten day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city rules and regulations. (1976 Code, § 13-117)

**18-118. Access to customers' premises.** The water department's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the municipality, and for inspecting customer's plumbing and premises generally in order to secure compliance with these rules and regulations. (1976 Code, § 13-118)

**18-119. Inspections.** The municipality may, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The municipality reserves the right to refuse service or to

discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirement of the municipality.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the municipality liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1976 Code, § 13-119)

**18-120. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connection, and other equipment furnished by or for the municipality shall be and remain the property of the municipality. Each customer shall provide space for and exercise proper care to protect the property of the municipality on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1976 Code, § 13-120)

**18-121. Customer's responsibility for violations.** Where the municipality furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1976 Code, § 13-121)

**18-122. Supply and resale of water.** All water shall be supplied within the municipality exclusively by the municipality and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the municipality. (1976 Code, § 13-122)

**18-123. Unauthorized use or interference with water supply.** No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the department. (1976 Code, § 13-123)

**18-124. Limited use of unmetered private fire line.** Where a private fire line or sprinkler system line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the department.

All private fire hydrants may be sealed by the municipality and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer

taking such service shall immediately give the municipality a written notice of such occurrence. (1976 Code, § 13-124)

**18-125. Damages to property due to water pressure.** The municipality shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the municipality's water mains. (1976 Code, § 13-125)

**18-126. Liability for cutoff failures.** The municipality's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a water service, the municipality has failed to cut off such service.

(2) The municipality has attempted to cut off a service but such service has not been completely cut off.

(3) The municipality has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the municipality's main.

Except to the extent stated above, the municipality shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the municipality's cutoff. Also, the customer (and not the municipality) shall be responsible for seeing that his plumbing is properly drained and is keep properly drained, after his water service has been cut off. (1976 Code, § 13-126)

**18-127. Restricted use of water.** In times of emergencies or in times of water shortage, the municipality reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1976 Code, § 13-127)

**18-128. Interruption of service.** The municipality will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The municipality shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water system, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The municipality shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1976 Code, § 13-128)

**18-129. Connections with fire hydrant.** Water may be obtained from municipal fire hydrants with the permission of the water department, provided the permittee shall comply with the following conditions:

- (1) No wrench shall be used to open the fire hydrant outlet except by one approved by the water department.
- (2) The main valve of the hydrant is to remain open at all times during the operation and water shall be regulated through a reduced coupling and independent valve.
- (3) No leakage of water shall be permitted from the fire hydrant.
- (4) The use of a hydrant to fill a truck, tanker or any other receiving vessel shall be by means of an approved air-gap or other means acceptable to the utility manager, so as to protect against backflow. (1976 Code, § 13-129, modified)

**18-130. Definitions.** For the purposes of §§ 18-130 through 18-136, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the text, words used in the present tense include future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- (1) "City" is the City of Gatlinburg.
- (2) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- (3) "Water" is water from the city water supply system. (1976 Code, § 13-130)

**18-131. Application for regulations.** The provisions of §§ 18-130 through 18-136 inclusive shall apply to all persons using water both in and outside the city, and regardless of whether any person using water shall have a contract for water service with the city. (1976 Code, § 13-131)

**18-132. New construction and renovation.** Any new construction, renovation, remodeling or replacement of plumbing fixtures in a commercial establishment from and after the effective date of this chapter shall be required to make use of water saving devices including water closets, showers, bathroom and kitchen faucets and plumbing fixtures. Such water saving devices shall be approved by the city manager or his designee as being a water saving type and said approval shall be required prior to the installation of same. (1976 Code, § 13-132)

**18-133. State of emergency.** The city commission is hereby authorized and empowered to declare a state of emergency, at any time hereafter when same may appear to be necessary or advisable for the general welfare and benefit of the municipality, relative to the use or consumption of water furnished

by the municipal water system to its users, customers or consumers. When a state of emergency has been declared, the city manager is hereby authorized, empowered, and directed to immediately restrict, prohibit and regulate the use

and consumption of all water by all of the city's users, customers and/or consumers in such a manner, to such an extent, and for such a length of time as is necessary or advisable for the general welfare and benefit of the municipality. (1976 Code, § 13-133)

**18-134. Certain uses prohibited.** When an emergency is declared, the use and withdrawal of water by any person for the following purposes is hereby prohibited:

- (1) Water yards. The sprinkling, watering or irrigating or shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers, or any other vegetation.
- (2) Washing mobile equipment. The washing of automobiles, trucks, trailers, trailer houses, or any other type of mobile equipment.
- (3) Cleaning outdoor surfaces. The washing of sidewalks, driveways, filling station aprons, porches and other outdoor surfaces.
- (4) Cleaning buildings. The washing of the outside of dwellings; the washing of the inside and outside of office buildings.
- (5) Cleaning equipment and machinery. The washing and cleaning of any business or industrial equipment and machinery.
- (6) Ornamental fountains. The operation of any ornamental fountain or other structure making a similar use of water, not employing a recirculating system.
- (7) Swimming pools. Swimming and wading pools not employing a filter and recirculating system.
- (8) Escape through defective plumbing. The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair and which will include defects in swimming pools and fountains.
- (9) Air conditioning. Use of air conditioning equipment requiring water, not employing a recirculating system.
- (10) Restaurant service. Drinking water will not be served with meals unless specifically requested by the customer. (1976 Code, § 13-134)

**18-135. Enforcement.** Every police officer of the city shall, in connection with his duties imposed by law, diligently enforce the provisions of this chapter. The city manager shall have the authority to enforce the provisions of this chapter by the discontinuance of water service in the event of violation hereof in addition to the penalties set out herein above. (1976 Code, § 13-135)

**18-136. Penalties.** Any person who shall violate the provisions of §§ 18-130 through 18-136, inclusive, shall be subject to a civil penalty of up to five hundred dollars (\$500.00) for each and every offense. (1976 Code, § 13-136, modified)

**18-137. Utility deposits.** A deposit shall be required of all water and sewer customers, due upon application for service. Said deposit shall be security for payment of all charges for services in this title, including water, sewer and solid waste. The deposit amounts are as follows:

(1) Residential. An amount equal to two and one-half times the actual or estimated maximum monthly utility bills or a minimum of one hundred twenty-five dollars (\$125.00) per dwelling.

(2) Hotels/motels. An amount equal to two and one-half times the actual or estimated maximum monthly utility bills or a minimum of seventy-five dollars (\$75.00) per unit.

(3) Restaurant. An amount equal to two and one-half times the actual or estimated maximum monthly utility bills or a minimum of seventy-five dollars (\$75.00). Deposits on new restaurants or comparable facility will be based on an existing facility within the system, with comparable seating capacity in accordance with the above requirements. All new services will be subject to review and adjustment of deposits after twelve (12) months.

(4) All others. In the event an establishment is constructed, not covered in the above categories, same will be subject to deposit based on two and one-half (2 1/2) times the usage of a facility that closest resembles that being constructed.

The amount of the deposit may be adjusted upward by the finance director or the utility supervisor if the actual usage increases. Existing deposits may also be adjusted based on renovations, expansions, etc. if the usage of utilities increases or will increase as a result of such activity.

The deposit may be made in the form of cash or check of, if the required deposit exceeds the sum of two hundred fifty dollars (\$250.00), the deposit may be made in the form of an irrevocable letter of credit, escrowed certificate of deposit, savings account, or surety bond.

The deposit required above may be used to pay any delinquent water, sewer, or solid waste charge imposed pursuant to this title. (1976 Code, § 13-137, as amended by Ord. #2395, Aug. 2008)

**18-138. Add-on fees.** In addition to the water meter tap fees set forth in § 18-106(1), the following additional fees shall be charged.

Duplex, triplex, condos, PUD's or other similar type multi-unit residential complex	\$375.00 per water closet in excess of two, not located in public common areas
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Motels and hotels	\$375.00 per water closet in excess of two, not located in public common areas
Restaurants	\$30.00 Per Seat
Self-service laundries	\$150.00 Per Washer
Service stations	\$225.00 Per Pump
Theaters, movie/live performance	\$7.50 Per Seat
Shopping centers/comm. stores, similar developments	\$30.00 Per 1,000 Ft. Floor Space
Mobile home parks, single ownership	\$400.00 Per Each Additional Unit
Car wash	\$1,500.00 Per Bay
Campgrounds	\$100.00 Per Site
Single family residential unit	\$375.00 per water closet in excess of two
(Ord. #2193, Sept. 1999, as amended by Ord. #2265, March 2002, and Ord. #2393, Aug. 2008)	

**CHAPTER 2****SEWERS****SECTION**

- 18-201. Purpose of chapter.
- 18-202. Definitions.
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- 18-240. Installation of secondary meters.
- 18-241. Limitations of point of discharge.
- 18-242. Septic tank plumbing, hauling and discharge.
- 18-243. Other holding tank waste.
- 18-244. Penalties.
- 18-245. Owner responsible for pipes.
- 18-246. Add-on fees.

**18-201. Purpose of chapter.** The general purpose of this set of rules and regulations is to set forth and provide for the rightful and proper use or uses of the facilities of the City of Gatlinburg for the collection and disposal of sewage. To accomplish this purpose, all users of the facilities of the City of Gatlinburg for the collection and disposal of sewage must comply with the rules and regulations presented hereinafter.

(1) To establish rates and a uniform procedure in the levying of the service and improvement charges to maintain equity in the billing throughout the area of service.

(2) Prohibit the contribution of wastewater which may cause operational or maintenance difficulties or deteriorations in the sewers, force mains, pumping stations, sewage treatment plant and other structures appurtenant to the treatment and collection system.

(3) Establish control in the contribution of wastewater which requires greater treatment expenditures than are required for equal volumes of normal domestic waste.

(4) Establish a uniform procedure for design, installation, inspection, operation and maintenance of private wastewater treatment and disposal systems, extensions of public sewer systems, laterals and connections to sewer mains.

Furthermore, these rules and regulations are a part of all residential, commercial, industrial and public contracts for receiving sewage collection and treatment service from the City of Gatlinburg and apply to all such service received from the city whether the service is based upon contract, agreement, signed application or other mutual understanding. (1976 Code, § 13-201)

**18-202. Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in this policy shall be as follows:

(1) “City” shall mean the Board of Commissioners of the City of Gatlinburg, acting through its city manager, employees and other agents authorized to conduct business on behalf of the commissioners.

(2) “Superintendent” shall mean the Superintendent of the Wastewater System of the City of Gatlinburg, or the authorized deputy, agent or representative of the superintendent.

(3) “BOD” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under

standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

(4) “C.O.D.” (Chemical Oxygen Demand) shall mean the quantity of oxygen utilized in the rapid oxidation of organic matter by a strong standard chemical oxidant in accordance with “Standard Methods”, expressed in milligrams per liter.

(5) “Color” shall be measured by Nessler Tube Colorimeter utilizing a standard platinum cobalt color wheel for the determination of color in water.

(6) “Chlorine demand” shall mean the amount of chlorine required to produce a free chlorine residual after thirty minutes contact time, expressed in milligrams per liter.

(7) “Building drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(8) “Building sewer” shall mean the extension from the building drain to the public sewer or other place of disposal, excepting force mains, sewage pumped or under pressure, see subsection (39).

(9) “Combined sewer” shall mean a sewer receiving both surface runoff and sewage.

(10) “Wastewater department” shall mean the agency of the city charged with operating its sewage treatment plant, its authorized employees and agents.

(11) “Gatlinburg Utility Service Area” shall mean those areas authorized to receive sewer service from the City of Gatlinburg.

(12) “Garbage” shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(13) “Industrial wastes” shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from domestic sewage.

(14) “Natural outlet” shall mean any outlet into a water-course, pond, ditch, lake or other body of surface or groundwater.

(15) “Person” shall mean individual, firm, company, association, society, corporation, or group. This term shall be synonymous with user.

(16) “ph” shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(17) “Properly shredded garbage” shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

(18) “Public sewer” shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(19) “Sanitary sewer” shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

(20) “Sewage” shall mean a combination of the watercarried wastes from residences, business buildings, institutions and industrial establishments; together with such ground, surface and stormwaters as may be present.

(21) “Wastewater” - synonymous with “sewage”.

(22) “Sewage treatment plant” shall mean any arrangement of devices and structures used for treating sewage.

(23) “Wastewater treatment plant” - synonymous with “Sewage Treatment Plant”.

(24) “Sewage works” shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(25) “Sewer” (same as public sewer) shall mean a pipe or conduit for carrying sewage, manholes, and other physical systems that provide a path for wastewater to the sewage plant.

(26) “Slug” shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow, exceed for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

(27) “Storm drain” (sometimes termed “storm sewer”) shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(28) “Suspended solids” shall mean solids that are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(29) “Watercourse” shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(30) “Connection” shall mean any physical tie or hookup made to a sewer owned, operated and maintained by the City of Gatlinburg.

(31) “Permit” shall mean written authorization from the superintendent of wastewater, or his authorized agents and employees, to make connection with or opening into, use, alter, or disturb a public sewer or appurtenance.

(32) “User” shall mean any occupied property or premise having a connection to the sewer system or having access thereto.

(33) “User charge” shall mean a charge to assure that each recipient of sewerage treatment services will pay its proportionate share of the costs of operation and maintenance of all waste treatment services provided by the city.

(34) “Compatible wastes” shall mean such wastes or Bio-chemical Oxygen Demand, settleable solids, total suspended solids, and nitrogen as defined in Table I, § 18-218(5)(k).

(35) “Incompatible wastes” shall mean the wastes that are not compatible, and as specified in Table I, § 18-218(5)(k).

(36) “Normal domestic sewage” shall be as regarded “normal” for the city. Normal domestic sewage shall contain a daily average of not more than

300 milligrams per liter of B.O.D. and not more than 300 milligrams per liter of suspended solids.

(37) "Industrial user" shall mean any nongovernmental user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under the following divisions:

- (a) Division A, Agriculture, Forestry, and Fishing.
- (b) Division B, Mining.
- (c) Division D, Manufacturing.
- (d) Division E, Transportation, Communications, Electric, Gas

and Sanitary Services.

(38) "Standard methods" shall mean the "Standard Methods for the Examination of Water and Wastewater", latest edition, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Association.

(39) "Force main" shall mean any building drain conveying wastewater to a city sewer entirely or partially by means of pump or pressure, or by any means other than gravity flow. (1976 Code, § 13-202)

**18-203. Use of public sewers required.** It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where a Federal National Discharge Elimination System (NPDES) permit has been duly issued and is currently valid for such discharge. In all other instances, suitable treatment must be provided in accordance with provisions of this chapter. (1976 Code, § 13-203)

**18-204. Unlawful discharge.** Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. (1976 Code, § 13-204)

**18-205. Places required to have sanitary disposal.** (1) The owner of all houses, buildings or structures for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or when in the future is located, a public sanitary sewer of the city, is hereby required at the owner's expense to install sanitary facilities directly with the proper public sewer in accordance with the provisions of this policy, within one hundred eighty (180) days after date of official notice to do so, unless the owner can provide written proof that he has been unable to secure the connection because of delays beyond his control, inability to obtain a contractor, or other valid reasons.

(2) The city shall combine charges for sewer and water service in one statement and shall bill the beneficiary of such services in such manner as to

require the payment of both charges as a unit, and to enforce the payment of such charges by discontinuing either water service, or sewer service, or both. The city shall not accept payment of water services charges from any person without receiving at the same time, payment of any sewer service charges owed by such person. (1976 Code, § 13-205)

**18-206. Private sewage disposal.** (1) The disposal of sewage by means other than the use of the available sanitary sewage system shall be in accordance with local county and state law. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the available sanitary sewage system is not available. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Sevier County Health Department. Prior to commencing construction of a private sewage disposal system, the owner shall obtain a written permit signed by the superintendent; a permit and inspection fee of twenty-five dollars (\$25.00) shall be paid to the city at the time the application is filed. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any stage of construction and the applicant for the permit shall notify the superintendent when the work is to begin, when it is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the superintendent.

(2) The type, capacity, location and layout of a private sewage disposal system shall comply with all the recommendations of the Department of Health of the State of Tennessee. No permit shall be issued for any private sewage disposal system employing sub-surface soil absorption facilities when the area of the lot is less than 15,000 square feet, (1393.5 square meters). No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(3) When a public sewer becomes available, the building sewer shall be connected to said sewer within ninety (90) days and the private sewer disposal system shall be cleaned of sludge and filled with gravel or dirt; or adapted to such other use as is acceptable to the superintendent. (1976 Code, § 13-206)

**18-207. Owner to maintain.** The owner shall operate and maintain the private sewage disposal facility in a sanitary manner at all times, at no expense to the city. (1976 Code, § 13-207)

**18-208. Additional requirements.** County and state health officers shall have final authority to assess requirements on the construction and use of said private disposal system. (1976 Code, § 13-208)

**18-209. Building sewers and connections.** No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof, without first obtaining a written permit from the superintendent of the wastewater department or those delegated by him to issue said permit. (1976 Code, § 13-209)

**18-210. Permits.** (1) Upon application for a permit to tap the city sewage collection system, and a determination that adequate service is available to accommodate the requirements of the tap, the city shall make the tap and extend the service connection to the edge of the public right-of-way or to the property line of the applicant, whichever is closer to the point of the tap. At that point, the city shall install a cleanout, to grade, compact and backfill the trench and repave the street, as applicable. Maintenance of this service extension shall be by the city.

(2) From that point, the applicant shall extend the service as necessary to accommodate his requirements, according to his previously approved plan and in compliance with the plumbing code of the city.

(3) Application for sewer taps shall be made at the Department of Community Development, accompanied by an accurate plan showing the location of the tap and all relevant elevations.

(4) The following tap fee shall be paid at the time of the approval of the application and before any work is done. The tap fee shall be determined by the size of the water meter serving the property in question.

<u>WATER METER SIZE</u>	<u>TAP FEE</u>
5/8" or 3/4"*	\$ 750.00
1" or larger*	\$1,500.00 per inch diameter of water meter

\*The tap fee does not include the cost of service assembly, i.e. connecting to main line and furnishing and installing service line, fittings, pavement repair, or other restoration work, all of which is to be borne by the customer requesting the service.

For sewer service outside the corporate limits, the tap fee amounts shall be two times the above.

(5) [Deleted.]

(6) The sewer tap fee is in addition to any plumbing permit fee charged for the work from the end of the city's work.

(7) The city's costs which are to be reimbursed by the applicant, shall include, but not be limited to:

- (a) Labor (including fringe benefits and overtime);
- (b) Materials;
- (c) Vehicles and equipment (owned or hired);

- (d) Supervision;
- (e) Sub-contracts;
- (f) Backfill material;
- (g) Paving;
- (h) Sidewalk replacement; and
- (i) Street restriping, etc.

(1976 Code, § 13-210, as amended by Ord. #2194, Sept. 1999, and Ord. #2316, May 2004)

**18-211. Installation.** All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (1976 Code, § 13-211)

**18-212. Sewer required for each building.** A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway; the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this policy. (1976 Code, § 13-212)

**18-213. Construction requirements.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the Standard Plumbing Code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.F.C. Manual of Practice, No. 9, shall apply. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(1) Building sewers shall be not less than four (4) inches in diameter and shall be laid with a slope (grade) of not less than 1/4 inch per foot. Building sewers shall be laid in the most direct course possible. They shall be installed in a straight line and on uniform grade, with a minimum cover of 18 inches. Wye type cleanouts shall be installed on all building sewers at the property line or any bend, and before entering the structure to be served. Only approved standard fittings shall be used.

(2) Only the following types of pipe are acceptable for building sewers:

Extra Heavy Cast Iron or Ductile Iron Soil Pipe shall comply with Commercial Standard CS188-59, with a coal tar pitch coating and rubber gasket type joints.

Extra Strength Vitrified Clay Pipe shall comply with ASTM Des. 0200-687. Pipe joints shall be resilient gaskets, C425-667, Type III.

Polyvinyl Chloride (PVC) Plastic Drain, Waste and Vent Pipe (DWV) Pipe shall comply with ASTM D 2665 Schedule 40, and may be jointed with solvent cement.

Extra strength Concrete Pipe shall comply with ASTM C14-69, except as modified herein, the minimum wall thickness for four (4) inch pipe shall be 1-1/4 inches, and the absorption shall not exceed 6.5 percent. Joints shall be O-ring rubber gasket type conforming to ASTM DEs. C-443.

(3) All force mains shall be constructed of ductile iron or steel pipe. The superintendent shall have the right to establish the quality, standard, size and other conditions which reasonably relate to the integrity of said line from freeze, damage, contamination of groundwater or creating of public nuisance. (1976 Code, § 13-213)

**18-214. Construction standards.** (1) The connection of the building sewer into the public sewer shall conform to the requirements of the Standard Plumbing Code or other applicable rules and regulations of the city, or the procedures set forth in the appropriate specifications of the A.S.T.M. and the W.P.F.C. Manual of Practice, No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved in writing by the superintendent before installation.

(2) An applicant obtaining a permit to connect to the city sewer shall supply information, plans, and specifications as shall be required by the superintendent. The installation of said building sewer must be made in the manner as finally approved by the superintendent.

(3) A permit for connection to the city sewer system is issued conditionally, and shall not become effective until the installation of the building sewer required to connect the applicant's property to the sewer system is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any stage of construction. The applicant for the permit shall notify the superintendent when the work is ready for final inspection and before any underground portions are covered. Twenty-four (24) hours notice shall be given said superintendent and his inspection shall be made within that time. The connection to the city sewer shall be made either by the superintendent, or persons approved by him. Where connection to a city sewer has been made without a permit and/or approved inspection, then it shall be the right and duty of said superintendent to uncover said connection for inspection and reconnection if same is not proper. The costs of doing so shall be assessed against the landowner, user, and/or permittee, when one exists, and constitute a lien against said property. In addition to the above remedy, the city reserves

the right to proceed under § 18-245, upon written notice from the superintendent to the user and/or applicant that the above conditions have been violated.

Every permit issued under this act is subject to revocation, if in the opinion of the superintendent, the installation of the user's building sewer and/or sewer tap connection do not meet the requirements of this code, or plans and specifications agreed to at the time the permit was issued. In that event, a stop work order will be issued by the superintendent and work will not be resumed until a new permit is issued. (1976 Code, § 13-214)

**18-215. Safety requirements.** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city and/or superintendent. (1976 Code, § 13-215)

**18-216. Use of public sewers.** No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof run-off, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Car wash bays, refuse container pads, and other similar areas that are outside or otherwise exposed to the outside environment that have drains connected to the sanitary sewer must be protected from the inflow of rainwater and runoff water by being properly covered overhead. Outside the immediate basin area, the grade shall be sloped away from the drain, and a curb or berm shall divert surface water away from the drain. (1976 Code, § 13-216, modified)

**18-217. Stormwater and unpolluted drainage.** Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Tennessee Stream Pollution Control Board. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Tennessee Stream Pollution Control Board, to a storm sewer or a natural outlet. (1976 Code, § 13-217)

**18-218. Prohibited discharges.** No person shall discharge or cause to be discharged any of the following, but not limited to, described waters or wastes to any public sewer. The admission of any of the wastes described in this section to the extent and degree forbidden or excluded shall subject such person or user to such corrective action or remedy as is available to the city, and penalties described in § 18-245.

(1) Any gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes,

to injury or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create a hazard in the receiving waters of the sewage treatment plant.

(3) Any waters or wastes having a pH higher than 9.0 or lower than 5.5, or having other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, air and fleshings, entrails, milk containers, paper dishes, cups, paper and plastic products such as plates, cups, forks, knives, spoons, straws, butter pats, either whole or ground by garbage grinders, and degreasers such as sulfuric acid, or solvents.

(5) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F. or 65° C.

(b) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of fifty milligrams per liter (50 mg/l) or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65°C). Admittance of grease, oils, wax or fats to any extent into the sewer system shall be conditioned on the user supplying an inspection manhole satisfactory to the superintendent, downstream from the user's building drain, grease traps or other collectors.

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

(e) Any waters or wastes containing objectionable or toxic substances; or wastes exerting an excessive chlorine requirement to such degree that any such materials received in the composite sewage

treatment works exceed the limits established by the superintendent and/or the Division of Sanitary Engineering, and Tennessee Department of Health, for such materials.

(f) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, and other public agencies of jurisdiction for such discharge to the receiving waters.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(h) Any waters or wastes having a pH in excess of 9.0.

(i) Materials which exert or cause:

(i) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate.)

(ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(iii) Unusual Biochemical Oxygen Demand, or chlorine requirement in such quantities as to constitute a significant load on the sewage treatment works.

(iv) Unusual volume of flow or concentration of wastes constituting "slugs" and defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(k) Any waters or wastes exceeding the following standards:

(l) The admission of any incompatible wastes listed in Table I shall not be admitted to any degree into the sewer system without first obtaining the consent of the superintendent. The superintendent shall first determine the daily average maximum concentration (mg/l) and instantaneous maximum concentration (mg/l) of the listed incompatible wastes, as well as any other toxic or hazardous materials that a user may discharge into the sewer system. The values listed are the maximum that may be admitted and approved by the superintendent to admit said incompatible, toxic or hazardous wastes shall be conditioned on the user supplying an approved inspection manhole downstream from the user's building drain, grease trap or other collection device. The object of these requirements is to enable the city to verify quality and quantity of discharges into the sewer system. The superintendent shall refer to

appropriate Tennessee State Department of Health regulations to determine whether the toxicity or hazardous qualities, as well as the maximum strengths, of any wastewaters are admissible into the sewer system.

TABLE I

MAXIMUM EFFLUENT STANDARDS FOR DISCHARGE OF WASTES  
INTO THE MUNICIPAL WASTEWATER SYSTEM

<u>Constituent</u>	Daily Average <sup>1</sup> Maximum <u>Concentration (mg/l)</u>	Instantaneous Maximum <u>Concentration mg/l)</u>
<u>Compatible wastes:</u>		
Biochemical Oxygen Demand (BOD)	350*	400
Settleable Solids (ml/l)	15*	20
Total Suspended Solids	300*	400
Nitrogen (Total Kjeldahl)	20*	40
<u>Incompatible wastes:</u>		
Antimony	5.0	8.0
Arsenic	1.0	1.5
Barium	35.0*	50.0
Boron	0.2*	1.0
Cadmium	BDL*	0.02
Chromium, Total	0.5*	1.0
Cobalt	10.0	15.0
Copper	0.1*	0.5
Cyanide	0.2	0.2
Fluoride	45.0	70.0
Iron, Total	45.0	70.0
Lead	BDL*	0.1
Magnesium	10.0	15.0
Manganese	1.0	1.5
Mercury	0.1	0.2
Nickle	0.1*	0.5
Phosphorus (Total P)	10.0	15.0
Potassium	10.0	15.0
Selenium	0.1	0.2
Silver	1.0	1.5

<u>Constituent</u>	Daily Average <sup>1</sup> Maximum <u>Concentration (mg/l)</u>	Instantaneous Maximum <u>Concentration mg/l)</u>
<u>Incompatible wastes: (con't)</u>		
Strontium	30.0	50.0
Tin	10.0	15.0
Titanium	3.0	5.0
Zinc	0.1*	0.5
Pesticides	BDL**	
Phenols	10.0	15.0
Surface Active Agents (as MBAS Non- Biodegradeable	5.0	8.0
Hexane or Ether Soluble Substances	100.0	150.0
Total Oil, Grease Wax & Fats	50.0	

\*Must satisfy conditions established by Table II in order for user to discharge levels stipulated in Table I.

\*\*BDL - Below detectable Limit.

<sup>1</sup>Based upon 24-hour flow proportionate composite samples.

TABLE II  
MAXIMUM CONCENTRATION IN WASTEWATER TREATMENT  
PLANT INFLUENT

<u>Constituent</u>	Instantaneous Maximum <u>Concentration (mg/l)</u>
<u>Compatible Wastes:</u>	
Biochemical Oxygen Demand (BOD)	400
Settleable Solids	20
Total Suspended Solids	250

<u>Constituent</u>	<u>Instantaneous Maximum Concentration (mg/l)</u>
Nitrogen (Total Kjeldahl)	25
<u>Incompatible Wastes:</u>	
Boron	0.2
Cadmium	Below detectable Limit
Chromium (Hexavalent)	0.4
Chromium (Total)	1.0
Copper	0.1
Cyanide	0.2
Lead	Below detectable Limit
Nickle	0.1
Zinc	0.1
(1976 Code, § 13-218)	

**18-219. Treatment of prohibited wastes.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possesses the characteristics enumerated in § 18-218; and which in the judgment of the superintendent and/or the Division of Sanitary Engineering, Tennessee Department of Health, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rate of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing sewer charges under the provisions of § 18-223, subsection (2).

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent and subject to the requirements of all applicable codes, ordinances and laws. (1976 Code, § 13-219)

**18-220. Grease and oil.** Grease, wax, oil and sand trap collectors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of harmful ingredients; except that such collectors shall be

of a type and capacity approved by the superintendent; and shall be located as to be readily and easily accessible for cleaning, pumping and inspection.

Grease traps are required at all commercial sources. Generally, this includes but is not limited to, sinks, dishwashers, spray off sinks, garbage grinders, grease racks, and floor drains. Floor drain traps are required for all new installations after August 1, 1983. An establishment can elect to provide one grease trap for all grease sources provided the one trap is sized to accommodate all flows simultaneously. Grease traps are to be plumbed so as to avoid receiving sanitary sewage. Inspection manholes will be provided as described in § 18-222.

For purposes of sizing grease traps, one for each source, the following guidelines are provided for determining flow rate (Q):

<u>Floor Drain System:</u>	7 gallons per minute (gpm).
<u>Spray Off Sink:</u>	4 gpm.
<u>Garbage Grinders:</u>	7 gpm.
<u>Spray Off Plus Grinder:</u>	7 gpm.
<u>Dishwashers:</u>	35 gpm.
<u>Sinks:</u>	35 gpm one compartment sink.
	50 gpm two compartment sink.
	75 gpm three compartment sink.

Flow rates lower than those presented can be accepted by the superintendent based upon equipment size and types if justified or based upon actual testing of installed units. For background information and testing procedures, the applicant is referred to “Section II-D, Flow Studies, Gatlinburg Grease Ordinance Studies” by Dennis Weeter Associates, Inc., July 1983, which is on file in the superintendent's office. The applicant can petition the superintendent by submitting an application for a variance from the above guidelines on trap size. Flow testing must then be conducted with the superintendent or his agent present. Changes in equipment, such as larger sinks or dishwashers, will require a new evaluation of grease trap size with a new review required in each case.

Minimum detention time, or volume displacement time, for single tanks or for serial tanks, for all above sources and flow rates, is to be sixty (60) seconds.

All grease traps are to be PDI (Plumbing Design Institute) approved or equivalent. Applicants wishing to use pre-cast or built-in-place concrete septic tanks as grease traps shall strictly adhere to the utility department's approved grease trap size and design specification.

Grease traps which, prior to August 1, 1983, have at least two minimum detention times are not required to install influent baffles if they do not already exist. Garbage grinders which were in existence prior to August 1, 1983, are

also excluded from the requirement that they be connected to a grease trap system.

It shall be the duty of every establishment required to maintain a grease, wax and oil collector, to have same pumped by a complete emptying of the trap contents on a regular basis, or at a frequency required by the superintendent. Grease trap pumping is required if the combined floating grease mat and solids accumulation exceed 30% of the total grease trap volume; or when it appears to the superintendent or his representative that said grease, oil or wax are leaving the aforementioned collector.

Every establishment is required to maintain an annual maintenance log on all grease traps. The log will show time and date of all grease trap cleanings. Disposition of removed grease is to be recorded. The annual log will be provided by the superintendent and will be available for examination by the superintendent or his representative and will be submitted annually to the superintendent between January 1 - 15 of each year. Failure to carry out this reporting procedure is a violation of this chapter.

Acceptable disposal options for the grease includes recycling collectors or commercial collectors. All commercial collectors are required to obtain an annual permit from the superintendent.

Personnel from the wastewater department shall be permitted ready access to inspect trap or collector for compliance and if found in violation, the user will be issued a conditional three day notice to comply. Failure to comply or maintain an adequate collector, or permit the superintendent, or those authorized to act for him, to enter upon the user's premises to inspect the conditions of the grease collector and/or inspection manhole, shall subject said user to final ten (10) day notice, as provided in § 18-245. Failure therefore to have tank pumped will result in tank being pumped by the city and the owner being charged three times the average commercial rate. Charges will be added to the owner's water bill. (1976 Code, § 13-220, modified)

**18-221. Maintaining and inspection of preliminary treatment facilities.** Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory or effective operation by the owner at his expense and shall be subject to unannounced and unscheduled inspection by the city. (1976 Code, § 13-221)

**18-222. Inspection manhole.** When required by the superintendent, the owner and/or user of any property, serviced by a building sewer carrying wastes described in Table I, § 18-218, shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be constructed and situated in accordance with plans approved by the superintendent. The manhole shall be installed by the

owner and/or user at his expense, and shall be maintained by him so as to be safe and accessible at all times. Should authorized personnel of the city wastewater facility be restricted or denied access to said inspection manhole, then remedies and penalties of § 18-245 apply. (1976 Code, § 13-222)

**18-223. Testing, analysis and standards.** (1) All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this policy, shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association; and shall be determined at the control or inspection manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analysis are obtained from twenty-four (24) hour composites of all outfalls, whereas pH's are determined from periodic grab samples.) Should test results from a manhole downstream from a user's building sewer drain be controverted, then said user and/or property owner will be required to provide an inspection manhole as described in § 18-222.

(2) No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial or commercial concern, whereby industrial wastes, grease, fats, oils or wax of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by said concerns. Disposal of any pollutant by any person into the sewer system must be in compliance with the Federal Clean Water Act of 1977, and any other more stringent State and local standards. (1976 Code, § 13-223)

**18-224. Destruction or damage.** No unauthorized person shall maliciously, wilfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of malicious mischief as set forth in the Gatlinburg Municipal Code, § 11-803. (1976 Code, § 13-224)

**18-225. Powers and authority of inspectors.** The superintendent and other duly authorized employees of the wastewater department, the officials of the Environmental Protection Agency and Department of Health, bearing proper

credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this policy. The superintendent may require the user, by written notice, to provide the city with information concerning the wastewater discharge rate, volume, chemical analysis, and information on raw materials and their conversion processes. It being the object of this obligation to enable the superintendent to determine the ingredients and the presence of prohibited and/or incompatible discharges, as defined in § 18-218 of this chapter. The superintendent, his representatives, or inspectors shall have no authority to inquire into any processes, or industries beyond that point having a direct bearing on the kind and source of discharge to the sewers, waterways, or facilities for waste treatment. (1976 Code, § 13-225)

**18-226. Safety.** While performing the necessary work on private properties referred to in § 18-225 above, the duly authorized employees of the city and other representatives shall observe all safety rules applicable to the premises established by the company; and the company shall be held harmless for injury or death to city employees, representatives or inspectors, and the property by said employees against liability claims and demands growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 18-215. (1976 Code, § 13-226)

**18-227. Right to inspect.** (1) The superintendent and other duly authorized employees of the wastewater department bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds an easement for the purpose of, but not limited to, inspection, observation, measurements, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement, where such exists, pertaining to the private property involved.

(2) Every building sewer connected shall be inspected and tested before the trench in which it is laid is backfilled; and any work not accepted or approved by the superintendent for failure to meet these regulations shall be replaced or repaired so that it does comply. The person making the installation shall notify the superintendent twenty-four (24) hours before the connection is ready for inspection. Requests for inspection of work not completed or otherwise not meeting these requirements, and which result in additional trips to the work site by the city shall be paid for at the rate of \$5.00 per each additional trip. (1976 Code, § 13-227)

**18-228. Occupant to maintain disposal facilities.** It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the

facilities for sewage disposal in a clean and sanitary condition at all times; and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1976 Code, § 13-228)

**18-229. Pollution of ground water prohibited.** No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose; cistern, sinkhole, crevice, ditch or other opening either natural or artificial in any formation, which may permit the pollution of groundwater. (1976 Code, § 13-229)

**18-230. Enforcement of chapter.** It shall be the duty of the city to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. A final written notification of any violation shall be given by the superintendent to the person or persons responsible, for the correction of the condition; and correction shall be made within ten (10) days after notification. If the superintendent shall advise any person that the method of which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health, such person shall at once take steps to remove such menace; and failure to remove such menace immediately shall be punishable under the general penalty clause for this code. That, in addition to other remedies the city shall have the right to terminate utilities to those who violate provisions of this section and/or seek injunctive relief. (1976 Code, § 13-230)

**18-231. Use of system regulated.** All persons using, desiring, or required to use the public sanitary sewer system shall comply with the provisions of this chapter and with such written rules and regulations as may be prescribed by the superintendent of the wastewater works, when such rules and regulations have been approved by the Board of Commissioners of the City of Gatlinburg. (1976 Code, § 13-231)

**18-232. Extension policy.** The provisions of this section shall apply only to sewer main extensions to areas where there is a demand for sewer service by the occupants of existing houses. This section shall in no event be applicable to land development projects and subdivision promotions, even though accompanied by the erection of occasional houses within areas.

Owners of property to be served by a proposed sewer main extension of the character to which this section applies, shall pay to the department the regular charge for each connection desired, immediately. The connection charge shall be paid and the agreement to pay the minimum monthly bill shall be signed before the work is begun. The department reserves the right to require an advance cash deposit as security for such minimum bill agreement, in an

amount not to exceed the estimated cost of the main extension. The owner and/or user of the property requesting extension shall be required to pay the full cost of said extension.

Beginning with the completion of the sewer main extension, such persons shall pay to the department a sewer bill at least equal to the minimum monthly charge agreed upon, until the obligation for the payment of such minimum monthly water bill shall have been assumed by other persons acceptable to the department. Where the owner of the property has paid the full cost of the extension and other persons wish to make use of the line constructed at his expense; the owner shall be entitled to the connection fee paid by the new users in order to partially reimburse him for the cost of said extension. (1976 Code, § 13-232)

**18-233. Schedule of rates.** (1) For sewer treated entirely within the corporate limits of the City of Gatlinburg, effective on the first billing due after July 1, 2021:

2,000 gallons per month or less	\$12.17
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For all amounts over 2,000 gallons, the rate shall be \$6.08 per 1,000 gallons.

The minimum monthly bill shall be as follows:

<u>Water Meter Size</u>		<u>Minimum Sewer Bill</u>
5/8" to 3/4"	0-2,000 Gal.	\$ 12.17
1" Meter	0-2,000 Gal.	28.80
1-1/2" Meter	0-2,000 Gal.	38.40
2" Meter	0-2,000 Gal.	38.40
3" Meter	0-2,000 Gal.	52.80
4" Meter	0-2,000 Gal.	76.80
6" Meter	0-2,000 Gal.	115.20
8" Meter (and above)	0-2,000 Gal.	172.80

(2) All residences and businesses subject to the provisions of this chapter shall pay a minimum bill during any months that they are closed or otherwise not in use.

(3) When service is disconnected for non-payment, a \$50.00 reconnection fee shall be charged to reconnect services in addition to the outstanding bill, if any, on said account before sewer service is restored.

(4) In addition to the above, there is hereby imposed a \$1.00 administrative charge for all sewer accounts. This administrative charge shall also cover a combined water and sewer account.

(5) For sewer service outside the corporate limits of the City of Gatlinburg, the above rates and minimum bills shall be increased by twenty-five percent (25%). (1976 Code, § 13-233, as amended by Ord. #2194, Sept. 1999, Ord. #2264, March 2002, Ord. #2485, Sept. 2015, and Ord. #2568, March 2021 *Ch14\_03-23-22*)

**18-234. Discontinuance of service; refusal to connect service.** The provisions of this section are controlled by § 18-115 of this code relating to the sale of water, regulations, and § 18-245 of this chapter. (1976 Code, § 13-234)

**18-235. Termination of service by customer.** The provisions of this section are controlled by § 18-117 of this code, relating to the termination of water service. (1976 Code, § 13-235)

**18-236. Water obtained from other sources.** Wells or sources of water supply other than municipal water supplies, shall be registered in writing with the city, giving name of individual or firm, address, source, and approximate amount of water supply other than that from municipal water supplies; together with sketch to an approximate scale showing plan of property, water distribution system, sewer layout, existing meters, and meters or scheme proposed to determine the quantity of flow, subject to the sewer service charge.

The owners or occupants of property obtaining water from a source or sources other than through a meter of the Gatlinburg Water Department, which is discharged into the city's sewers shall install, without cost to the city, a meter or meters to measure the quantity of water received from such source or sources; and shall pay the same rate or rates as provided in purposes without the approval of the city manager. If the owner of said property fails to install an approved meter or meters, the city manager shall make an estimate of the quantity of such water used by said property owner or occupant and discharged into the city's sewers from said property; and the owner or occupant of the property shall be liable to the city for the sewer service charges due, which may be collected by suit in any court of competent jurisdiction. (1976 Code, § 13-236)

**18-237. Connections outside the corporate limits.** Any person owning or controlling premises located beyond the corporate limits of the city and desiring to install a plumbing system for the purpose of discharging domestic sewage and/or industrial waste into the sanitary sewers of the city, may do so by complying with the requirements set out in this chapter. That said connection shall be at the full expense of the person requesting the connection. All such connections however, must first be approved by the city. (1976 Code, § 13-237)

**18-238. Secondary meters.** Secondary meters for determining the sewer service charge shall be installed, owned and maintained by the property

owner. No such meter may be removed without the approval of the city manager. Meters meeting the required specifications shall be as follows:

- (1) No meter shall be installed before approval of the city manager.
- (2) Venturi meters, flumes, weirs and other methods of measuring flows shall be used only when authorized by the city manager.
- (3) Meters purchased from the water department, and meters similar and equal to those specified by the water department and tested by the water department.
- (4) Crest or turbine meters of two (2) inch size and over, to be used where it is established that the particular meter is under a full head at all times; provided such meters are tested and passed for large constant flows.
- (5) Meters used currently for tax purposes by the United States Government will be accepted without tests.
- (6) Existing private meters, now in place, may be continued in use without test on a conditional basis, subject to a future test, if so ordered by the city. (1976 Code, § 13-238)

**18-239. Water that is not discharged into system.** Whenever a property upon which a sewage service charge is hereby imposed uses water for an industrial or commercial purpose, which water so used is not discharged into the sewerage system of the city, the quantity of water so used and not discharged into the city's sewers shall be excluded in determining the sewage service charge of said owner or occupant; provided the quantity of water so used and not discharged into the city's sewers is measured by a device installed and maintained by the owner or occupant without cost to the city.

Applications from industries or businesses requesting consideration for a reduction in the sewer service charge because of water not entering the sewerage system, shall be made to the city, in writing; giving firm name of industry or business, water meter number and supporting sketch to approximate scale showing plan of property, water distribution system, sewer layout, existing meters and proposed meters in the schematic to determine the quantity of flow entering or not entering the sewerage system. This should be supplemented with a flow diagram to indicate the destination of the water supply and the wastes.

Where a sewer is available, it will be presumed that the sewage from the premises is discharged either directly or indirectly into the sewer, and such property shall be billed for sewerage service. (1976 Code, § 13-239)

**18-240. Installation of secondary meters.** Secondary meters are to be installed by persons qualified to do plumbing. Upon completion of the installation, the superintendent shall be notified in writing and the work of installation shall be inspected by an authorized agent for the purpose of subtraction from the primary meter all expenses incident thereto, including purchasing, installing, maintenance, billing; and billing reading expense to be

determined by the city and charged off on the account to be credited each month. (1976 Code, § 13-241)

**18-241. Limitations of point of discharge.** No person shall discharge any substance directly into a manhole or other opening in a community sewer, unless he shall have been issued a temporary permit by the superintendent. The superintendent shall incorporate in such temporary permit such conditions as he deems reasonable, necessary to insure compliance with the provisions of this chapter; and the user shall be required to pay applicable charges and fees therefor. (1976 Code, § 13-242)

**18-242. Septic tank plumbing, hauling and discharge.** No person owning vacuum or “cesspool” pump trucks or other liquid waste transport trucks shall discharge directly or indirectly such sewage into the sewer, unless such person shall first have applied for and received a “Truck Discharge Operation Permit” from the superintendent. All applicants for a “Truck Discharge Operation Permit” shall complete such forms as required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the superintendent. The owners of such vehicles shall affix and display the permit number on the side of each vehicle used for such purposes. Such permits shall be valid for a period of one (1) year from the date of issuance, provided that such permit shall be subject to revocation by the superintendent for violation of any provision of this chapter or reasonable regulation established by the superintendent. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. The superintendent shall designate the times and locations where such trucks may be discharged; and may refuse to accept any truckload of waste, in his absolute discretion, where it appears that the waste could interfere with the effective operation of the treatment works, or any sewer line or appurtenance thereto. (1976 Code, § 13-243)

**18-243. Other holding tank waste.** No person shall discharge any other holding tank waste, grease, oil, fats or wax into the sewer system unless he shall have applied for, and shall have been issued a permit by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each location of discharge time of day the discharge is to occur, the volume of the discharge; and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable fees or charges therefor, and shall comply with the conditions of the permit issued by the superintendent. However, no permit will be required to discharge domestic waste from a recreational vehicle holding tank, provided such discharge is made into an approved facility designed to receive such waste. (1976 Code, § 13-244)

**18-244. Penalties.** Every property owner, user or permit applicant shall be expected to adhere to provisions of the policy of this chapter and shall be expected to comply with the final written notices issued by the superintendent, as authorized by this act. Failure to abide by these written notices within ten (10) days, excepting § 18-224, shall constitute a violation of the act; and in addition to all other penalties and costs, subject the user, property owner or applicant to a discontinuance of city water and sewer services. Every such person advised that said services will be discontinued shall be entitled to a hearing before the city manager. A request for such a hearing must be made with the city recorder within ten (10) days following the expiration period stated in the superintendent's final written notice. Appeal from the city manager's decision must be made to the appropriate court of Sevier County within the statutory period permitted by law, or within thirty (30) days, whichever is greater, after being advised in writing of said decision. Such advisement will be made by registered letter sent to the user's address as posted with the Gatlinburg Water Department, or as listed in any permit application with the city. Mailing of such notice will be deemed a discharge to the city's obligation of notice to said appellant, whether actually received or not. In addition, any person found to be in violation of any provision of this chapter or who shall continue any violation beyond the time limit expressed in the superintendent's notice to comply, shall be guilty of a violation of the City of Gatlinburg's Municipal Code § 11-703, and a conviction thereof shall be subject to a civil penalty of up to five hundred dollars (\$500.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. Any person found violating any provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned by the city by reason of such violation. All final notices issued by the superintendent shall be sent by registered mail in the same manner as advisements of decisions issued by the city manager described in this section. Responsibility by the superintendent to give notice shall be considered fully discharged by such registered letter, whether received or not.

No permit for connection of building sewer shall be issued (directly or indirectly) to and no work on any connection to the city's sewer system or fixtures attached thereto, shall be done by any firm or individual who has in the past made such connections or has done such work in violation of these regulations. (1976 Code, § 13-245, modified)

**18-245. Owner responsible for pipes.** The sewers are constructed for the purpose of transporting sewage, not storm water. Every customer of the sewerage system shall be responsible for the integrity of the pipes on his property which connect to the sewerage system. If it is determined that the pipes owned by the customer are faulty or in a bad state of repair, such that extraneous storm water can enter the sewerage system, or sewerage is escaping

the service line, the city shall require the customer to repair his pipes. If the pipes are not repaired within the time period allowed by the city, service shall be terminated. (1976 Code, § 13-246)

**18-246. Add-on fees.** In addition to the sewer tap fees set forth in § 18-210(4), the following additional fees shall be charged.

Duplex, triplex, condos, PUD's or other similar type multi-unit residential complex	\$375.00 per water closet in excess of two, not located in public common areas
Motels and hotels	\$375.00 per water closet in excess of two, not located in public common areas
Restaurants	\$30.00 Per Seat
Self-service laundries	\$150.00 Per Washer
Service stations	\$225.00 Per Pump
Theaters, movie/live performance	\$7.50 Per Seat
Shopping centers/comm. stores, similar developments	\$30.00 Per 1,000 Ft. Floor Space
Schools	\$25.00 Per Student
Mobile home parks, single ownership	\$400.00 Per Ea. Additional Unit
Car wash	\$1,500.00 Per Bay
Campgrounds	\$100.00 Per Site
Single family residential unit	\$375.00 per water closet in excess of two

(Ord. #2194, Sept. 1999, as amended by Ord. #2264, March 2002)

## CHAPTER 3

### CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-301. Definitions.
- 18-302. Compliance with state law.
- 18-303. Compliance required.
- 18-304. No cross-connections.
- 18-305. Cross-connection inspections.
- 18-306. Right of access.
- 18-307. Cross-connections corrected or removed.
- 18-308. Protective devices.
- 18-309. Warning labels.
- 18-310. Requirements apply to all water system users.
- 18-311. Penalties.

**18-301. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) “Public water system.” The waterworks system which furnishes water to the City of Gatlinburg for general use and which is recognized as a public water system by the Tennessee Department of Health.

(2) “Cross-connection.” Any physical arrangement whereby a public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross-connections.

(3) “Auxiliary intake.” Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) “By-pass.” Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

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<sup>1</sup>The regulations in this chapter are recommended by the Tennessee Department of Health for adoption by cities.

Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(5) “Inter-connection.” Any system of piping or other arrangement whereby the public water system is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(6) “Person.” Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or federal agency. (1976 Code, § 8-301)

**18-302. Compliance with state law.** The City of Gatlinburg Public Water System is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-719, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, and which pertain to cross-connections, auxiliary intakes, by-passes, and inter-connections, and establish an effective on-going program to control these undesirable water uses. (1976 Code, § 8-302)

**18-303. Compliance required.** It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health, and the operation of such cross-connection, auxiliary intake, by-pass or inter-connection is at all times under the direct supervision of the Utilities Superintendent of the Gatlinburg Public Water System. (1976 Code, § 8-303)

**18-304. No cross-connections.** Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the utilities superintendent a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or inter-connections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or interconnection will be permitted upon the premises. (1976 Code, § 8-304)

**18-305. Cross-connection inspections.** It shall be the duty of the Utilities Superintendent of the Gatlinburg Public Water System to cause inspections to be made of all properties served by the public water supply where cross-connections with the public supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved, shall be established by the Utilities Superintendent of the Gatlinburg Public Water System and as approved by the Tennessee Department of Health. (1976 Code, § 8-305)

**18-306. Right of access.** The utilities superintendent or authorized representative shall have the right to enter at any reasonable time, any property served by a connection to the Gatlinburg Public Water System for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or inter-connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of crossconnections. (1976 Code, § 8-306)

**18-307. Cross-connections corrected or removed.** Any person who now has cross-connections, auxiliary intakes, by-passes, or inter-connections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with provisions hereof. After a thorough investigation of existing conditions and an appraisal of time required to complete the work, the amount of time shall be designated by the Utilities Superintendent of the Gatlinburg Public Water System.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the Gatlinburg Public Water System, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customers on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross-connections, inter-connections, auxiliary intakes, or by-passes are found that constitutes an extreme hazard of immediate concern of contaminating the public water system, the management of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard(s) is corrected immediately. (1976 Code, § 8-307)

**18-308. Protective devices.** Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water system;
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

(5) There is a reasonable potential for a cross-connection to be made either intentionally or unintentionally.

The Utilities Superintendent of the Gatlinburg Public Water System, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be reduced pressure zone type backflow preventer approved by the Tennessee Department of Health as to manufacture, model and size. The method of installation of backflow protective devices shall be approved by the utilities Superintendent of the Gatlinburg Public Water System prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Gatlinburg Public Water System shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the utilities superintendent, or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the utilities superintendent shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the Utilities Superintendent of the Gatlinburg Public Water System.

The failure to maintain backflow prevention device(s) in proper working order shall be grounds for discontinuing water service to a premises. Likewise the removal, by-passing, or altering the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Gatlinburg Public Water System. (1976 Code, § 8-308, modified)

**18-309. Warning labels.** The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for

potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

### **WATER UNSAFE FOR DRINKING**

Minimum acceptable signs shall have black letters at least one-inch high located on a red background. (1976 Code, § 8-309)

**18-310. Requirements apply to all water system users.** The requirements contained herein shall apply to all premises served by the Gatlinburg Public Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Gatlinburg Corporate Limits. (1976 Code, § 8-310)

**18-311. Penalties.** Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a civil penalty of up to five hundred dollars (\$500.00) per offense and each day of continued violation after conviction shall constitute a separate offense. (1976 Code, § 8-311, modified)

**CHAPTER 4****STORMWATER ORDINANCE****SECTION**

- 18-401. General provisions.
- 18-402. Definitions.
- 18-403. Land disturbance permits.
- 18-404. Stormwater system design and management standards.
- 18-405. Post construction.
- 18-406. Existing locations and developments.
- 18-407. Illicit discharges.
- 18-408. Stream-side buffers and the integrity of existing stormwater system.
- 18-409. Enforcement.
- 18-410. Penalties.
- 18-411. Appeals.

**18-401. General provisions.** (1) Purpose. It is the purpose of this ordinance to:

(a) Protect, maintain, and enhance the environment of the City of Gatlinburg 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 of Gatlinburg to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR § 122.26 for stormwater discharges.

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

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

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this ordinance, 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, planned unit developments, and 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 permit applicant has violated any applicable ordinance 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 Gatlinburg Public Works Department shall administer the provisions of this ordinance.

(3) Right of entry. The authority shall make inspection and investigations, carry on research or take on such other actions as may be necessary to carry out this administration of regulations; enter at all reasonable times upon any property other than dwelling places for the purpose of conducting investigations and studies or enforcing any of the provisions of this ordinance pursuant to Tennessee Code Annotated, § 69-3-107(5) and (6). (as added by Ord. #2331, June 2005, and replaced by Ord. #2387, June 2008, and Ord #2467, Sept. 2013)

**18-402. 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) "Agricultural operations." Activities related to the production of goods through the growing of plants and/or animals.

(2) "As built plans." A drawing that depicts the site conditions as they were actually constructed.

(3) "Authority." The department created by the city to administer the provisions of this ordinance.

(4) "Borrow pits." Areas where material is excavated and relocated offsite, and fill sites where materials or earth is deposited by mechanized methods resulting in an increase in elevation or grade.

(5) "Best Management Practices or BMPs." Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or

reduce pollution of water, that have been approved by the City of Gatlinburg, and that have been incorporated by reference into this ordinance as if fully set out therein.

(6) "Blue line stream." Any stream, creek, lake, pond, or other body of water shown as a blue line on a 7.5 minute USGS quadrangle map, or as determined by TDEC.

(7) "Buffer zone." A strip of undisturbed perennial native vegetation, either original or re-established, that borders streams and rivers, ponds and lakes, wetlands and seeps. Buffer zones are established for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any nutrients or pollutants from leaving the upland area and reaching surface waters.

(8) "Buffer" means, as used in this ordinance, an area parallel to the top of the bank of a stream, river, creek, pond, lake, or other body of water and which runs along the length or circumference of a body of water for the purpose of protecting a body of water from non-point source pollutants, including eroding soils.

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

(10) "Clearing." Typically refers to the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also cover a wide variety of uses, many of which may not be regulated within the scope of stormwater management.

(11) "Common plan of development or sale." This term 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, survey 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.

(12) "Community water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Gatlinburg.

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

(14) "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.

(15) "Diameter-at-Breast-Height (DBH)" means the diameter, in inches, of a tree trunk as measured four and one-half feet (4 1/2') above the ground. If the tree splits into multiple trunks below four and one-half feet (4 1/2'), the

trunk is measured at its most narrow point beneath the split. Diameter-at-breast-height is used as a measurement standard for relatively large trees.

(16) "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.

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

(18) "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 anthropogenic activities or effects.

(19) "Erosion and sediment control plan" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(20) "Exceptional and mature tree" means a tree consistent with one (1) of the following characteristics:

(a) Any hardwood tree which has a DBH of ten inches (10") or greater, any evergreen tree which has a DBH of fifteen inches (15") or greater, and/or any Dogwood (*Ornus florida*) or Redbud (*Ceris canadensis*) which has a caliper of more than four inches (4");

(b) Any specimen tree; and

(c) Any public tree.

(21) "Hotspot (priority area)" means an area where land use or activities may generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater. Hotspots include, but are not limited to: garages, repair shops, junk yards, detailing shops, car wash waste water, restaurants (where grease traps are maintained), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants, storage lots, maintenance areas, sanitary waste water, effluent from septic tanks and alternative sewer systems, carpet cleaning waste water, laundry waste water/gray water and household toxics;

(22) "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.

(23) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 18-403.

(24) "Improved sinkhole." 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 the Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste

waters into natural depression, open fractures, and crevices (such as those commonly associated with weathering limestone).

(25) "Land-disturbing activity" means any activity on property that result 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.

(26) "Linear project." A land disturbance activity as conducted by an underground/overhead utility or highway department, including but not limited to any cable line or wire for transmission of electrical energy; and conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire or communications, or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access roads, staging areas, and borrow/spoil sites associated with the linear project. Land disturbance specific to the development of residential and/or commercial subdivision or high-rise structures is not considered a linear project.

(27) "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.

(28) "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.

(29) "Manager or inspector." The person appointed by the city to lead the authority.

(30) "Municipal Separate Storm Sewer System (MS4)" means the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, storm drains, and all other outfall points into community waters.

(31) "National Pollutant Discharge Elimination System permit or NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342. Nursery means a place where young trees or other plants are raised for transplanting, for sale, or for experimental study.

(32) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(33) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(34) "Peak flow" means the maximum instantaneous rate of flow of water, at a particular point, that results from a storm event.

(35) "Person or owner" 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.

(36) "Priority area" means hot spot as defined herein.

(37) "Quality assurance site assessment." A documented site inspection to verify the functionality and performance of the SWPPP and for determining if construction, operation and maintenance accurately comply with permit requirements, as presented in the narrative, engineering specification, maps, plans, drawing, and details for erosion prevention, sediment control and stormwater management.

(38) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(39) "Sediment" means solid material, both mineral 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.

(40) "Sedimentation" means soil particles suspended in stormwater that can settle in streambeds and disrupt the natural flow of the stream.

(41) "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.

(42) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(43) "Steep slope." A natural or created slope of thirty percent (30%) grade or greater.

(44) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(45) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(46) "Stormwater management facilities" means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(47) "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.

(48) "Stormwater Pollution Prevention Plan (SWPPP)." A written plan that includes site map(s) identifying construction/contractor activities that could cause pollutants in stormwater runoff, and a description of the measures or best management practices to be used to prevent and control pollution from the site.

(49) "Stormwater runoff" means the flow on the surface of the ground, resulting from precipitation.

(50) "Stormwater utility" means the public works department of the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality.

(51) "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.

(52) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

(53) "Tennessee Department of Environment and Conservation (TDEC)" is the state agency having water pollution control oversight.

(54) "TDEC manuals." Current sediment and erosion control and post construction manuals approved by TDEC for stormwater system design and installation.

(55) "Turbidity." The term refers to the cloudiness or haziness of fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye, similar to smoke in the air.

(56) "Waters or waters of the state." 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.

(57) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(58) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

(59) "Wetlands." 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.

(60) "Wet weather conveyances." 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 which do not support

fish or aquatic life and are not suitable for drinking water supplies. (as added by Ord. #2331, June 2005, and replaced by Ord. #2387, June 2008, and Ord. #2467, Sept. 2013)

**18-403. Land disturbance permits.** (1) When required. Every person will be required to obtain a land disturbance permit from the City of Gatlinburg in the following cases: All land disturbing activities.

(2) Building permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance. If the city becomes aware that construction activity is ongoing, but is not permitted, the city will notify TDEC by supplying the following information to the Knoxville Field Office:

- (a) Construction project or industrial facility location;
- (b) Name of the operator or owner;
- (c) Estimated size of the construction project or type of industrial activity;
- (d) Records of communication with the owner or operator regarding permit requirements.

(3) Exemptions. The following activities are exempt from the permit requirements:

- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resource.
- (b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate state or federal agency which is not part of an overall larger planned development.
- (d) Additions or modifications to existing single family structures.
- (e) Residential gardening and landscaping activities.

The owner or developer whose land disturbing activity has been exempted from requirements for registration shall nevertheless be responsible for otherwise conducting such activity in accordance with the provisions of this ordinance and other applicable laws including the responsibility for controlling erosions and sedimentation. Where individual lots or sections in a subdivision are being developed by different property owners, all earth disturbing activities related to the subdivision shall be covered by the approved Stormwater Pollution Prevention Plan (SWPPP); such developments are subject to the terms of the requirements therein, including but not limited to: gravel construction entrances/exits, necessary erosion controls, concrete washout restrictions, etc.

(4) Application for a land disturbance permit. (a) Each application shall include the following:

- (i) Name of applicant;
- (ii) Business or residence address of applicant;

(iii) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;

(iv) Address and legal description of subject property including the tax reference number and parcel number of the subject property;

(v) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;

(vi) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.

(vii) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits.

(viii) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. If Aquatic Resource Alteration Permit (ARAP) is required for a site in areas proposed for active construction, the NOC will not be issued until ARAP application(s) are submitted and deemed by TDEC to be complete. The treatment and disposal of waste water (including but not limited to sanitary waste water) generated during and after the construction must also be addressed. However, the inclusion of those permits in the application shall not foreclose the City of Gatlinburg from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

(b) Each application shall be accompanied by:

(a) A sediment and erosion control plan as described in §18-404(5).

(b) A stormwater management plan as described in § 18-404(4), providing for stormwater management during the land disturbing activity and after the activity has been completed.

(c) Each application for a land disturbance permit shall be accompanied by payment of a land disturbance permit and other stormwater management fees, which will be established by a separate ordinance.

(5) Review and approval of application. (a) The City of Gatlinburg will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within thirty (30) days after receiving an application, the City of Gatlinburg shall provide one (1) of the following responses in writing:

- (i) Approval of the permit application;
- (ii) Conditional approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
- (iii) Denial of the permit application, indicating the reason(s) for the denial.

(b) If the City of Gatlinburg has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City of Gatlinburg. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the City of Gatlinburg.

(c) No development plans will be released until the land disturbance permit has been approved.

(d) **Limitations.** The city shall not grant land disturbance permits for discharges into waters that are designated by the water quality control board as "Outstanding National Resource Waters" (ONRW). An individual permit is required for land disturbance activities and is available from the Tennessee Department of Environment and Conservation.

(6) **Permit duration.** Every land disturbance permit shall expire and become null and void if twenty-five percent (25%) of work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, and the permit life shall be three hundred sixty-five (365) days unless granted an extension. Extensions shall be applied for thirty (30) days prior to the end of the three hundred sixty-five (365) day permit period.

(7) **Notice of construction.** The applicant must notify the City of Gatlinburg no less than ten (10) working days prior to the commencement of land disturbance. A pre-construction conference may be required for certain land disturbing activities.

(8) **Performance bonds.** (a) The City of Gatlinburg may require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide two (2) itemized construction cost estimates complete with unit prices that shall be subject to acceptance, amendment or rejection by the City of Gatlinburg Public Works Department. Alternatively the City of Gatlinburg Public Works Department shall have the right to calculate the construction cost estimates.

(b) The performance security or performance bond shall be released in full when written certification, by a registered professional engineer licensed to practice in Tennessee, has been provided verifying that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The City of Gatlinburg Public Works Department will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the City of Gatlinburg Public Works Department.

(9) Transfer of ownership:

(a) Some construction projects, such as residential or commercial subdivisions and/or developments or industrial parks involve the subdivision of property. Subdivided lots are sometimes sold to new owners prior to completion of construction. The site developer/owner must describe erosion control and sediment prevention measures implemented at each individual lot. Once the property is sold, the new operator must obtain coverage under this permit.

(b) If the transfer of ownership is due to foreclosure or bankruptcy proceedings, the new owner (including but not limited to a lending institution) must obtain permit coverage if the property is inactive, but is not stabilized sufficiently. If the property is sufficiently stabilized, permit coverage may not be necessary until construction activity at the site resumes.

(10) Inspections:

(a) The permit holder shall perform inspections of erosion and sediment control practices on construction sites as indicated by the current NPDES permit twice weekly and at least seventy-two (72) hours apart. Based on the results of the inspection(s), any inadequate control measures or control in disrepair shall be replaced, modified or repaired as necessary. Inspections shall be documented and kept on-site.

(b) Quality assurance of erosion prevention and sediment controls shall be done by performing site assessment at a construction site. The site assessment shall be conducted at each outfall involving drainage totaling ten (10) acres or more (of disturbed and undisturbed acreage combined) or five (5) or more acres if draining to impaired or exceptional quality waters, within one (1) month of construction commencing. The site assessment shall be performed by individuals with the following qualifications:

(i) A licensed professional engineer or landscape architect;

(ii) A Certified Professional in Erosion and Sediment Control (CPESC); or

(iii) A person that has successfully completed the "Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites" course.

At a minimum, a site assessment should be performed to verify the installation, functionality and performance of the erosion prevention and sediment control measures described in the SWPPP. The site assessment findings shall be documented and the documentation kept with the SWPPP on site. The site assessment should be performed with the site inspector, and should include a review and update (if applicable) of the SWPPP. Modifications of plans and specifications for any building or structure, including the design of sediment basin or other sediment controls involving structural, hydraulic, hydrologic or other engineering calculations shall be performed by a licensed engineer or landscape architect and stamped and certified in accordance with state law. The site assessment can take the place of one of the twice weekly inspections.

(c) The city shall perform inspections on priority construction sites and other construction sites as warranted by site location and complaints. If the city determines that the permit holder has failed to properly install, maintain, or use proper structural or vegetative erosion and sediment control practices as specified in the erosion and sediment control plan and the post construction design and maintenance plan, the permit holder may be subject to a stop work order or additional penalties as set forth in § 18-410 of this ordinance;

(d) The city may require an inspection by an engineer licensed in the State of Tennessee for any erosion and sediment control measure or post construction stormwater management facility to ensure they meet the design standards as described in the construction site and post construction site plans;

(e) If the city determines that significant erosion or sedimentation is occurring on a graded site despite approved structural or vegetative erosion and sediment control practices, the city shall require the permit holder to take additional corrective action to protect the adversely affected area. The additional corrective action required shall be part of an amended erosion and sediment control plan;

(f) Where sites or portions of construction sites have been temporarily stabilized, or runoff is unlikely due to winter conditions (e.g., site covered with snow or ice) or due to extreme drought, such inspection only has to be conducted once per month until thawing or precipitation results in runoff or construction activity resumes. Inspection requirements do not apply to definable areas that have been finally stabilized;

(g) Inspections and maintenance for post construction stormwater facilities shall be performed as required in § 18-405 for post construction design and maintenance. (as added by Ord. #2331, June

2005, and replaced by Ord. #2387, June 2008, and Ord. #2467, Sept. 2013)

**18-404. Stormwater system design and management standards.**

(1) Stormwater design or BMP manual. (a) Adoption. The City of Gatlinburg adopts as its stormwater design and Best Management Practices (BMP) manual the following publications, which are incorporated by reference in this ordinance as is fully set out herein:

- (i) Current TDEC sediment and erosion control manual;
- (ii) Current TDEC manual for post construction stormwater facilities and BMPs that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(b) The BMP manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The BMP manual may be updated and expanded from time to time by ordinance, of the governing body of the City of Gatlinburg, upon the recommendation of the City of Gatlinburg Public Works Department, based on improvements in engineering, science, monitory and local maintenance experience. 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) General performance criteria for stormwater management. The following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall control the peak flow rates of stormwater discharge associated with a 2-year, twenty-four (24) hour frequency design storms to reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

(c) 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.

(d) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices.

(e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of Gatlinburg Public Works Department to determine if they are subject to additional stormwater design requirements.

(f) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all stormwater facilities.

(g) In conjunction with Federal Emergency Management Agency (FEMA) requirements, stormwater receiving inlets shall not restrict the flow of floodwaters resulting in increased flood heights.

(3) Minimum control requirements. (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Gatlinburg Public Works Department may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4) Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the City of Gatlinburg Public Works Department 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: A 1" = one hundred feet (100') 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, sinkholes, wetlands, high quality and/or impaired streams, 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;

(v) Proposed structural BMPs;

(vi) A written description of the site disturbance activity and justification of any proposed changes in natural conditions may be required.

(vii) Erosion and sediment controls must be properly selected and installed in accordance with good engineering practices before earth moving operations begin. Effective erosion prevention and sediment controls should be designed, installed and maintained to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to:

(A) Control stormwater volume and velocity within the site to minimize soil erosion;

(B) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel stream bank erosion;

(C) Minimize the amount of soil exposed during construction activity;

(D) Minimize the disturbance of steep slopes;

(E) Eliminate (or minimize if complete elimination is not possible) sediment discharges from the site. The design, installation and maintenance of erosion prevention and sediment controls must address factors such as the design storm and soils characteristics, including the range of soil particle sizes expected to be present on the site;

(F) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless unfeasible; and

(G) Minimize soil compaction and, unless unfeasible, preserve topsoil.

(viii) Temporary measures may be removed at the beginning of the day but must be replaced at the end of the work day;

(ix) Construction must be sequenced and phased on all projects regardless of size as a major practice to minimize exposure of bare soil and limit sediment discharges. Construction must be phased to keep the total disturbed area less than fifty (50) acres at any one (1) time;

(x) Pre-construction vegetative ground cover shall not be disturbed more than fifteen (15) days prior to grading or earth moving unless the area is seeded or mulched or other temporary cover is installed. Erosion prevention and sediment control measures must be in place and functional before earth moving

activities begin, and must be constructed and maintained throughout the construction period;

(xi) For common drainage locations that serve ten (10) or more acres disturbed at one (1) time, a temporary or permanent sediment basin must be installed, or five (5) or more acres if draining to impaired or exceptional quality waters;

(xii) Soil stabilization measures shall be initiated within seven (7) days on a portion where construction activity has temporarily or permanently ceased. Where precluded by snow cover or frozen ground conditions stabilization measures shall be initiated as soon as possible. Stabilization measures do not have to be initiated where disturbing activities will resume within fifteen (15) days;

(xiii) Temporary or permanent soil stabilization shall be accomplished within fifteen (15) days after final grading or other earth work. For steep slopes, temporary stabilization must begin no later than seven (7) days after construction activity on the slope has temporarily or permanently ceased;

(xiv) Sediment should be removed from sediment traps, silt fences, sedimentation ponds and other sediment controls as necessary and must be removed when design capacity has been reduced by fifty percent (50%);

(xv) Soil, sediment, and debris brought onto streets, roads and public ways must be removed by the end of the work day by machine, broom, shovel, etc. to the satisfaction of the authority. Any time work is performed on or adjacent to any road in the City of Gatlinburg, safety will be the primary consideration. Safety considerations will extend to the travelling public, local bystanders, and work crews. Work crews will strictly adhere to the Manual of Uniform Traffic Control Devices, Part VI, Work Zone Safety. Failure to remove the sediment, soil or debris shall be deemed as a violation of this ordinance.

(xvi) Whenever construction access routes intersect paved public roads, provisions must be made to minimize the transport of sediment off site. A gravel designated construction entrance should extend a minimum of fifty feet (50') from the edge of the hard surface of the public road onto the site;

(xvii) Public roads should be thoroughly cleaned of any sediment transported off the site by the end of each work day or more often if deemed necessary;

(xviii) A permanent vegetative cover shall be established on areas subject to land disturbing activity not otherwise permanently stabilized. Established permanent vegetation should be mature enough to control soil erosion satisfactorily and to survive weather conditions;

(xix) Operators of construction sites must control waste such as litter, construction debris, chemicals, concrete truck washout and sanitary waste from being a source of stormwater pollution. After use, silt fences should be removed and disturbed areas stabilized;

(b) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the 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 BMP manual; and

(ix) Documentation of sources for all computation methods and field test results.

(x) All documents must be sealed and certified by a professional engineer licensed to practice in the State of Tennessee.

(xi) Documentation detailing the amount of water for infiltration, evapotranspiration, harvest and/ or reuse as required by runoff reduction requirements.

(xii) Any calculations documenting credits for meeting terms of incentives standards for runoff reduction.

(xiii) Calculations of amounts of rainfall that must be treated prior to discharge with a technology reasonably expected to remove eighty percent (80%) of the Total Suspended Solids (TSS) where runoff reduction standards cannot be met.

(xiv) Calculations for the amount of rainfall to be mitigated if runoff reduction cannot be accomplished;

(xv) Other calculation information and requirements:

(A) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the city may impose any and all additional

requirements deemed necessary to control the volume, timing, and rate of runoff;

(B) Projects discharging to waters considered impaired by sediment or habitat alteration due to in-channel erosion, the SWPPP shall include a description of measures that will be installed during the construction process to control pollutants and any increase in the volume of stormwater discharges that will occur after construction operations have been completed by the developer. For steep slope sites, the SWPPP shall also include a description of measures that will be installed to dissipate the volume and energy of the stormwater runoff to pre-development levels;

(C) Velocity dissipation devices shall be placed at locations and along the length of any outfall channel to provide a non-erosive velocity flow from the structure to the receiving stream so that the natural physical and biological characteristics and functions of the stream are maintained and protected (e.g. there should be no significant changes in the hydrological regime of the receiving water). The SWPPP shall include an explanation of the technical basis used to select the velocity dissipation devices to control pollution where flows exceed pre-development levels. The Tennessee Erosion and Sediment Control Handbook provides measures that can be incorporated into the design or implemented on site to decrease erosive velocities. An Aquatic Resources Alteration Permit (ARAP) may be required if such velocity dissipation devices installed would alter the receiving stream and/or its bank.

(c) Soils Information:

(i) If a stormwater management (post construction) 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.

(ii) Instances in which pipes, culverts, or other types of stormwater or utility conduits are located within and/or pass through an earthen berm, special care shall be taken to choose an appropriate soil type, which is properly compacted so that all piping remains stable and watertight.

(d) Runoff reduction. As required by the NPDES general permit for discharges from a small Municipal Separate Storm Sewer System (MS4s), runoff reduction is required by this ordinance. Site design for all

new and redevelopment projects in urbanized areas 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.

(i) Limitations to the application of runoff reduction requirements include, but are not limited to:

(A) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;

(B) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;

(C) Presence of sinkholes or karst features;

(ii) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

(iii) Incentive standards for redeveloped sites: a ten percent (10%) reduction in the volume of rainfall to be managed for any of the following types of developments. Such credits are additive so that a maximum reduction of fifty percent (50%) of the runoff reduction requirements for a project that meets all five (5) criteria:

(A) Redevelopment;

(B) Brownfield redevelopment;

(C) High density (>7 units per acre);

(D) Vertical density;

(E) Mixed use and transit oriented development (within one-half (1/2) mile).

(e) Pollutant removal. For projects in urbanized areas 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 reasonably expected to remove eighty percent (80%) of the total suspended solids (TSS). The treatment technology must be designed, installed and maintained to continue to meet this performance standard in perpetuity.

A determination that standards cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria that would rule out an adequate combination of filtration, evapotranspiration and reuse such as: lack of available area to create the necessary infiltrative capacity; a site use that is inconsistent with capture and reuse stormwater; physical conditions that preclude use of these practices.

(f) Off-site mitigation. For projects in urbanized areas that cannot meet one hundred percent (100%) of the runoff reduction requirements, the Authority may allow runoff reduction measures to be implemented at another location within the same USGS twelve (12) digit Hydrologic Unit Code (HUC) as the original project. Off-site mitigation must be a minimum of one and one-half (1.5) times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the HUC 12) and runoff reduction measures must be approved by the authority. The authority shall identify priority areas within the watershed in which mitigation projects can be completed by the applicant. The authority will select the mitigation project from an inventory of appropriate mitigation projects. The project must meet appropriate institutional standards and provide whatever effort is required to assist the authority to value, to evaluate, and track the transaction. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

(g) Payment into public stormwater project fund. For projects in urbanized areas that cannot meet one hundred percent (100%) of the runoff reduction, pollutant removal requirements, or provide for off-site mitigation, the MS4 may allow the owner to make payment into a public stormwater project fund established by the MS4. Payment into a public stormwater project fund must be at a minimum of one and one-half (1.5) times the estimated cost of on-site runoff reduction controls.

(h) Maintenance and repair plan. The design and planning of all 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. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(i) Landscaping plan. The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including 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. Where it is required by the BMP, a registered landscape architect licensed in Tennessee must prepare this plan. This landscaping plan shall comply with the City of Gatlinburg Zoning Ordinance.

(j) Maintenance easements. The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the

current property owner and all subsequent owners of the property and must be properly recorded in the Sevier County Register of Deeds.

(k) Maintenance agreement:

(i) The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners and shall be recorded in the Sevier County Register of Deeds Office.

(ii) The maintenance agreement shall:

(A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. The property owner 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 sealed report of the inspection to the City of Gatlinburg Public Works Department. 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.

(C) 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, grass cuttings 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 owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City of Gatlinburg Public Works Department.

(E) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Gatlinburg Public Works Department 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 City of Gatlinburg Public Works

Department cost of performing the maintenance shall be a lien against the property, and shall run with the land and be recorded in the Sevier County Register of Deeds Office.

(ii) The city shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance. This also includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the city must also meet the city's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(l) Sediment and erosion control plans. The applicant must prepare a sediment and erosion control plan for all construction activities that complies with §18-404(5) below.

(m) Buffer plans. The applicant must prepare a buffer plan for all streams, rivers, creeks, ponds, lakes, or other bodies of water that complies with § 18-404(6) below.

(5) Sediment and erosion control plan requirements. The sediment and erosion control plan 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. The plan shall incorporate designs and standards as described in the current BMP manual adopted in § 18-404 as well as the current TNCGP (Tennessee Construction General Permit). When required, a registered professional engineer licensed in the state of Tennessee shall seal the plan. The plan must:

- (a) Identify all potential sources of pollution which are likely to affect the quality of stormwater discharges from the construction site;
- (b) Describe practices to be used to reduce pollutants in stormwater discharges from the permitted construction sites;
- (c) Assure compliance with the terms and conditions of this permit.

Erosion prevention and sediment control measures shall be designed according to the size and slope of disturbed drainage areas with the goal of detaining runoff and trapping sediment. Erosion prevention and sediment controls shall be designed to control the rainfall and runoff from a 2-year, 24-hour storm, as a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website [http://hdsc.nws.noaa.gov/hdsc/pdfs/orb/tn\\_pdfs.html](http://hdsc.nws.noaa.gov/hdsc/pdfs/orb/tn_pdfs.html). These specific details for constructing stabilized construction entrance/exits, concrete washouts, sediment basins for controlling erosion, and road access points, etc., should be designed to eliminate or keep soils, sediment, and/or debris to a

minimum. For sites with over ten (10) acres disturbed at one (1) time a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a 2-year, 24-hour storm for each acre drained, or equivalent control measures, shall be provided until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing three thousand six hundred (3,600) cubic feet of storage per acre drained, or equivalent control measures, shall be provided until final stabilization of the site. All sites that are draining to either sediment impaired or high quality waters identified by TDEC, on the most current 303(d) list, shall be designated at a minimum to control storm runoff generated by a 5-year, 24-hour storm event. For sites over five (5) acres that are draining to either sediment impaired or high quality waters refer to the latest edition of the Tennessee Construction General Permit (TNCGP) § 4.4 Discharge into Impaired or High Quality Waters for design controls. The plan shall also conform to the requirements found in the 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) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains and high quality and/or impaired streams.

(d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(e) 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 mature trees, having a caliper of at least twelve inches (12"), 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.

(f) Approximate limits of proposed clearing, grading and filling.

(g) Approximate flow volumes of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) A general location map and a site map indicating the location of any high quality and/or impaired streams, drainage patterns and approximate slopes anticipated after major activities, areas of soil disturbance, and outline of areas which are not to be disturbed, the size and location of major structural and nonstructural controls identified in the plan, the location of areas where stabilization practices are expected to occur, the location of receiving water(s), locations of discharges directly into or immediately up stream of high quality or impaired waters, wetlands, sinkholes and locations where stormwater is discharged to a surface water. All outfalls where runoff will leave the property should be identified. Stream(s) receiving the discharge, and storm sewer system(s) conveying the discharge from all site outfalls should be clearly identified and marked on the map. NOIs for linear projects must specify the location of each end of the construction area and all areas to be disturbed. Commercial and/or industrial builders that develop separate SWPPPs that cover only their portion of the project shall also submit a site or plat map that clearly indicates the lot(s) which they are applying for permit coverage and the location of streams, conveyances, storm sewer connections and outfalls leaving the permitted portion of the property.

(k) Proposed drainage network.

(l) Proposed drain tile or waterway sizes.

(m) Approximate flow volumes leaving site and their location 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, including but not limited to, high quality and/or impaired waters, wetlands, sinkholes, and locations where stormwater is discharged to surface water. The location, size and layout of proposed stormwater and sedimentation control improvements are required. 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.

(n) 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 facilities or any other structural BMPs.

(o) 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.

(p) Specific details for: the construction of rock pads, wash down pads, and settling 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 of Gatlinburg Public Works Department. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the workday by machine, broom or shovel to the satisfaction of the City of Gatlinburg Public Works Department. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(q) Proposed structure location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(r) A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration.

(s) When land disturbance activities are proposed along a 303(d) listed stream impaired for siltation or a known high quality waterway, the erosion and sediment control plan shall be designed at a minimum to control the discharge of the 5-year 24-hour storm event along with other additional minimum standards outlined in the current TNCGP for Discharges of Storm Water Associated with Construction Storm Activities ( 4.4.1 ).

(t) The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters that have an approved TMDL for pollutant of concern, including:

(i) Identification of whether the discharge is identified, either specifically or generally, in an approved TMDL and any associated wasteload allocations, site specific requirements, and assumptions identified for the construction stormwater discharge;

(ii) Summaries of consultation with the city and TDEC on consistency of SWPPP conditions with the approved TMDL, and;

(iii) Measures taken to ensure that the discharge of TMDL identified pollutants from the site is consistent with the assumptions and requirements of the approved TMDL, including any specific wasteload allocation that has been established that would apply to the construction stormwater discharge.

(u) Plans modification(s) (i) A SWPPP must be modified and updated if any of the following are met:

(A) Whenever there is a change in the scope of the project, which would be expected to have a significant effect on the discharge of pollutants to the waters of the state and which has not otherwise been addressed in the SWPPP;

(B) When inspections or investigations by site inspectors, local, state or federal officials indicate the SWPPP is proving ineffective in eliminating or significantly minimizing pollutants from being discharged, or is

otherwise not achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity.

(C) To identify any new permittee (e.g., owner, contractor, subcontractor) as needed to reflect operational or design control that will implement a measure of the SWPPP;

(D) To include measures necessary to prevent a negative impact to legally protected state or federally listed fauna or flora;

(E) A TMDL is developed for the receiving water(s) for a pollutant of concern (siltation and/or habitat alteration).

(iv) In the event the authority finds that a permittee is complying with the SWPPP, but contributing to the impairment of a receiving stream, then the discharger will be notified by the authority in writing that the discharge is no longer eligible for coverage under the general permit. The permittee may update the SWPPP and implement the necessary changes designed to eliminate further impairment to the stream. If the permittee does not implement the SWPPP changes within a reasonable amount of time, the operator must file an individual permit with TDEC. To obtain the individual permit, the operator must file an individual permit application (EPA 1 and 2F). The project must be stabilized immediately until the SWPPP is updated and the individual permit is issued. Only discharges from earth disturbing activities necessary for stabilization are authorized to continue until the individual permit is issued.

(v) Other items requiring control:

(A) No solid materials, including building materials, shall be placed in waters of the state, except as authorized by a section 404 permit and/or ARAP permit.

(B) For installation of any waste disposal systems on site, or sanitary sewer or septic system, the SWPPP shall identify these systems and provide for the necessary erosion prevention and sediment controls. Permittees must also comply with applicable state and/or local waste disposal, sanitary sewer or septic system regulations for such systems to the extent these are located within the permitted area.

(C) The SWPPP shall include a description of construction and waste materials expected to be stored on site. The SWPPP shall also include a description of controls used to reduce pollutants from materials stored on site, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.

(D) A description of stormwater sources from areas other than construction and description of controls and measures that will be implemented at those sites.

(E) A description of measures necessary to prevent a "taking" or legally protected state or federal listed threatened or endangered aquatic fauna and/or critical habitat (if applicable). The permittee must describe and implement such measures to maintain eligibility for coverage under the permit. (as added by Ord. #2331, June 2005, and replaced by Ord. #2387, June 2008, and Ord. #2467, Sept. 2013)

**18-405. Post construction.** (1) As built plans. A final inspection by the City of Gatlinburg Public Works Department is required before any performance security or performance bond will be released. The City of Gatlinburg Public Works Department 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, certificate of occupancy permits shall not be granted until connections to all BMPs have been made and accepted by the City of Gatlinburg Public Works Department.

(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 be re-vegetated according to a schedule approved by the City of Gatlinburg Public Works Department. The following criteria shall apply to re-vegetation 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.

(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 re-vegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(b) 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 facilities. (a) Periodic inspection of facilities shall be performed by the city.

(b) In order to ensure that all stormwater BMPs are operating correctly and being properly maintained, the city shall, at a minimum, require owners and/or operators of stormwater systems to:

(i) Perform routine inspection 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.

(ii) Perform comprehensive inspections 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. Complete inspection reports for these five (5) year inspections shall include:

- (A) Facility type;
- (B) Inspection date;
- (C) Latitude and longitude and nearest street address;
- (D) BMP owner information (e.g. name, address, phone number, fax, and email);
- (E) A description of BMP conditions including: vegetation and soils, inlet and outlet channels and structures, embankments, slopes, safety benches, spillways, weirs, and other structures as well as any sediment and debris accumulation;
- (F) Photographic documentation of BMPs;
- (G) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

Owners and/or operators shall maintain documentation of these inspections. The city may require submittal of this documentation.

(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 two (2) years. These records shall be made available to the City of Gatlinburg Public Works Department during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a property owner fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the City of Gatlinburg Public Works Department, 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 of Gatlinburg Public Works Department shall notify in writing the property owner or party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the property owner or responsible person shall repair the facility in an approved manner. In the event that corrective action is not completed within the time specified by the city, the City of Gatlinburg Public Works Department may take necessary corrective action. The cost of any action by the City of Gatlinburg Public Works Department under this section shall be charged to the property owner and/or responsible party/owner of land, shall run with the land and be recorded in the Sevier County Register of Deeds Office. (as added by Ord. #2331, June 2005, and replaced by Ord. #2387, June 2008, and Ord. #2467, Sept. 2013)

**18-406. Existing locations and developments.** (1) Requirements for all existing locations and developments. The following requirements may apply to locations and developments where land disturbing activities have occurred previous to the enactment of this ordinance and deemed to create an immediate problem:

- (a) Denuded or bare areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City of Gatlinburg Public Works Department.
- (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 be controlled to the extent reasonable to prevent pollution of local waters.

(2) Requirements for existing problem locations. The City of Gatlinburg Public Works Department shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The City of Gatlinburg Public Works Department may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, 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 municipality'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.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the City of Gatlinburg Public Works Department under this section are subject to appeal under §18-401 of this ordinance. (as added by Ord. #2331, June 2005, and replaced by Ord. #2387, June 2008, and Ord. #2467, Sept. 2013)

**18-407. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality'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. The commencement, direction or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited:

(a) Prohibitions. No person shall be allowed to, or continue to do, any of the following:

(i) Connect, or allow to be connected, any sanitary sewer to the stormwater system including any sanitary sewer connected to the stormwater system as of the date of adoption of this section.

(ii) Cause or allow an illicit discharge to the stormwater system, or any component thereof or onto driveways, sidewalks, parking lots, sinkholes, creek banks, or other areas draining to the stormwater system. Illicit discharges including, but are not limited to:

(A) Sewage discharges or overflows, including Sanitary Sewer Overflows (SSOs);

(B) Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;

(C) Discharges resulting from the cleaning, repair or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement related equipment, and port-a-potty servicing; etc.;

(D) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning;

(E) Discharges of wash water from the cleaning or hosing of impervious surfaces in industrial and commercial areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, and outdoor eating or drinking areas, etc.,

(F) Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil or other hazardous materials;

(G) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;

(H) Discharges of sediment, or construction-related wastes, etc.;

(I) Discharges of food-related wastes (e.g. grease, fish processing, and restaurant kitchen mat and trash bid wash water, etc.

(b) The commencement, direction or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

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 wet-land flows;

(xiii) Swimming pools (if dechlorinated);

(xiv) Fire fighting activities;

(xv) Discharges from potable water sources;

(xvi) Individual noncommercial car washing on residential properties; or car washing of less than two (2) consecutive days in duration for a charity, nonprofit fund raising, or similar noncommercial purpose;

(xvii) Incidental street wash water from street cleaning equipment designed for cleaning paved surfaces and limiting waste discharges;

(xviii) Street deicing for public safety;

(xix) Any activity authorized by a valid NPDES permit;  
and

(xx) Any other uncontaminated water source.

(c) Discharges specified in writing by the City of Gatlinburg Public Works Department as being necessary to protect public health and safety.

(d) Dye testing is an allowable discharge if the City of Gatlinburg Public Works Department has so specified in writing.

(e) Right of testing. The city may require the owner or operator of any facility engaging in any activity where this permit is required to undertake such reasonable monitoring of any discharges to the City's Separate Storm Sewer System (CS4) and to furnish periodic detailed reports of such discharges.

(f) Third party testing. All third party testing and analysis should be in accordance to TDEC Environmental Assistance Center (EAC) protocols.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) 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 compliance with the provisions of this section.

(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 stormwater, 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 of Gatlinburg Public Works Department in person or by telephone or facsimile 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 of Gatlinburg Public Works

Department 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 submit to the City of Gatlinburg Public Works Department within fourteen (14) days of knowledge of a release a written description of the release, the circumstances leading to the release and the date of the discharge. The owner or operator shall also retain an on-site 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) Hot spot discharges. The discharge of hazardous substances or oil into the municipal storm sewer system from hot spots including, but not limited to: garages, repair shops, junk yards, detailing shops, car wash waste water, restaurants (where grease traps are maintained), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants (such as concrete plants, asphalt plants, etc.), storage lots, maintenance areas, sanitary waste water, effluent from septic tanks, carpet cleaning waste water, laundry waste water/gray water and household toxics etc., shall be prohibited. This section also requires these and other businesses and facilities already in operation within the boundaries of the City of Gatlinburg must maintain proper storage and disposal practices of hazardous substances and oil.

(a) Site map requirements. Each application must be accompanied by a site map. Before preparing a site map, the facility operator/ manager should do the following:

- (i) Conduct a materials inventory;
- (ii) Evaluate any past spills or illicit discharges (if applicable);
- (iii) Identify any non-stormwater discharges and all outfalls or discharge points from the property;
- (iv) Evaluate stormwater runoff;
- (v) Summarize your findings.

(b) Each map should then be prepared considering and indicating any and all of the following specifications:

- (i) Building design and layout including storm drain locations;
- (ii) Stormwater connections;
- (iii) Name of receiving waters including whether it is high quality/ impaired waters;
- (iv) Flow diversion structures (curb cuts, catch basins, etc.);
- (v) Vegetative swales;
- (vi) Fueling areas;
- (vii) Vehicle/equipment maintenance and wash areas;
- (viii) Loading/unloading areas;
- (ix) Above ground tanks for liquid storage;
- (x) Under ground detention inlets and outlets;

- (xi) Waste management areas/waste disposal areas, landfills;
- (xii) Outside manufacturing areas;
- (xiii) Outside storage of raw materials, by-products, finished products;
- (xiv) Other areas of concern;
- (xv) Storage areas of hazardous materials/ chemicals;
- (xvi) Location of emergency cleanup/ response kits;
- (xvii) Any other site specific pertinent details as required by the city. (as added by Ord. #2331, June 2005, and replaced by Ord. #2387, June 2008, and Ord. #2467, Sept. 2013)

**18-408. Stream-side buffers and the integrity of existing stormwater system.** (1) Buffer requirements (construction and post construction). (a) Construction buffers: whenever a development or redevelopment site has a blue line stream, free-flowing waters of the state, or other body of water (perennial and intermittent streams, rivers, ponds, creeks, lakes and wetlands) on such site, flowing through such site, or bordering such site, a buffer of natural and/or man made vegetation shall be maintained and/or installed which is at least thirty feet (30') in width, as measured from the top of the bank of such stream or body of water. The buffer of thirty feet (30') can be established on an average basis at a project, as long as the minimum width of the buffer is no less than fifteen feet (15') at any measured location. The buffer should be a vegetated, preferably native, water quality buffer to protect water bodies by providing structural integrity and canopy, as well as stormwater infiltration, filtration and evapotranspiration. Buffer zones are not primary sediment control measures and should not be relied upon as such.

Every effort should be made of construction activities not to take place within the buffer and the buffer should remain in its undisturbed state of vegetation. BMPs providing equivalent protection to a receiving stream as a natural riparian buffer zone may be used at a construction site. Such BMPs shall be designed to be effective in protecting the receiving water from effects of stormwater runoff as a natural riparian zone. A justification for use and a design of equivalent BMPs shall be included in the SWPPP. Such equivalent BMPs are expected to be routinely used at a construction project typically located adjacent to surface waters. These projects include, but are not limited to: sewer line construction, roadway construction, utility line or equipment installation, greenway construction, construction of a permanent outfall or a velocity dissipating structure, etc. Enhancements, restoration and re-establishment may be allowed with proper permit(s). Except as may be in conflict with the intent of this ordinance, provisions of the zoning ordinance, flood damage prevention ordinance, or other ordinances and

regulations of the city, buffer areas may be occupied by non-polluting uses and areas such as grassed or landscaped yards, park and picnic areas, greenways, walking trails, and/or undisturbed native vegetation. The City of Gatlinburg Public Works Department may allow driveway and road construction to occur through a buffer upon finding that the integrity of the buffer will not be compromised. Permits for stream crossings may also require permits from federal, state and other local agencies.

(b) Water quality buffer (post construction): buffer width depends on the size of the drainage area. Streams or other waters with drainage areas less than one (1) square mile upstream will require buffer widths of thirty feet (30') of buffer zone. Streams or other waters with drainage areas greater than one (1) square mile upstream will require buffer widths of sixty foot (60') minimum. In instances where a sixty foot (60') buffer width has been established for sites that contain or are adjacent to a receiving stream designated as impaired or exceptional waters, the sixty foot (60') buffer can be established on an average width basis at a project, as long as the minimum width of the buffer is more than thirty feet (30') at any measured location.

(c) Buffer variance. The city may allow a variance to the water quality buffer requirements. A variance may be obtained by application under § 18-411 of this ordinance. When a variance is allowed by the city, mitigation must be at least as protective of the natural resources and the environment as the undisturbed buffer. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation.

(d) Integrity of existing stormwater system. Any alteration to existing drainage channels, pipes or other stormwater systems that convey public water is prohibited without authorization from the city. Any alteration must maintain the intended performance of the drainage channel.

(e) Existing locations and developments. The city may, when conditions warrant, conduct inspections to verify that existing stormwater management facilities are functioning within design limits. These inspections shall be based on violations and complaints which identify developments, 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 municipalities NPDES stormwater permit. 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. (as added by Ord. #2331, June 2005, and replaced by Ord. #2387, June 2008, and Ord. #2467, Sept 2013)

**18-409. Enforcement.** (1) Enforcement authority. The City of Gatlinburg Public Works Department, through their inspectors or other agents shall have the authority to issue notices of violation and issue and enforce orders.

Enforcement procedures follow a standardized progression of events that are collectively known as a force continuum to be applied by the City of Gatlinburg Public Works inspector and all other authorized agents. Each enforcement action should be based on its own merits/consideration, thus any and all steps of this continuum may be bypassed based on the discretion of the inspector, designated employee(s); egregiousness of violation; amount of discharge; damage to public and/or private property; number of previous violations; and any other pertinent circumstances, etc.

The establishment of this continuum shall include but not be limited to:

- (a) Site inspection;
- (b) Verbal or written notice of inspection findings and corrective actions suggested;
- (c) Follow up inspection;
- (d) Notice of violation or compliance order;
- (e) Cease and desist order or stop work order;
- (f) Civil penalty;
- (g) Suspension or revocation of permit.

(2) Enforcement procedures. (a) Notice of violation/compliance order. Whenever the inspector determines any permittee or any other person or entity discharging stormwater has violated or is violating this ordinance or a permit or order hereunder, the inspector or other agents may serve upon such person written notice of the violation. The notice of violation should detail the overall site condition along with specific details of each violation ( e.g. silt fence failure, check dam needing maintenance, failure of other BMPs, etc.). This notice of violation shall contain such 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. The notice may also direct that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Within ten (10) days of this notice, a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City of Gatlinburg Public Works Department. 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.

(b) Cease and desist orders/stop work order. When the City of Gatlinburg Public Works Department finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the City of Gatlinburg Public Works Department may issue

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 and terminating the discharge.
- (iii) Conflicting standards. Whenever there is a conflict between any standard contained in this ordinance and the TDEC manuals adopted by the municipality under this ordinance, the strictest standard shall prevail.
- (c) Referrals to TDEC for enforcement. Where the city has used "progressive enforcement" to achieve compliance with this ordinance, and in the judgment of the authority has not been successful, the authority may refer the violation to TDEC for enforcement. 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:
  - (i) Construction project or industrial facility location;
  - (ii) Name of the operator or owner;
  - (iii) Estimated construction project size or type of industrial activity (including SIC code, if known);
  - (iv) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.
- (d) Where there are outstanding or unpaid civil penalties, pending civil penalty appeals, and/or appeals in any governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8, the permit holder nor his/her representative(s) may receive any additional land disturbance permit until such time as all civil penalties have been paid in full and all matters have been adjudicated. (as added by Ord. #2331, June 2005, and replaced by Ord. #2387, June 2008, and Ord. #2467, Sept. 2013)

**18-410. Penalties.** In addition to the provisions set out in 18-409, the inspector shall have the following powers:

- (1) Penalties. To issue a citation upon finding that the person or permit holder has violated a provision of this ordinance. The violator may be subject to a penalty of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) as provided by Tennessee Code Annotated, § 68-221-1106. Each day during which a provision of this ordinance is violated shall constitute a separate violation when actual site visits and conditions are properly documented by the inspector or other agents. Appeals shall be made to the municipal board of appeals.

(2) Injunctions, etc. To institute injunction, mandamus, abatement and any other appropriate judicial actions or proceedings to prevent, enjoin or abate the violations of any provision of this ordinance or the provisions of any permit, condition or limitation in the Chancery Court for Sevier County.

(3) Measuring civil penalties. In assessing a civil penalty, the following may be considered:

- (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 municipality;
- (f) The amount of penalty established by ordinance 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 (1) above, the municipality may recover:

- (a) All damages proximately caused by the violator to the municipality, which include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
- (b) The costs of the municipality for maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.

(5) Other remedies. The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions. The inspector may prosecute the alleged violator of this ordinance criminally in General Session Court of Sevier County pursuant to Tennessee Code Annotated, § 5-1-123. Any appeal of criminal convictions shall be made through the Circuit Court of Sevier County.

(6) 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. (as added by Ord. #2331, June 2005, and replaced by Ord. #2387, June 2008, Ord. #2399, Oct. 2008, and Ord. #2467, Sept. 2013)

**18-411. Appeals.** A suspension or revocation of a permit should be appealed to the agency having issued the permit. 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 ordinance may appeal said penalty or damage assessment to the municipal board of appeals.

(1) Appeals shall be made to the municipal board of appeals. Each appeal shall be made pursuant to and in compliance with the procedures established by the ordinance adopted by the City of Gatlinburg City Commission establishing the municipal board of appeals.

(2) Board's authority to grant variances. The board of appeals is hereby authorized to consider and grant variances from the provisions of this ordinance where appropriate. When considering requests for variances, the applicant must demonstrate to the satisfaction of the board that the granting of a variance will not lead to any of the following conditions:

- (a) Deterioration of existing culverts, bridges, dams and other structures;
- (b) Degradation of biological functions or habitat;
- (c) Accelerated stream bank or streambed erosion or siltation;
- (d) Increased threat of flood damage to public health, life and property.

Any variances granted by the board, shall be reflected on/in the final plan and/or design documents. (as added by Ord. #2467, Sept. 2013)

**TITLE 19**

**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 of Gatlinburg and its inhabitants under such franchise as the board of commissioners shall grant.<sup>2</sup> (1976 Code, § 13-401)

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<sup>1</sup>Municipal code reference  
Gas code: title 12.

<sup>2</sup>The agreements (Ord. #207, #358, #359, #1085 and #2057) are of record in the office of the city recorder.

**TITLE 20****MISCELLANEOUS****CHAPTER**

1. AIRCRAFT REGULATIONS.
2. EMERGENCY ALARM DEVICES.
3. DEPARTMENT OF TOURISM.

**CHAPTER 1****AIRCRAFT REGULATIONS****SECTION**

- 20-101. Aircraft.
- 20-102. Aircraft owned by the government or licensed by foreign governments.
- 20-103. Minimum height for aircraft.
- 20-104. Operators and operation of aircraft.
- 20-105. Acrobatic flying prohibited.
- 20-106. Sightseeing flights prohibited.
- 20-107. Landings within the city prohibited.
- 20-108. Noise by aircraft prohibited.
- 20-109. Dropping objects from aircraft prohibited.
- 20-110. Advertising by aircraft prohibited.

**20-101. Aircraft.** The term “aircraft” as used in this chapter means any aeroplane, airplane, gas bag, flying machine, balloon, any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, except a parachute or other contrivance used primarily for safety equipment. (1976 Code, § 9-701)

**20-102. Aircraft owned by the government or licensed by foreign governments.** The provisions of this chapter shall not apply to public aircraft of the federal government, or of a state, or territory, or of a political subdivision of a state or territory, or to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering operation of such aircraft. (1976 Code, § 9-702)

**20-103. Minimum height for aircraft.** No person, firm or corporation shall fly or permit any aircraft to be flown within the corporate limits of the City of Gatlinburg, except at a height sufficient to permit a safe emergency landing and at no instance shall any aircraft fly at a height above the city less than one thousand feet (1,000). In addition, no aircraft shall be permitted to fly within two thousand (2,000) horizontal feet of any personal property or structure

located within the city limits of the City of Gatlinburg. These heights and distances are minimum and unsafe operation of an aircraft above the city shall be a violation of this chapter regardless of the distance involved, if the operation of said aircraft is in violation of any provision of this chapter, federal rules, regulations, or any safe standard of conduct for the operation of an aircraft. (1976 Code, § 9-703)

**20-104. Operators and operation of aircraft.** No person shall operate an aircraft within or over the corporate limits of the City of Gatlinburg unless such person has first been issued a pilot's license or other approval for the operation of the aircraft by the Federal Aviation Administration or other state or federal agency. No person shall operate any aircraft over or within the City of Gatlinburg in violation of any valid air traffic or other rule or regulation established by the Federal Aviation Administration or other appropriate state or federal agency. (1976 Code, § 9-704)

**20-105. Acrobatic flying prohibited.** Acrobatic flying by any person flying over any portion of the City of Gatlinburg is hereby prohibited. (1976 Code, § 9-705)

**20-106. Sightseeing flights prohibited.** Sightseeing flights within or over the City of Gatlinburg are prohibited. (1976 Code, § 9-706)

**20-107. Landings within the city prohibited.** Except in cases of emergency, no person shall land any aircraft within the corporate limits of the City of Gatlinburg. The provisions of this section shall not apply to aircraft making emergency landings provided the aircraft is not otherwise violating the provisions of this chapter, nor shall this chapter apply to aircraft providing public service or emergency service to any governmental agency. (1976 Code, § 9-707)

**20-108. Noise by aircraft prohibited.** Unnecessary or loud noise by operators of aircraft within or over the corporate limits of the City of Gatlinburg is hereby prohibited. The operator of such aircraft shall take into account the topography of the City of Gatlinburg and its vicinity in the operation of his aircraft. (1976 Code, § 9-708)

**20-109. Dropping objects from aircraft prohibited.** No person in any aircraft shall cause or permit to be thrown out, discharged or dropped within the corporate limits of the City of Gatlinburg any object or thing. (1976 Code, § 9-709)

**20-110. Advertising by aircraft prohibited.** No person shall make exhibition flights, by carrying banners, distributing circulars from, operating a

loud speaking device, or through the use of any signage on said aircraft flying within or over the corporate limits of the City of Gatlinburg. (1976 Code, § 9-710)

## CHAPTER 2

### EMERGENCY ALARM DEVICES

#### SECTION

- 20-201. Definitions.
- 20-202. Automatic telephone dialing alarm systems.
- 20-203. Permit issuance and revocation.
- 20-204. Application requirements for an alarm system.
- 20-205. Items required for an alarm system to qualify for an alarm permit.
- 20-206. False alarms.
- 20-207. Fee assessment for false alarm.
- 20-208. Disconnection.
- 20-209. Alarm business requirements.
- 20-210. Penalty for offenses
- 20-211. Severability of provisions.

**20-201. 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 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) "Alarm business" means the business of any individual, partnership, corporation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or in causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed in or on any building, structure or 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) "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.

(6) "Central dispatch facility" means the central communications facility of the Gatlinburg Police Department which receives, routes, or otherwise handles emergency service communications traffic.

(7) "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. (1976 Code, § 1-1601)

**20-202. Automatic telephone dialing alarm systems.** (1) It shall be unlawful for any person, natural or corporate, to sell, offer for sale, install, maintain, lease, operate, or assist in the operation of an automatic telephone dialing alarm system over any telephone lines exclusively used by the public to directly request emergency service from the fire and/or police department.

(2) The building official, when he has knowledge of the unlawful maintenance of an automatic telephone dialing alarm system installed or operating in violation of this chapter shall, in writing, order the owner, operator, or lessee to disconnect and cease operation of the system within 72 hours of receipt of the order.

(3) Any automatic telephone dialing system installed prior to the effective date of this chapter shall be disconnected and cease operation before January 1, 1991. (1976 Code, § 1-1602)

**20-203. Permit issuance and revocation.** (1) The building official is hereby authorized to grant a revocable alarm users permit to any alarm user located in the city to operate, maintain, install, or modify a police or fire alarm device, and no such device shall be operated unless such permit shall have first been issued. All such permitted systems shall be inspected annually.

(2) A permit issued pursuant to this chapter may be revoked at any time by the building official upon the giving of ten (10) days notice in writing by registered mail, to the permittee, sent to the address shown on the permit. (1976 Code, § 1-1603)

**20-204. Application requirements for an alarm system.** Application for an alarm permit shall be made on forms provided by the building official, and shall be accompanied by a \$25.00 application/inspection fee. The application shall request the following information:

(1) The name, address, and telephone number of the applicant's property to be serviced by the alarm, and the name, address and telephone number of the applicant's residence if different from that of the property to be served.

(2) The name, address, and telephone number of the alarm company which will service the alarm, if any.

(3) An emergency telephone number of the alarm user or his representative to allow prompt notification of alarm calls and to assist fire and/or police personnel in the inspection of the property.

(4) Such other information as the building official shall deem necessary.

It is the applicant's responsibility to notify the building official in writing of any and all changes in the information on file with the city regarding such permit within ten (10) days of such changes being made. (1976 Code, § 1-1604)

**20-205. Items required for an alarm system to qualify for an alarm permit.** (1) All alarm systems shall have a back-up power supply that will automatically become effective in the event of power failure or outage in the primary source of electricity.

(2) All alarm systems shall 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.

(3) All alarm systems monitored by the Police Department of the City of Gatlinburg shall pay an alarm monitoring fee of \$60.00 per year. In addition, an initial installation fee in the amount of \$65.00 shall be paid prior to installation.

(4) All alarm systems installed on or after the effective date of this chapter must comply with the requirements set out in this section. Pre-existing installations must comply with this section by January 1, 1991. (1976 Code, § 1-1605)

**20-206. 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 officer on the scene of the activated alarm 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 officer at the scene of the activated alarm system determines the alarm to be false and no emergency response was necessary, then said officer shall submit a report of the false alarm to the city manager, or his designee, and the respective chief. A written notification of emergency response and/or determination of the response shall be mailed or delivered to the alarm user at the address noted on the permit or location where the alarm was activated.

(3) The building official shall have the right to inspect any alarm system on the premises to which response has been made and he may cause inspection of such system to be made at any reasonable time thereafter to determine whether it is in conformity with this chapter.

(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 contained herein.

(5) There shall be a fourteen (14) day grace period provided to the alarm user during the initial installation of the alarm system. For fourteen days after the permit has been issued by the building official, the fees provided for in § 20-207 will not apply.

(6) Any alarm business testing or servicing any alarm system shall notify the police and/or fire departments and instruct said departments of the location and time of said testing or servicing. The fees provided for in § 20-207 will not apply to the alarm user if prior notice of testing or servicing has been made to the respective departments as outlined in this section. (1976 Code, § 1-1606)

**20-207. Fee assessment for false alarm.** It is hereby found and determined that more than three (3) false alarms, within any six (6) month period, are excessive and constitute a public nuisance. The activation of four (4) or more false alarms within any six (6) month period will result in the assessment of the following fees:

(1) A service charge of twenty-five dollars (\$25.00) shall be automatically levied against the alarm user upon the occurrence of the fourth (4th) false alarm;

(2) A service charge of fifty dollars (\$50.00) shall be automatically levied against the alarm user upon the occurrence of the fifth (5th) false alarm;

(3) A service charge of seventy-five dollars (\$75.00) shall be automatically levied against the alarm user upon the occurrence of the sixth (6th) false alarm.

(4) A service charge of one hundred dollars (\$100.00) shall be automatically levied against the alarm user for each false alarm in excess of six (6). 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. Failure to make payment within thirty (30) days from the date of the notice shall result in disconnection of police and fire response to alarms that may occur at the premises described in the alarm user's permit. The permit holder shall be entitled to a hearing before the city manager, or his designee, prior to the disconnection of the alarm system. A permit holder desiring a hearing shall request said hearing within ten days of date of notification. Reconnection of the alarm system and reinstatement of police and fire emergency response service may be made upon payment of all service charges due, accompanied by payment of a twenty-five dollar (\$25.00) reinstatement fee.

(5) The penalties set forth in this section shall apply to both automatic telephone dialing systems and non-telephonic audible alarms. (1976 Code, § 1-1607)

**20-208. Disconnection.** In the event that an alarm system emitting an audible, visual, or other similar response shall fail to be deactivated within the thirty-minute time limit, provided for in § 20-205(2) hereof, the city shall have the right to take such action as may be necessary in order to disconnect any such alarm. (1976 Code, § 1-1608)

**20-209. Alarm business requirements.** All alarm businesses operating within the City of Gatlinburg must possess a valid Business Tax License obtained through the office of the City Recorder of Gatlinburg, Tennessee. At the time of application for issuance or renewal for a Business Tax License, the applicant shall submit evidence of a policy of liability insurance providing for the following minimum coverage.

Five hundred thousand dollars (\$500,000.00) liability due to bodily injury or death of a person or persons as a result of the negligent act or acts of the principal insured or his agents operating in the course or scope of his business and for failure of the insured to fulfill the extent of his contract in a manner satisfactory to the contractee. (1976 Code, § 1-1609)

**20-210. Penalty for offenses.** Any person failing to comply with any of the provisions of this chapter shall be guilty of a violation, and upon conviction in city court, shall be subject to a civil penalty of up to five hundred dollars (\$500.00) per offense. Each occurrence shall constitute a separate offense. (1976 Code, § 1-1610, modified)

**20-211. Severability of provisions.** Should any of the provisions of this chapter be determined to be invalid, the remaining provisions will not be affected by such invalidity. (1976 Code, § 1-1611)

## CHAPTER 3

### DEPARTMENT OF TOURISM

#### SECTION

- 20-301. Department established.
- 20-302. Purpose.
- 20-303. Funding.
- 20-304. Citizen's advisory board.
- 20-305. Function of citizens advisory board.
- 20-306. Appointment of executive director.
- 20-307. Fiscal and budgetary requirements.

**20-301. Department established.** There is hereby established a Department of Tourism for the purpose of promoting tourist and convention business within the corporate limits of Gatlinburg, Tennessee. (Ord. #2148, April 1997)

**20-302. Purpose.** The Department of Tourism shall plan to conduct programs of information and publicity designed to attract to the city, tourists, visitors, and other interested persons from outside of the corporate limits, and to also encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purpose. The department shall also oversee and operate the convention center and welcome centers of the city. (Ord. #2148, April 1997)

**20-303. Funding.** The department shall be funded by the following sources of revenue:

- (1) From the General Fund. Sixty Percent (60%) of one-third (1/3) of the Hotel/Motel Tax.
- (2) From the Hotel/Motel Tax Fund. One-third (1/3) of the Hotel/Motel Tax (for use of Direct Tourism Promotion).
- (3) One-eighth (1/8th) of one percent (1%) of the Gross Receipts Tax (as provided for advertising in Ord. #2000).
- (4) From the Convention Center Debt Service Fund. Operation and maintenance appropriation.
- (5) Revenues derived from the convention center operations and other revenues generated by department operations.
- (6) Such other funds or appropriations as may be budgeted by the board of commissioners. (Ord. #2148, April 1997)

**20-304. Citizen's advisory board.** (1) There is hereby established a citizen's advisory board for the department of tourism. The board shall be

comprised of 27 members as set out below. The board shall consist of people from the following segments of the community:

City commissioner  
 City commissioner  
 Lodging facility (under 150 rooms)  
 Lodging facility (over 150 rooms)  
 Overnight rental properties  
 Attraction  
 Restaurant  
 Retail (downtown)  
 Arts and crafts  
 Wedding chapels  
 Services  
 At-large  
 At-large  
 At-large  
 At-large  
 At-large  
 At-large  
 American Legion  
 City manager (ex-officio)  
 Chamber of commerce executive director (ex-officio)  
 National park service (ex-officio)  
 Chamber of commerce president (ex-officio)  
 Arrowmont School of Arts and Crafts representative (ex-officio)

(2) Terms of office. The two city commission members of the citizens advisory board shall serve two (2) year terms which shall be staggered. At the initial appointment, one city commissioner appointee shall be given a one year term and the second city commissioner appointee shall be given a two year term. Thereafter, all city commissioner appointees shall have two year terms. The twelve members of the board which represent various segments of the community. The three at-large members appointed pursuant to Ord. #2269 shall serve four years each. The three at-large members appointed pursuant to Ord. #2335 shall serve four year terms with the initial appointments to be staggered, for two, three, and four year terms with four year terms thereafter. The four at-large members appointed pursuant to Ord. #2372 shall serve four year terms with the initial appointments to be staggered for one, two, three and four year terms with four year terms thereafter.<sup>1</sup> In order to establish staggered terms, three of the 12 members shall receive one year terms initially. Three of the members shall receive two year terms; three of the members shall

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<sup>1</sup>The ordinances referenced in this section are available for inspection in the office of the city recorder.

receive three year terms; and the final three appointees shall receive four year terms. Thereafter, all such appointees shall be appointed for a four year term of office. The American Legion representative on the board shall be nominated by American Legion Post No. 202 and shall serve an indefinite term once approved by the board of commissioners. The remaining five members of the board (i.e. the city manager; the chamber of commerce executive director; the national park service representative; the chamber of commerce president; and the Arrowmont representative) shall serve during their term of office, or in the case of the national park service representative and the Arrowmont representative, for the duration of that person's designation by the park or Arrowmont. The terms of the city commission members and the 12 community segment members shall expire on June 30 of the year in which their term ends. The terms of the three at-large members appointed pursuant to Ord. #2335, Aug. 2005, shall serve four-year terms with the initial appointments to be staggered, for two, three, and four year terms with four year terms thereafter.

(3) Selection committee. A selection committee shall be formed each February for the purpose of making recommendations for board members whose terms expire that year. The selection committee shall make recommendations to the board of commissioners no later than May 15<sup>th</sup> of each year for new members whose terms expire on June 30<sup>th</sup>. The selection committee shall be composed of the following seven members:

(a) Two board of commission members appointed by the city commission;

(b) Two current tourism advisory board members appointed by the tourist advisory board.

(c) Two members appointed by the chamber of commerce; and

(d) The department of tourism executive director.

(4) Appointment process. The Board of Commissioners of the City of Gatlinburg shall appoint the two city commission members and the 15 members of the board representing the various segments of the economy; the at-large members and the American Legion member. Following submittal of the recommendations to the board of commissioners on or by May 15<sup>th</sup> of each year, the board of commissioners shall, at their next regularly scheduled board meeting, consider the recommendations for appointment to the board. If any recommended appointee shall not receive confirmation of the board of commissioners, the selection committee shall make further recommendations to the board of commissioners. If a successful confirmation has not been made after three nominations from the selection committee, the city commission will then appoint someone from that segment of the community to the board without further recommendation from the selection committee. Each person appointed by the board of commissioners shall be for a specific position representing a given segment of the community as set forth above. To be a member of the citizen's advisory board, a person must be a business license holder of the City of Gatlinburg that also pays the city gross receipts tax, or its designee, and/or

be a resident of the city. If, at any time, a vacancy should occur on the board, the board of commissioners shall seek recommendations from the selection committee and shall then proceed to consider and appoint a new member to the board using the procedure set forth above for the remainder of the unexpired term.

(5) **Board attendance policy.** Members of the citizens advisory board shall be required to attend at least sixty percent (60%) of the regularly scheduled meetings of the board. Any member not attending sixty percent (60%) of the regular board meetings in the year following first appointment and annually thereafter shall be removed from the board unless waived if there are extenuating circumstances as determined by a vote of the citizens advisory board. Prior to the expulsion of any member, a notice must be sent to a member advising of the possibility of expulsion if additional meetings are missed. (Ord. #2148, April 1997, as replaced by Ord. #2206, April 2000, and amended by Ord. #2269, June 2002, Ord. #2335, Aug. 2005, and Ord. #2372, July 2007)

**20-305. Function of citizens advisory board.** The role and function of the board of directors shall be advisory in nature, providing guidance and recommendations to the board of commissioners and the Executive Director of Tourism, relating to the development of the operational policy for the Department of Tourism, and the expenditure for any and all funds appropriated for use by the department including, but not limited to, any advertising budgets established in conjunction with the public or private sector. The board shall meet upon call or at a regularly scheduled place and time, and shall advise and assist the Department of Tourism in the formulation of goals, budgetary guidelines, marketing plans and other such policies as are necessary to best serve the citizens of the City of Gatlinburg. The board shall elect a chairman, vice-chairman and a secretary, maintain accurate minutes of each and every meeting, and otherwise comply with the laws of this state in regard to providing adequate notice and publication of each meeting. (Ord. #2148, April 1997)

**20-306. Appointment of executive director.** The city manager shall appoint an executive director as the administrative head of the Department of Tourism. The salary, benefits and job description for the executive director shall be fixed by the board of commissioners. (Ord. #2148, April 1997)

**20-307. Fiscal and budgetary requirements.** The Department of Tourism shall present an annual budget, and any and all expenditures shall be made in accordance with the established budget, and otherwise in the same manner and under the same guidelines provided for in the city charter. The executive director and the Department of Tourism citizens advisory board shall prepare and submit to the city manager an administrative budget and, in addition thereto, are authorized to budget separately any special advertising or promotional budget designed for specific purposes for the city. (Ord. #2148, April 1997)

**AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF GATLINBURG, TENNESSEE.**

**WHEREAS** some of the ordinances of the City of Gatlinburg are obsolete, and

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

**WHEREAS** the Board of Commissioners of the City of Gatlinburg, 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 "Gatlinburg Municipal Code," now, therefore:

**BE IT ORDAINED BY THE CITY OF GATLINBURG, TENNESSEE, THAT:**

**Section 1. Ordinances codified.** The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Gatlinburg 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; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

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

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

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.<sup>1</sup>

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

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

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

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


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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 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 15 days 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.

  
MAYOR

ATTEST:

  
CITY RECORDER

Passed first reading 4-20-99

Passed second reading 3-21-2000

Public Hearing 3-21-2000

APPROVED AS TO FORM:

  
RONALD E. SHARP, CITY ATTORNEY