# THE TULLAHOMA MUNICIPAL CODE

#### Prepared by the

#### MUNICIPAL TECHNICAL ADVISORY SERVICE INSTITUTE FOR PUBLIC SERVICE THE UNIVERSITY OF TENNESSEE

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

#### CITY OF TULLAHOMA, TENNESSEE

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Ray Knowis

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#### **ALDERMEN**

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#### **RECORDER**

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#### **PREFACE**

The Tullahoma Municipal Code contains the codification and revision of the ordinances of the City of Tullahoma, 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 Linda Dean, the MTAS Sr. Word Processing Specialist, and Bobbie J. Sams, the MTAS Word Processing Specialist who did all the typing on this project, and Tracy Gardner and Sandy Selvage, Administrative Services Assistants, is gratefully acknowledged.

Steve Lobertini Codification Specialist

## $\frac{\textbf{ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE}}{\textbf{CITY CHARTER}^1}$

<sup>&</sup>lt;sup>1</sup>The Tullahoma city charter contains no provisions on the adoption of ordinances by the city. See § 1-208 for the procedure for passing ordinances and resolutions.

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#### TITLE 1

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

#### **CHAPTER**

- 1. GENERAL PROVISIONS.
- 2. BOARD OF MAYOR AND ALDERMEN.
- 3. CITY ADMINISTRATOR.
- 4. CITY RECORDER AND DIRECTOR OF FINANCE.
- 5. CITY ATTORNEY.
- 6. RECORDS MANAGEMENT.
- 7. CODE OF ETHICS.
- 8. CITY JUDGE.

#### CHAPTER 1

#### **GENERAL PROVISIONS**

#### **SECTION**

- 1-101. How code designated and cited.
- 1-102. Rules and construction.
- 1-103. Catchlines of sections.
- 1-104. Effect of repeal of ordinances.
- 1-105. Amendments to code; effect of new ordinances; amendatory language.
- 1-106. Severability of parts of code.
- 1-107. General penalty; fines and civil penalties; continuing violations.
- 1-108. Code as evidence.
- 1-109. City boundaries.
- 1-110. Remedies for, provisions for and procedures for certain notices relative to code violations.
- 1-111. Elections; voting precincts (wards).

<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.

**1-101.** <u>How code designated and cited</u>. The ordinances embraced in the following titles, chapters, sections, and appendices shall constitute and be designated the "Tullahoma Municipal Code," and may be so cited.

This code shall not be deemed to repeal any preamble, recital or finding of fact contained in any ordinance included herein, but all such matters shall be deemed incorporated in the sections herein derived from such respective ordinances. (1988 Code, § 1-101)

- **1-102.** Rules and construction. In the construction of this code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the board of mayor and aldermen, or the context clearly requires otherwise:
- (1) "Board, governing body." The term "the board" or "governing body" shall mean the Board of Mayor and Aldermen of the City of Tullahoma.
- (2) "Bond." When a bond is required, an undertaking in writing shall be sufficient.
- (3) "City." The term "the city" or "this city" means the City of Tullahoma, whose legal situs is in Coffee County, Tennessee.
- (4) "Computation of time." Whenever a notice is required to be given or an act to be done, the time within which said notice shall be given or said act done shall be computed by excluding the first and including the last day; unless the last day is a Saturday, a Sunday or a legal holiday, and then it shall also be excluded.
- (5) "County." The term "the county" or "this county" means Coffee County and/or Franklin County, Tennessee.
- (6) "Delegation of authority." Whenever a provision requires an officer or head of a department of the city to do some act or make certain inspections, it is to be construed to authorize the officer or head of the department to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.
- (7) "Gender." A word importing one gender shall extend and be applied to the other genders, unless the context clearly requires a literal construction.
- (8) "Interpretation." In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. In case of conflict between provisions of this code, or between any provision of this code and any code adopted by reference herein, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
- (9) "Joint authority." All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers sitting as a body unless otherwise specifically provided.

- (10) "Month." The term "month" means a calendar month.
- (11) "Name or title of officer, board, commission or agency." The name or title of any officer, board, commission or agency, when appearing alone herein, shall be construed as if followed by the words "of Tullahoma, Tennessee."
- (12) "Number." A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing, unless the context requires a literal construction.
- (13) "Oath." An oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to "affirm" and "affirmed."
- (14) "Or, and." "Or" may be read "and," and "and" may be read "or" if the sense requires it.
- (15) "Owner." The term "owner," applied to real estate, shall include all owners of the whole or a part of such real estate.
- (16) "Person." The term "person" includes individual, corporation, firm, company, association, club, receiver, trustee and any other group acting as a unit.
- (17) "Personal property." The term "personal property" includes money, goods, chattels, things in action and evidence of debt.
- (18) "Property." The term "property" includes both real and personal property.
- (19) "Public place." The term "public place" means any publicly owned way, park, cemetery, school yard or open space adjacent thereto; any publicly owned lake or stream; and, with reference to prohibited acts against the public, includes any place or business open to the use of the public in general.
- (20) "Real estate and real property." Such terms include lands, tenements and hereditaments, and all rights thereto, and interests therein, equitable as well as legal.
  - (21) "Shall." The term "shall" is mandatory.
- (22) "Sidewalk." The term "sidewalk" means any portion of a street between the curbline, or the lateral lines of a roadway, and the adjacent property line, intended for the use of pedestrians.
- (23) "Signature or subscription." Either such term includes a mark, the name being written near the mark and witnessed.
- (24) "State." The term "the state" or "this state" means the State of Tennessee.
- (25) "Street." The term "street" means and includes any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the city.
- (26) "Tenant or occupant." The term "tenant" or "occupant," applied to real estate, includes any person who occupies the whole or a part of such real estate, whether alone or with others.
- (27) "Tense." Words used in the past or present tense include the future as well as the past and present.

- (28) "Writing, written." The term "writing" or "written" includes printing, typesetting, engraving, lithography and any other mode of representing words and letters.
- (29) "Year." The term "year" means a calendar year, unless otherwise expressed. (1988 Code, § 1-102, modified)
- 1-103. <u>Catchlines of sections</u>. The catchlines of the several sections of this code are intended as mere catchwords to indicate the contents of the section, and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted. (1988 Code, § 1-103)
- 1-104. <u>Effect of repeal of ordinances</u>. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed. (1988 Code, § 1-104)

1-105. <u>Amendments to code</u>; <u>effect of new ordinances</u>; <u>amendatory language</u>. All ordinances passed subsequent to this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby.

Amendments to any of the provisions of this code may be made by amending such provisions by specific reference to the section number of this code in the following language: "That section \_\_\_\_ of the Tullahoma Municipal Code is hereby amended to read as follows: . . . ." The new provisions may then be set out in full as desired.

In the event a new section or chapter not theretofore existing in the code is to be added, the following language may be used: "That the Tullahoma Municipal Code is hereby amended by adding a section (or chapter in title \_\_\_) to be numbered \_\_\_\_, which said section (or chapter) reads as follows: . . . . " The new section or chapter may then be set out in full as desired.

All sections, chapters or provisions desired to be repealed must be specifically repealed by section or title and chapter number, as the case may be. (1988 Code, § 1-105)

**1-106.** Severability of parts of code. It is hereby declared to be the intention of the board of mayor and aldermen that the sections, paragraphs,

sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the board without the incorporation in this code of any such unconstitutional phrase, clause, sentence, paragraph or section. (1988 Code, § 1-106)

1-107. General penalty; fines and civil penalties; continuing violations. Whenever in this code or in any ordinance of the city, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is prohibited or is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punishable by a fine of not more than fifty dollars (\$50.00), and/or imprisonment for not more than thirty (30) days for each separate violation, or, in the discretion of the city judge, a civil penalty of not more than five hundred dollars (\$500.00) may be imposed. Each day any violation of this code or of any ordinance continues shall constitute a separate offense. No prior written notice is required to be rendered by the city to any violator of the provisions of this code as a prerequisite to city's bringing formal charges against violators in the municipal or any other court of competent jurisdiction

Also to be assessed in addition to the fines and/or penalties provided hereby, shall be a late charge in an amount equal to the original fine or penalty (not court costs), which will be added to all fines not paid prior to the court hearing date upon which the hearing was scheduled. This provision shall not apply to any individual who appeared in court and made payment arrangements at that time. Further, for any arrestee who is housed in the county jail, the daily fee for boarding prisoners charged by the county to the city (currently \$15.00 per day) shall be added to the court costs to be assessed against said individual. (1988 Code, § 1-107)

1-108. <u>Code as evidence</u>. Any printed copy of the Tullahoma Municipal Code, or a portion thereof, containing a printed certificate of the recorder of the correctness thereof shall be held to be a true and correct copy and may be entered or read in evidence in all courts of the state without further proof of the laws contained therein. (1988 Code, § 1-108)

1-109. <u>City boundaries</u>. The survey prepared by Grady McBride, superintendent of public works for Tullahoma, Tennessee, dated the fifteenth day of February, 1962, and of record in trust deed book 95, page 537, register's office of Coffee County, Tennessee, be and the same is hereby declared to be the official boundaries or city limits for the city. Said survey and boundaries are more particularly described as follows: Beginning at a point in the center line of the L.& N. Railroad main track, said point being 270.3 feet north 39°33" west from the 70 mile sign post of the L.&N. Railroad; thence south 50°27" west 602.4 feet to a concrete marker on the east side of South Jackson Street; thence south 50°27" west 3,984.35 feet to a concrete marker on the west side of Rock Creek; thence south 1°56" west 230.1 feet to a point; thence south 29°34" east 120.5 feet to a concrete marker on the south corner of Oak Park Subdivision; thence north 86°58" west with the Oak Park Subdivision south line 1,359.35 feet to a concrete marker; thence north with the west line of Oak Park Subdivision north 2°53" east 993.4 feet to a concrete marker; thence with the south side of Oak Park Subdivision north 86°56" west 954.2 feet to a concrete marker on the east side of the Old Winchester Highway; thence with the south line of West Side Heights Subdivision north 86°43" west 1,116.43 feet to an existing concrete boundary marker; thence with the south line of Hillcrest Heights Subdivision north 85°8" west 1,233.75 feet to an existing concrete marker; thence north 85°32" west 613 feet to a concrete marker; thence north 1°33" east 297 feet to a concrete marker; thence with the south line of Kaywood Subdivision north 86°01" west 933.18 feet to a concrete marker on the west side of Turkey Creek Road; thence with the west right-of-way of Turkey Creek Road north 0°7" west 1,012.37 feet to a concrete marker on the south side of Cumberland Springs Road; thence with the south margin of Cumberland Springs Road south 65°1" west 1.793.97 feet to a concrete marker on the south side of Cumberland Springs Road; thence north 20°39" west 174.8 feet to a concrete marker on the westerly side of Westwood Subdivision; thence with the west property line of Westwood Subdivision north 10°39" west 2,111.1 feet to a concrete marker in the Westwood Subdivision line: thence north 89°21" west 2,326.75 feet to a concrete marker in Crouch's Southwest corner; thence north 0°1" west with Crouch's

The corporate boundaries as set out herein have been extended (or contracted) by the following ordinances of record in the recorder's office: 439, 440, 441, 442, 486, 492, 514, 570, 619, 625, 638, 650, 655, 668, 728, 853, 866, 918, 919, 933, 936, 937, 944, 947, 960, 962, 966, 969, 977, 982, 992, 995, 1024, 1061, 1155, 1172, 1173, 1176, 1190, 1191, 1193, 1209, 1213, 1218, 1226, 1243, 1257, 1263, 1264, 1265, 1274, 1275, 1279, 1281, 1282, 1284, 1286, 1287, 1288, 1291, 1296, 1297, 1298, 1299, 1300, 1301, 1315, 1316, 1317, 1318, 1335, 1337, 1339, 1344, 1345, 1346, 1356, 1363, 1385, 1395, 1400, 1411 and 1427.

<sup>&</sup>lt;sup>1</sup>Charter reference: § 2.

west line 1,966.36 feet to a concrete marker, same being in Crouch's west line; thence south 87°53" west 1,587.1 feet to a concrete marker in the city landfill property; thence north  $0^{\circ}27$ " east 354.25 feet to a concrete marker in the south right-of-way of Highway 55, same being Wilson Avenue; thence north 0°27" east 122.37 feet to a concrete marker on the north side of Highway 55, same being Wilson Avenue; thence north 0°27" east 617.4 feet to a concrete marker in the rear line of the Tipps property; thence north 89°00" east 2,020.1 feet to a concrete marker; thence north 89°30" east 1,014.4 feet to a concrete marker at the southeast corner of Ben Wilkins property; thence north 1°10" east 1,275.25 feet to a concrete marker on the north side of the Old Shelbyville Road; thence north 56°30" east crossing a branch of Rock Creek a distance of 2,970.9 feet to a concrete marker in the southeast corner of the Northern Field property; thence with the east line of the Northern Field property line due north 1,243.4 feet to a concrete marker on the west side of the Old Ledford Mill Road; thence north 31°46" west 393 feet to a concrete marker; thence north 49°51" east, a distance of 1,188.25 feet to a concrete monument (Ord. #425, § 1, 5-10-65); thence north 38°30" west 1,723.05 feet to a concrete monument, same being the northwest corner of the hospital site; thence north 51°30" east, a distance of 800 feet to a concrete marker on the south side of Marbury Road; the same being on the east side of North Jackson Street in present line (Ord. #425, § 1, 5-10-65); thence north 51°30" east 483.67 feet to a concrete marker on the south side of Marbury Road and on the west side of the L.&N. main [track]; thence north 38°20" west 150 feet to a concrete marker on the north side of Marbury Road and on the west side of the L.&N. Railroad; thence north 51°20" east 150 feet crossing said railroad to a concrete marker on the east side of the L.&N. Railroad; thence north 38°30" west 1,970.3 feet to a concrete marker on the east side of the L.&N. Railroad; thence north 80°00" east 1,018.6 feet to a concrete marker on the west side of Marbury Road; thence north 50°22" east 46.4 feet to a concrete marker on the east side of Marbury Road; thence south 87°00" east 1,126.33 feet to a concrete marker at a fence corner; thence north 0°30" east 244.13 feet to a concrete marker at a fence corner; thence south 89 degrees 15 minutes east 1,027.6 feet to a concrete marker; thence south 5°30" west 924.95 feet to a concrete marker in the north edge of Hillwood Road; thence south 88° east 494 feet to a concrete marker in the north edge of Hillwood Road; thence south 84° east 481.8 feet to a concrete marker; thence south 5°30" west 924.95 feet to a concrete marker in the north side of Hillwood Road and on the west side of New Ovoca Road; thence south 3°30" west 260.1 feet to a concrete marker; thence south 2°00" east 196.6 feet to a concrete marker; thence south 23°00" east 851.35 feet to a concrete marker; thence south 24°00" east 761.8 feet to a concrete marker on the west side of the New Ovoca Road on the north side of Reeves Street; thence south 22°30" east 340.2 feet to a concrete marker; thence south 19°35" east 539.5 feet to a concrete marker on the west side of the New Ovoca Road; thence south 86°30" east crossing the New Ovoca Road to a concrete marker on the east side of the Old Ovoca Road a distance of 3,724 feet; thence south 4°00" west 1,445 feet to a concrete marker on the north side of College Street; thence south 82°54" east 200 feet to a concrete marker; thence south 7°6" east 43 feet to a concrete marker; thence south 82°54" east 1,750 feet to a concrete marker; thence south 88°54" east 293.5 feet to a concrete marker on the easterly side of North Roosevelt Street; thence south 36°54" east 302 feet to a concrete marker on the west side of North Roosevelt Street and on the north side of an unnamed street through Barr Subdivision; thence north 52°21" east 2,564.7 feet to a concrete marker in the north right-of-way of an unnamed street; thence south 47°54" east 294 feet to a concrete marker in the north margin of Grundy Street; thence north 51°46" east 1,621.5 feet to a concrete marker in an open field; thence south 32°21" east 350 feet to a concrete marker on the south margin of East Lincoln Street and the east margin of Ham Street; thence north  $50^{\circ}23$ " east with the south margin of the Old Manchester Highway 2,910.68 feet to a concrete marker at a fence corner; thence south 32°31" east 400 feet to a concrete marker in a fence line; thence south 49°8" west 611.5 feet to a concrete marker on the south side of "A" Street; thence south 40°30" east 770 feet to a concrete marker in a lot corner; thence south 49°30" west 341.6 feet to a concrete marker in the west margin of Crest Drive; thence south 20°30" east 304.3 feet to a concrete marker; thence south 6°33" east with the east margin of Crest Drive 703.7 feet to the north right-of-way of L.&N. Railroad Sparta branch; thence south 50°34" west with the north right-of-way of the Sparta branch railroad of the L.&N. a distance of 6,304.3 feet to a concrete marker; thence south 87°9" east 602.9 feet to a monument on the east side of Carroll Street; thence south 87°09" east 775.5 feet to a corner of the war surplus land procured by the city; thence south 39°26" east 2,086.8 feet to a concrete marker on the north side of Forrest Boulevard; thence south 50°34" west 43.6 feet to a concrete marker on the north side of Forrest Boulevard and the west side of Harton Boulevard; thence south 39°28" east with the west side of Harton Boulevard a distance of 3,195.2 feet to the southerly boundary of Forrest Park Subdivision; thence south 50°57" west with the south boundary of Forrest Park Subdivision crossing South Anderson Street 3.948.6 feet to a concrete marker 300 feet east of the center line of the L.&N. Railroad; thence north 39°33" west with the right-of-way of the L.&N. Railroad 3,166.6 feet to a concrete marker; thence south 50°27" west 300 feet to the center line of the L.&N. Railroad, said point being the point of beginning of survey. (1988 Code, § 1-109)

1-110. Remedies for, provisions for and procedures for certain notices relative to code violations. (1) Whenever in the municipal code, upon failure to observe, or violation of any city ordinance, etc., any notice is required to be given by any public official including, but not limited, to the city administrator, pursuant to § 1-302(7), or any of his designees, the following remedies available to city, provisions for enforcing same and procedures shall apply and be adhered to and the following information shall be contained in any notice:

- (a) The notice must be sent to the last known address of the record property owner as shown on the tax records of the City of Tullahoma, Tennessee, as well as to any occupants of said premises.
- (b) The notice shall be sent certified mail, return receipt requested, to the last known addresses of said record owner and occupant(s).
- (c) The notice shall state the violations complained of, and action to be taken by the addressee, and shall further refer to the particular section(s) of this code or any code whenever adopted by ordinance, by the City of Tullahoma, Tennessee, such as the <u>Standard Building Code</u>, <u>Fire Prevention Code</u>, etc., under which said violations or failure to act have occurred, and pursuant to which said notice is being rendered, and action is being taken.
- (d) The notice shall grant unto the addressee no less than ten (10) nor more than thirty (30) days from the date thereof within which to take the action indicated therein or to cease and desist from taking the action prohibited thereby. A copy of said notice shall be placed on the bulletin board in the lobby of the city hall. City administrator or his designee shall designate the amount of time said addressee has to comply, and said notice shall state said time period.
- The notice shall state that should the addressee fail to comply with the provisions of the notice within said designated time period, that the City of Tullahoma by and through its appropriate agents, may take whatever action is required to correct the deficiencies or problems relating to said property, and that the actual cost thereof, plus fifteen percent (15%) for inspection and other incidental costs in connection therewith shall be charged to, be payable by, and billed to said addressee, owner and/or occupant of the property. Should the addressee fail to pay said charges within thirty (30) days from the date of said billing, a ten percent (10%) penalty shall be added, and the total amount represented by said billing shall be placed on the real and/or personal property tax rolls of the City of Tullahoma and assessed against subject property as a lien against same and shall be collected in the same manner as other city property taxes, or may be collected by the city by civil action in the same manner as the collection of debts, at city's option. If the charges are referred to the city attorney's office for collection as a civil debt, a minimum of 20% attorney's fee shall be added to the total amount due at that time, or the city may collect its actual attorney fees incurred, whichever is greater.
- (f) The notice shall state that the addressee shall have ten (10) days from the date thereof to appeal to the City Administrator of the City of Tullahoma, in writing, to either obtain an extension of time or other relief from the provisions of said notice as might be sought in said appeal. The decision of the city administrator relative to said appeal shall be

rendered in writing within five (5) days from the date of receipt of said appeal.

- (g) The notice shall state that the addressee shall have ten (10) days from the date of the written decision of the city administrator to appeal his decision to the board of adjustments and appeals as set forth in the <u>Standard Building Code</u>. Within fifteen (15) days from the receipt of said notice of appeal, the board of adjustments and appeals may grant said party a hearing, or may deny the appeal and affirm the decision of the city administrator. Failure of the board of adjustments and appeals to act within said fifteen (15) day period shall constitute an affirmation of the decision of the city administrator. Any action taken by the board of adjustments and appeals relative to any appeal shall be final.
- (2) Irrespective of whether or not said notice is received by the addressee, the provisions of the ordinance referred to therein shall be complied with by the city.
- (3) In lieu of the foregoing notice procedures, the city at its option may advertise in a newspaper of general circulation in the city, the names and addresses of owners and occupants of any property in violation of any ordinances of the City of Tullahoma, with a description of the property and of the violation(s) and may incorporate the provisions hereof therein by reference. This alternate notice shall constitute sufficient constructive notice to all violators.
- (4) Nothing contained in this section shall preclude the City of Tullahoma from enforcing the general penalty provisions of this municipal code for any violations of any provisions contained herein, or shall preclude the City of Tullahoma from taking any other legal action afforded to it by law, including but not limited to the seeking of injunctive relief for the abatement of any actions which the city considers to be a nuisance or to require any actions to be taken by anyone to correct conditions which constitute violations of this municipal code. No prior written notice as otherwise contemplated by this § 1-110 shall be required for the city to enforce the provisions of § 1-107, "General penalty; continuing violations." (1988 Code, § 1-110)
- 1-111. Elections; voting precincts (wards). (1) The portion of the city lying and being in Coffee County is hereby divided into the following three (3) districts with six (6) voting precincts for all regular and special municipal elections, to correspond to county district numbers 7, 8, and 9, which were adopted by resolution of the Coffee County Commission on the ninth day of November, 2021, and pursuant to the action of the Coffee County Election Commission, heretofore, designating new voting precincts for Coffee County, Tennessee, under the authority of Tennessee Code Annotated, § 2-701, it being the intent of this section to establish voting precincts (wards) within the city lying and being in Coffee County, for all regular and special municipal elections which new voting precincts (wards) correspond exactly with the aforementioned

districts, except as to that portion of the city lying within Franklin County as will be hereinafter stated. Reference is hereby made to the map of the city designating the aforementioned districts and precincts created by the Coffee County and Franklin County Election Commissions, as aforementioned, on record in the office of the county clerk of Coffee County and Franklin County, pursuant to requirements of <u>Tennessee Code Annotated</u>, §2-701, as amended, said map thereon designating precincts for voting purposes and showing county commission districts for Coffee County, Tennessee, including those areas within the corporate limits of the city in Coffee County.

- (2) Hereafter, Coffee County District 7, as shown on the map shall become Precinct (Ward) Number 7.1 and 7.2 for the city; Coffee County District 8, as shown on the aforementioned map shall become Precinct (Ward) Number 8.1 and 8.2 of the city; Coffee County District 9, as shown on the aforementioned map shall become Precinct (Ward) Number 9.1 and 9.2 for the city. Hereafter Franklin County District 6, as shown on the map shall become Precinct (Ward) Number 603 for the portion of the city lying within Franklin County; Franklin County District 7, as shown on the aforementioned map shall become Precinct (Ward) Number 701 for the portion of the city lying within Franklin County.
- (3) For the purposes of this section the terms "precinct" and "ward" shall be synonymous when reference is made to them in the context of divisions for voting purposes and voting places within the corporate limits of the city.
- (4) All qualified voters residing in the respective precincts (wards) specified herein shall cast their votes as follows:

Coffee County Residents:

Precinct No. 7.1

Precinct No. 7.2

Precinct No. 8.1

Precinct No. 8.2

Precinct No. 9.1

Precinct No. 9.2

Franklin County Residents:

Precinct No. 603

Precinct No. 701 (1988 Code, § 1-111, as replaced by Ord. #1583, Aug. 2022 *Ch11 08-08-22*)

#### **CHAPTER 2**

#### BOARD OF MAYOR AND ALDERMEN<sup>1</sup>

#### **SECTION**

- 1-201. Mayor; powers and duties.
- 1-202. Mayor pro tem.
- 1-203. Salaries of mayor and aldermen.
- 1-204. Organizational meeting; committee on laws and rules.
- 1-205. Regular meeting days and times.
- 1-206. Adjourned, special and called meetings and study sessions.
- 1-207. Special rules of order.
- 1-208. Procedure for passing ordinances and resolutions.
- 1-209. Publication of ordinances.
- 1-210. Investigations.
- 1-211. Travel pay policies.
- 1-212. Policies regarding lease of city property, assistance to various organizations, etc.
- 1-213. Establishment of policy committee and internal affairs committee.
- 1-214. Planning and coordinating committee.
- 1-215. Board members not to be bondsmen.
- 1-216. Adequate public notice for public meetings.
- **1-201.** Mayor; powers and duties.<sup>2</sup> (1) In general. The mayor shall preside at all meetings of the board of mayor and aldermen, and shall be a voting member thereof; he may, whenever he shall deem it necessary or proper, examine and inquire into the condition of the several offices, the books, papers, and records therein, the manner of conducting official business, and may call upon any officer of the city for any information pertaining to his office.
- (2) <u>Licenses</u>. The mayor shall countersign all licenses issued by the recorder under the laws of the city.

Elections for: §§ 4, 5, 7, and 13.

Personnel powers: §§ 7, 8, 13, 15, and 16.

Powers generally: §§ 3 and 9. Taxes: §§ 9, 12, 27, 28, and 30.

<sup>&</sup>lt;sup>1</sup>For provisions in the charter relative to the following, see particularly the sections indicated:

Composition of board, qualifications, terms, vacancies, etc.: §§ 3, 5, and 7.

<sup>&</sup>lt;sup>2</sup>Charter references: §§ 5, 7, 8, and 10.

- (3) <u>Police power</u>. The mayor shall have power to call to his assistance the citizens to aid him in suppressing and dispersing any riot, unlawful assembly, or breach of the peace.
- (4) <u>To appoint special committees</u>. The mayor shall be empowered, from time to time, to appoint such special committees as shall be authorized and directed by the mayor and aldermen or as the mayor may deem necessary or important to appoint.
- (5) <u>Authority to employ extra detectives</u>. The mayor is hereby empowered to employ extra detectives to make any necessary investigation of law enforcement agencies operating within the city if he deems it necessary. (1988 Code, § 1-201)
- 1-202. <u>Mayor pro tem</u>. The board of mayor and aldermen shall elect one of the aldermen to act as mayor in the event of the temporary absence or illness of the mayor, who shall have all the power and authority conferred by law upon the mayor during such temporary absence or illness, and the board shall elect said temporary mayor without waiting for any such absence or illness, but may provide in advance for such a contingency. (1988 Code, § 1-202)
- **1-203.** Salaries of mayor and aldermen. (1) Aldermen. Each alderman of the city shall receive such sum per month, as established by ordinance from time to time, which amounts are payable from the funds of this city.
- (2) <u>Mayor</u>. The mayor of the city shall receive such salary per month, as established by ordinance from time to time, which amount is payable from the funds of this city. (1988 Code, § 1-203, modified)
- 1-204. Organizational meeting; committee on laws and rules. The mayor elected and qualified, or previously elected to serve for three (3) years, and the four (4) aldermen holding over from the late board and the recorder shall assemble at the city hall on the second Monday in August of each year or no later than the fourth Monday in August. Further, if a mayor has been elected at the current election, and the two aldermen elected at the current election shall also assemble and take the required oath of office. The mayor and recorder and city administrator shall, ex officio, be the committee on laws and rules. (1988 Code, § 1-204, modified)
- 1-205. Regular meeting days and times. The board of mayor and aldermen shall hold its regular meetings on the second and fourth Mondays in each month, at 5:30 P.M., at the City Hall in Tullahoma, Tennessee. The number of meetings per month, the day thereof, and the time of said meetings and the format thereof may be changed by resolution of the board of mayor and aldermen from time to time. (1988 Code, § 1-205)

#### 1-206. Adjourned, special and called meetings and study sessions.

- (1) The board of mayor and aldermen shall also assemble at any time to which it has adjourned any regular or adjourned meeting.
- (2) The board of mayor and aldermen shall also assemble in a special or called meeting whenever, in the opinion of the mayor, there is business requiring the attention of the board, the transaction of which cannot, or ought not to, be postponed to the next regular or adjourned meeting.
- (3) Board study sessions and/or work sessions are hereby established. The board of mayor and aldermen shall meet on the second and fourth Mondays in each month immediately after the regular meetings of the board, effective March 1, 1992, and shall continue thereafter until changed to such other time(s) as the board, by resolution, from time to time, directs, upon the giving of at least two weeks public notice of the time and days that said meeting(s) shall be held. The purpose of said meetings shall be for board study or board work. Board study sessions shall supplement the standing committee meetings and shall be for the purpose of establishing and prioritizing short and long term goals and objectives, and studying matters to later be brought before the board for formal action, among other things. These meetings shall be conducted as the board of mayor and aldermen shall deem fit and proper. These meetings shall not be formal meetings of the board of mayor and aldermen, and no action shall be taken at these meetings. The format of study and/or work sessions shall be as established by resolutions of the board from time to time. (1988 Code, § 1-206)
- **1-207.** Special rules of order. The rules of order and procedure of regular and special call meetings of the board of mayor and aldermen shall be as follows:
- Rule 1. <u>Parliamentary authority</u>. The parliamentary authority shall be the latest edition of Robert's Rules of Order.
- Rule 2: For the purposes of procedure under Robert's Rules of Order the board of mayor and aldermen will be considered a small board with the following exceptions:
  - a. Motions and amendments to motions must be seconded.
  - b. No vote can be taken without a motion having been introduced.
- Rule 3. <u>Session</u>. A session of the board is continuous from the second Monday in August of even numbered years to the succeeding second Monday in August of even numbered years.
- Rule 4. <u>Ballots signed</u>. In votes where ballots are required, by request, any member may require that the ballots be signed.
- Rule 5. <u>Suspension of the rules</u>. A two-thirds (2/3rds) vote of members present, and voting shall be required to suspend any rule of order in this section that does not contain a different provision for its suspension.
- Rule 6. <u>Quorum</u>. A quorum of any meeting shall consist of at least four (4) board members.

Rule 7. <u>Rules, violations, fines</u>. Any member using profane or indecorous language in a board meeting shall be fined fifty dollars (\$50.00). By a two-thirds (2/3rds) vote, the board may fine a member for other violations of these rules.

Rule 8. Decorum. Members must:

- a. Confine their remarks to the merits of the subject under discussion, and no outside conversation will be allowed;
  - b. Maintain a courteous tone;
- c. Never attack nor make any allusion to the motives of other members.

Rule 9. <u>Vote required</u>, <u>excused</u>. All members present shall vote on every motion, unless they recuse themselves from the question as soon as a motion is made. Members recusing themselves must state for the record their reason for recusal and shall not participate in the discussion or debate on the question.

Rule 10. <u>Reconsider</u>. A motion to reconsider may be made only at the same or the next business meeting in which the original vote was taken and be made only by a member who voted on the prevailing side and must be seconded by any member.

Rule 11. <u>Renewal prohibition</u>. A main motion, or a motion for the same amendment to a given motion, cannot be renewed at the same session unless there is a change in wording or circumstances sufficient to present substantially a new question, in which case this becomes technically a different motion.

Rule 12. Resolution 1895. A Resolution establishing rules and procedures for the board of mayor and aldermen. (1988 Code, § 1-207, as replaced by Ord. #1330, May 2006, amended by Ord. #1366, April 2008 and replaced by Ord. #1584, Aug. 2022  $Ch11_08-08-22$ )

1-208. Procedure for passing ordinances and resolutions. ordinances shall be read and passed at least one time at a regular meeting of the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee. ordinances appropriating money or levying taxes, or pertaining thereto shall, before they are binding, be approved on three (3) separate readings on three (3) different days, at least one vote of approval to be accomplished by a majority of the entire Board of Mayor and Aldermen, and the yeas and nays to be called and recorded at each reading; and all the other ordinances shall be approved on two (2) separate readings, at least one vote to be approved by a majority of the entire board, and all yeas and nays thereon shall be recorded. Only the captions of any ordinance need be read. Copies of the entire text of all ordinances shall be furnished members of the board of mayor and aldermen prior to the meetings at which they shall be read, and a copy of same shall be posted on the bulletin board at the city hall in Tullahoma. The full body or text of each ordinance shall be placed in the official minutes of the board of mayor and aldermen upon final passage. On readings prior to the final reading, only the caption shall be placed in the minutes of the city. Resolutions need not be read in their entirety but only the resolution's number and its caption and a brief explanation need be

read at official board meeting. However, the complete text of all resolutions shall be made available to members of the board prior to the meeting at which same shall be read. Further, a copy of each resolution prior to enactment shall be posted on the bulletin board at the city hall in Tullahoma. The entire text of all resolutions shall be placed in the official minutes of the board of the meeting at which same are read. After the first reading of any ordinance, it may be placed on the consent agenda for subsequent action at subsequent meetings. (Ord. #1208, Oct. 1998)

**1-209.** <u>Publication of ordinances</u>. The board of mayor and aldermen will cause to be published in a newspaper of general circulation in Tullahoma, Tennessee, only the captions of all ordinances hereinafter enacted by the board of mayor and aldermen, except as is otherwise provided by law.

In each notice of publication of ordinances hereafter enacted by the board of mayor and aldermen, a further statement shall be made that the full body of the ordinance will be available during business hours for inspection and perusal at the city hall in Tullahoma, Tennessee, and that the general public is invited to review same. Said complete ordinance shall be kept on file in an accessible place at all times during business hours for review by any interested parties. (1988 Code, § 1-209)

- 1-210. Investigations. (1) To make such investigations as the legislative body may deem necessary and/or proper as to any city employee, city department and/or as to any of the city's institutions, boards, commissions, or activities; and to enable the legislative body to make such investigations, said body is hereby authorized and empowered to appoint such person or persons, committee or committees as it deems necessary to make such investigations, and said persons, committees, when so appointed are hereby clothed with the power to administer oaths to witnesses and to compel their attendance and to punish, as for contempt of court, by appropriate fine not to exceed fifty dollars (\$50.00) for failure of a witness when duly summoned to attend and testify and, if necessary to commit such delinquent witness to the workhouse for failure to testify until such witness shall have purged himself of the contempt by agreeing to give evidence and by testifying. The powers contained in this paragraph shall apply to the mayor of the city as well as to the board of mayor and aldermen of the city. Further, those powers set forth in paragraph (2) and paragraph (3) shall also apply to the mayor and/or board of mayor and aldermen of the city.
- (2) The board of mayor and aldermen, or any persons or committees authorized by the board of mayor and aldermen shall have power to inquire into the conduct of any department or office of the city, and to make investigations as to city affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence.
- (3) Any person who fails or refuses to obey any subpoena issued by the investigating body or who refuses to testify, or refuses to produce any evidence

requested, shall be deemed to be in contempt and shall be punished by a fine of not less than three dollars (\$3.00) nor more than fifty dollars (\$50.00) and may be imprisoned for a period not exceeding thirty (30) days, or until such time as such witness shall have purged himself of contempt by agreeing to give evidence or by testifying. (1988 Code, § 1-210, modified)

1-211. <u>Travel pay policies</u>. These travel pay policies are applicable to members of the board of mayor and aldermen, employees of the City of Tullahoma, and members of and employees of its boards, agencies and commissions who are entitled to receive travel pay. Reference to the City of Tullahoma hereinafter shall include all of the foregoing throughout.

The City of Tullahoma will reimburse authorized board members and employees for reasonable travel expense for over night travel while on official city business. Authorization for trips will be made by the Chief Administrative Officer (CAO) of the specific board/agency and a signed copy of authorization will be presented to the finance director of the board/agency prior to the contemplated trip and issuance of cash advance for expenses.

In the interpretation of this section, the term "traveller" or "authorized traveller" shall mean any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this section. "Authorized traveller" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveller on city business, unless such person or persons otherwise qualify as an authorized traveller under this section.

To qualify for reimbursement, travel expenses must:

- (1) Be directly related to the conduct of the city business for which travel was authorized;
- (2) Comply with standard rates as outlined in the current <u>Joint Travel</u> <u>Regulations</u> (Schedule #1)<sup>1</sup> and all other provisions contained in this section. The CAO may make exceptions for unusual circumstances. Such exceptions must be in writing from the CAO.
- (1) <u>Transportation</u>. Travel expense by automobile for attending meetings, conventions, and seminars will be payable at the IRS allowable rate in the event that a personal vehicle is used in lieu of a city vehicle. Group travel is encouraged. In the event that air travel is necessary, the city will pay actual cost up to a maximum of coach fare for the employee to and from the designated location of the meeting. A receipt from the airline showing actual ticket cost must be presented with the travel voucher. Where rental of an automobile is

<sup>&</sup>lt;sup>1</sup>See the attachments to Ord. #1117 (December 1994) of record in the office of the recorder.

deemed necessary for use by the traveler in the transaction of business for the good of the city, the rental fee will be paid providing a receipted statement is presented upon return for reimbursement. Taxi, limo or bus charges for transportation to a hotel, motel, or other lodging and back to the airport will be paid by the city. Also, if the nature of the trip requires use of a taxi for commuting purposes, the city will pay for taxi service. Receipted statements for this service are preferable, but the city recognizes that securing of receipted statements for this type of travel expense may be difficult and relies on the integrity of the employee.

Parking expenses in garages, parking lots and airports will be paid by the city provided receipted vouchers are presented for reimbursement. In the case of short term parking, such as placement of coins in meters, the city will rely on the integrity of the employee.

When a city owned automobile is used, expenses for road service, repair bills, tolls, parking, gasoline and oil must be supported by receipts. Speedometer readings must be recorded upon leaving and return to Tullahoma.

- (2) <u>Lodging</u>. Payment for motel, hotel or other lodging accommodations will be paid by the city for authorized trips to meetings, conventions and workshops at:
  - (a) The conference rate available for the specified conference or convention. If the conference hotel is full, and the traveller is required to stay at the overflow hotel, the traveler will be reimbursed at overflow hotel rate;
  - (b) The government lodging rate, as defined by the federal government JTR per diem chart,<sup>1</sup> if there is no convention rate which applies. If the government rate is not available or there are problems with specific accommodations which offer government rates, prior approval from the CAO of the organization must be obtained to approve a rate above the government rate. Such approval must be in writing. A receipt for the actual cost of the hotel/motel must be submitted with the travel voucher.
- (3) <u>Meals</u>. For meals, and other incidental not otherwise mentioned in this section, the per diem listed in column "M&IE¹ shall apply. The per diem rate shall be paid on a prorated basis for a partial day's travel. Partial one-third periods will be considered as total one-third periods for purposes of payment of per diem. For the purpose of this section, proration is defined as three 8-hour periods beginning at 12:00 A.M. If a meal is included as part of the conference registration, the schedule listed in Schedule #2¹ will be used to deduct this meal from the reimbursable per diem paid to the traveller.

<sup>&</sup>lt;sup>1</sup>See the attachments to Ord. #1117 (December 1994) of record in the office of the recorder.

The CAO may approve reimbursement of a single meal associated with a non-overnight trip, if such expense is in the best interest of the city. A receipt must be submitted and the reimbursement will not exceed the amount listed in Schedule #3.<sup>1</sup>

(4) <u>Miscellaneous</u>. Actual expenses for meals and entertainment for guests, visitors, professional representatives and agencies will only be made if the nature of the meals enhance the acquisition of the services being offered and is of benefit to the city and by approval of the CAO. A receipted statement identifying the group or individuals is required for reimbursement, and the voucher will be reviewed by the department director and approved by the city administrator or CAO of the board/agency.

Tips will be allowed for reimbursement for use of bell boy service in the event the service is necessary.

One personal phone call, not to exceed \$3.00 per overnight trip, will be reimbursed.

A standard expense voucher is to be used for expense reimbursement. This voucher will have the name of the employee, date, meeting date, location and sponsoring organization. All expenses requiring a receipt will be itemized and will have attached original receipts. The expense voucher will be signed by the employee making claims for expense reimbursement. All expense vouchers are to be submitted no later than five (5) working days after the completion of the authorized trip to the CAO of the board/agency for review and approval.

Registration or special fees for attending meetings will be paid by the city. In the event that prepaid registration has not been paid prior to the meeting, a receipted statement will be required.

Any expense or situation that is of unusual nature that does not fall within criteria as set forth in these guidelines will not be reimbursed until reviewed and approved by the CAO of the board or agency. (1988 Code, § 1-211)

- 1-212. Policies regarding lease of city property, assistance to various organizations, etc. (1) The board of mayor and aldermen from time to time by resolution may adopt certain policies of a general nature regarding the leasing of city real property and facilities, assistance to various organizations of a financial nature, and other types of general policies.
- (2) The city administrator shall create and maintain a general policies manual for the city in which shall be placed all policies adopted and/or amended from time to time by the City of Tullahoma relating to the matters dealt with in this section and otherwise of a general nature. (1988 Code, § 1-212)
- 1-213. Establishment of policy committee and internal affairs committee. The mayor may, at his discretion, establish from members of the board of mayor and aldermen a policy committee and an internal affairs committee as follows:

- (1) <u>Policy committee</u>. From time to time, the mayor may appoint, for a specified term, no fewer than three (3) aldermen, with one (1) designated by the mayor as chairman, to the policy committee of the board of mayor and aldermen. The purpose of this committee shall be to prepare policy statements for approval by the board, to insure that board members are supplied with a current copy of all approved board policies, and to perform whatever other duties as are directed by the board from time to time.
- (2) <u>Internal affairs committee</u>. From time to time, the mayor may appoint, for a specified term, no fewer than three (3) aldermen, with one (1) designated by the mayor as chairman, to the internal affairs committee of the board of mayor and aldermen. The purpose of this committee is to prepare procedures relating to internal affairs for approval by the board, as directed by the board; to insure that board members are supplied with current copy of all board procedures; and to perform those other activities sanctioned by board policy.

Action proposed to the policy committee and internal affairs committee shall be referred to the full board for discussion and approval or rejection. All policies recommended by the policy committee or the internal affairs committee, and all procedures, if approved by the board, shall be approved by resolution. (1988 Code, § 1-213, as replaced by Ord. #1572, March 2022 *Ch11\_08-08-22*)

- 1-214. Planning and coordinating committee. There is hereby established a planning and coordinating committee to act in an advisory capacity to the board of mayor and aldermen. Said committee will be advisory only and its purpose shall be to coordinate various city functions between the board of mayor and aldermen and various agencies of the city; to facilitate the exchange of information between the city board and its agencies; to participate in planning and in the coordination of the activities of all city agencies; to consider other functions and purposes in furtherance of establishing a better organized and more efficiently operated overall city government and city functions. The membership of said committee shall be as follows:
- (1) The voting members of said committee shall be: the mayor, who shall also act as chairman, or his designee; the mayor pro tem, who shall act as chairman in the absence of the mayor, and/or his designee; the chairman of the municipal airport authority; the chairman of the industrial development board; the chairman of the board of directors of the Tullahoma Housing Authority; the chairman of the board of education; the chairman of the planning commission; the chairman of the Tullahoma Utilities Board.
- (2) Additional non-voting members shall be as follows: The Manager of the Tullahoma Utilities Board; the executive director of the industrial development board; the superintendent of schools; the Executive Director of the Tullahoma Housing Authority; the City of Tullahoma planner; the city attorney; the city administrator. (1988 Code, § 1-214)

- **1-215.** Board members not to be bondsmen. No member of the board of mayor and aldermen shall be a security on the official bond of any officer or member of the board of mayor and aldermen. (1988 Code, § 1-215)
- **1-216.** Adequate public notice for public meetings. Unless otherwise provided by law and except as exigent circumstances may dictate otherwise, adequate public notice for public meetings of all boards, committees and agencies of the city shall be defined as seven (7) days. (as added by Ord. #1359, Nov. 2007)

#### **CHAPTER 3**

#### **CITY ADMINISTRATOR**

#### **SECTION**

1-301. City administrator--office created; appointment; term; qualifications; devotion to duty.

1-302. Duties.

- 1-301. City administrator—office created; appointment; term; qualifications; devotion to duty. (1) There is hereby created the office of City Administrator of the City of Tullahoma. The Board of Mayor and Aldermen of the City of Tullahoma may appoint and fix the salary of said administrator, who shall serve at the pleasure of the board of mayor and aldermen. The administrator shall be selected solely on the basis of training, experience, and other administrative qualifications. Minimum qualifications shall include a college degree and training or experience in municipal administration, public administration or civil engineering. The administrator shall give full time to the duties of his office.
- (2) The city administrator shall execute a bond with good and sufficient security in the sum of one hundred thousand dollars (\$100,000.00), said bond to be conditioned that he will faithfully account for all money that may or ought to come into his hands, and that may or ought to be collected by him by virtue of his office, and that he will well and truly do and perform all other duties pertaining to the office, which bond shall be acknowledged by the city administrator and his securities before the board of mayor and aldermen and approved by it.
- Reason for dismissal must be for due cause and dismissal shall require two (2) majority votes of the board of mayor and aldermen. The first vote regarding dismissal may be at a specially called meeting. At said special called meeting, the board of mayor and aldermen shall conduct a pretermination hearing. It shall have informed the city administrator at least one week prior thereto, in writing, of the causes for the board's considering termination. At said hearing, the city administrator may be represented by counsel and may present witnesses and may cross examine witnesses in behalf of the board of mayor and aldermen. Said pre-termination hearing shall be conducted prior to the board vote regarding dismissal or termination. Should a majority of the board uphold dismissal or termination then a second vote (the final vote) shall be at a regularly scheduled meeting of the board. During this process, suspension will be at the discretion of the board of mayor and aldermen but will be with pay. If, on final vote, the city administrator is terminated, he shall be provided with severance pay in addition to any other benefits due him at that time. Severance pay may be accumulated by the city administrator at the rate of one month per year of employment to be prorated for a period of employment

of less than one year, but shall not exceed a total of three months accumulated severance pay.

- (4) Any person hired by the city as city administrator shall have a probationary period of three months from his date of reporting for duty during which period said person may be discharged or dismissed from said office without cause or notice upon payment by the city of the balance of the three months' salary and benefits due to said city administrator.
- (5) The board of mayor and aldermen is hereby granted the latitude to negotiate for and enter into contractual provisions different from the guidelines hereinabove set forth, with prospective city administrators, relative to suspension, dismissal, termination, pay and benefits due city administrators upon termination, etc., as the situation may warrant, the foregoing guidelines being in the nature of informational, rather than mandatory directional provisions, the purpose of this subsection being in the nature of enabling legislation. (1988 Code, § 1-401)
- 1-302. <u>Duties</u>. It shall be the duty of the administrator to supervise and coordinate all administrative activities of each department directly under the control of the board of mayor and aldermen in accordance with an organization chart adopted by the board of mayor and aldermen and filed with the city recorder. The administrator shall also have the following duties with respect to the administration of the affairs of the city under the control of the board of mayor and aldermen:
- (1) To make recommendations to the board of mayor and aldermen for improving the quality and quantity of public services to be rendered by the city to the citizens thereof.
- (2) To keep the board of mayor and aldermen fully advised as to the conditions and needs of the city, including an inventory of property and equipment and to recommend necessary repairs or replacements.
- (3) To recommend to the board of mayor and aldermen necessary programs or projects involving public works or public improvements to be undertaken by the city and the priority of same.
- (4) To direct the enforcement of all personnel rules, regulations and personnel policies which may be adopted by the board of mayor and aldermen from time to time and to approve any dismissal, promotion or demotion of any employee when same is deemed necessary and proper in accordance with such rules, regulations and policies. The city administrator will review the findings and decision of the respective department heads involved in dismissals, promotions and demotions, and will either approve or reject same. After such approval or rejection, the grievance procedure provided for in said personnel policies will then be applicable.
- (5) To act as purchasing agent subject to the policies, rules and regulations established by the board of mayor and aldermen and to recommend changes in such policies, rules and regulations as deemed necessary to establish

effective procedures. The city administrator shall approve purchases in excess of \$1,500.00, with department heads approving budgeted purchases of \$1,500.00, or less, in accordance with City's purchasing policies.

- (6) To review, approve and recommend to the board of mayor and aldermen an annual budget for each department of the city coming under the direct supervision of the board of mayor and aldermen.
- (7) The city administrator shall have the original authority and jurisdiction to execute and deliver all notices, orders, and other documents necessary for the enforcement of all ordinances of the city, and may delegate said authority to various personnel including, but not limited to, department heads. Anywhere in the code of ordinances where reference is made to the sending of notices, the enforcement of ordinances, and other matters of an administrative nature where reference is made to a particular official of the City of Tullahoma having the authority to do so, said provisions shall be amended to delete therefrom the authority of said particularly designated official and substituted therefor shall be city administrator with the provisions that said authority may be delegated by said city administrator to said designated official or another employee of the City of Tullahoma. All provisions in conflict herewith are hereby repealed.
- (8) To perform such other duties as may be passed by the board of mayor and aldermen in official session from time to time.
- (9) To review all applications for employment filed with the city personnel officer for department head positions, to interview applicants and to make <u>written</u> recommendations to the board of mayor and aldermen regarding the hiring of said department heads. (1988 Code, § 1-402, modified)

#### **CHAPTER 4**

#### CITY RECORDER AND DIRECTOR OF FINANCE<sup>1</sup>

#### **SECTION**

- 1-401. Recorder, (also known as the city recorder and tax collector)--powers and duties generally.
- 1-402. Official bond.
- 1-403. Execution on judgments.
- 1-404. Director of finance (and treasurer)--powers and duties generally.
- 1-405. Reports; fiscal month.
- 1-406. Official bond.
- 1-401. Recorder, (also known as the city recorder and tax collector)—powers and duties generally. (1) Generally. The recorder shall perform all the duties required of him by ordinance, rules, or regulations of the board of mayor and aldermen, or by the laws of the state.
- (2) <u>Licenses</u>. The recorder shall issue all licenses for privileges, applied for under the revenue laws of the city, and call upon all persons exercising privileges and tender to them a license and demand of them the lawful fees and taxes for the same; but before delivering a license to any person the recorder shall present the same to the mayor to be countersigned by him. Before presenting a license to the mayor to be countersigned by him, the recorder shall fill in the same so that it shall show the person to whom the same is issued, and the amount of taxes and fees received, or to be received on the same.
- (3) <u>Tax collector</u>. The duties of the recorder shall include that of tax collector, and the recorder is hereby designated as city tax collector.
- (4) Attendance at board meetings and records thereof. The recorder shall attend all the regular, adjourned and called meetings of the board of mayor and aldermen and shall keep a record of all the proceedings which, after being approved by the mayor and aldermen, shall be signed by the mayor and recorder. (1988 Code, § 1-501, modified, as replaced by Ord. #1391, Oct. 2009)
- 1-402. Official bond. Before entering upon the duties of his office, the recorder (and treasurer and tax collector) and all persons employed in his office shall execute a bond with good and sufficient security in the sum of one hundred thousand dollars (\$100,000.00) each, said bonds to be conditioned that they will faithfully account for all money that may or ought to come into their hands, or may or ought to be collected by them by virtue of their office, and that they will well and truly do and perform all other duties pertaining to the office, which

<sup>&</sup>lt;sup>1</sup>Charter references: §§ 9, 10, and 15.

bond shall be acknowledged by the recorder and his employees and their securities before the board of mayor and aldermen and approved by it. (1988 Code, § 1-502, modified, as replaced by Ord. #1391, Oct. 2009)

- 1-403. Execution on judgments. When a judgment shall be rendered by the recorder, and the same secured, it shall be the duty of the recorder to issue execution thereon immediately. (1988 Code, § 1-503, as replaced by Ord. #1391, Oct. 2009)
- 1-404. <u>Director of finance (and treasurer)--powers and duties generally</u>. (1) <u>Generally</u>. The director of finance recorder shall perform all the duties required of him by ordinance, rules, or regulations of the board of mayor and aldermen, or by the laws of the state.
- (2) <u>Treasurer</u>. The duties of the director of finance shall include that of city treasurer, and is hereby designated as city treasurer.
- (3) Accounting, etc. All invoices for purchases made for the city shall be kept with all other records in suitable files and cases to be furnished for that purpose, and all shall be kept under his charge in the office of the recorder. He shall also perform any other service in connection with the accounting departments of the city which time and opportunity will permit at the will and pleasure of the board of mayor and aldermen. (1988 Code, § 1-504, as replaced by Ord. #1391, Oct. 2009)
- 1-405. <u>Reports</u>; <u>fiscal month</u>. (1) The director of finance shall make a report to the board of mayor and aldermen of all moneys collected by him for municipal purposes in each month; and, as city treasurer, shall make a monthly report to the board of mayor and aldermen of all moneys received and paid out in each month, and shall make a final report at the expiration of his term of office.
- (2) The fiscal month shall end with the last day of each month, and all official reports shall be made at the second regular meeting of the board on the fourth Monday of each month, covering the period up to the last day of each month previous. (as added by Ord. #1391, Oct. 2009)
- 1-406. Official bond. Before entering upon the duties of his office, the director of finance (and treasurer) and all persons employed in his office shall execute a bond with good and sufficient security in the sum of one hundred thousand dollars (\$100,000.00) each, said bonds to be conditioned that they will faithfully account for all money that may or ought to come into their hands, or may or ought to be collected by them by virtue of their office, and that they will well and truly do and perform all other duties pertaining to the office, which bond shall be acknowledged by the recorder and his employees and their securities before the board of mayor and aldermen and approved by it. (as added by Ord. #1391, Oct. 2009)

# CITY ATTORNEY<sup>1</sup>

# **SECTION**

1-501. Employment.

**1-501. Employment**. An attorney at law for the city generally shall be employed by the city only with the consent of a majority of the board of mayor and aldermen. (1988 Code, § 1-601)

<sup>&</sup>lt;sup>1</sup>Charter reference: § 10.

# RECORDS MANAGEMENT

#### **SECTION**

- 1-601. City recorder as records manager.
- 1-602. Archiving and storage of public documents.
- 1-603. Archiving of video recordings of meetings of the board of mayor and aldermen.
- 1-604. Repealed.
- **1-601.** City recorder as records manager. The City Recorder of the City of Tullahoma, Tennessee, is hereby appointed as the records manager of the city. The function of the records manager will be to determine what records will be archived; to schedule archiving; to establish the retention period for each document based upon an approved retention schedule, which shall be prepared pursuant to the Uniform Accounting Manual for Tennessee Cities, Records Management Manual prepared by the Center for Government Training, as reviewed by the city's accountant. The records manager shall establish various periods for retention of documents based on her best judgment, even if same deviates from the record retention periods set forth in said manual. The city recorder shall direct each department head to prepare an inventory of all records under their control, as well as a written list of same and dates of same. The records manager shall approve the proposed schedule and then establish retention, disposition and archiving schedules for each document. The board of mayor and aldermen shall, by resolution, from time to time, establish and amend thereafter a retention schedule as recommended by said records manager. (1988 Code, § 1-1301, modified, as amended by Ord. #1391, Oct. 2009)
- 1-602. Archiving and storage of public documents. It shall be the function of the city recorder to establish schedules for and see to archiving of all documents pursuant to the provisions of § 1-601. All rolls of microfilm and other archived records shall be duplicated and the original retained at the city hall and a duplicate will be kept for safekeeping at the off-site building. Original items which may have some historical value and interest will, upon the approval of the Board of Mayor and Aldermen of the City of Tullahoma, be given to the civic center for inclusion in the museum there. (1988 Code, § 1-1302, modified, as amended by Ord. #1391, Oct. 2009)
- 1-603. Archiving of video recordings of meetings of the board of mayor and aldermen. The records manager shall ensure that video recordings of regular and special called meetings of the board of mayor and aldermen are labeled and stored in a secure area within seventy-two (72) hours of the last scheduled airing by the local programming originator and that the

recording, storing and archiving of said meetings be maintained in a digital format so that said recordings can be readily accessible in the most cost-effective method available. (as added by Ord. #1360, Nov. 2007)

**1-604.** Repealed (as added by Ord. #1443, Jan. 2014. and repealed by Ord. #1481, May 2017)

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

#### **SECTION**

- 1-701. Applicability.
- 1-702. Definition of "personal interest."
- 1-703. Disclosure of personal interest by official with vote.
- 1-704. Disclosure of personal interest in non-voting matters.
- 1-705. Acceptance of gratuities, etc.
- 1-706. Use of information.
- 1-707. Use of municipal time, facilities, etc.
- 1-708. Use of position or authority.
- 1-709. Outside employment.
- 1-510. Ethics complaints.
- 1-511. Violations.

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

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

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

Conflict of interests disclosure statements: <u>Tennessee Code Annotated</u>, § 8-50-501 and the following sections.

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

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

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

Ouster law: <u>Tennessee Code Annotated</u>, § 8-47-101 and the following sections.

- 1-701. <u>Applicability</u>. 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. #1349, Jan. 2007)
- **1-702.** <u>**Definition of "personal interest**."</u> (1) For purposes of §§ 1-703 and 1-704, "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. #1349, Jan. 2007)
- 1-703. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself<sup>1</sup> from voting on the measure. (as added by Ord. #1349, Jan. 2007)
- 1-704. <u>Disclosure of personal interest in non-voting matters</u>. 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 the ethics officer and filed with the ethics officer

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

and city 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. #1349, Jan. 2007)

- **1-705.** 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. Nothing in this section is meant to prohibit customary hospitality practices. (as added by Ord. #1349, Jan. 2007)
- **1-706.** <u>Use of information</u>. (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. #1349, Jan. 2007)
- 1-707. <u>Use of municipal time, facilities, etc.</u> (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 law or agreement that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #1349, Jan. 2007)
- 1-708. <u>Use of position or authority.</u> (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. #1349, Jan. 2007)
- 1-709. <u>Outside employment</u>. 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. #1349, Jan. 2007)

- 1-710. <u>Ethics complaints</u>. (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 shall render an oral or written advisory ethics opinion based upon this chapter and other applicable law.
  - (2) (a) 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.
  - (b) The city attorney shall request that the governing body 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) 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 judgement, constitutes a violation of this code of ethics.
  - (d) The results of said investigation by the city attorney or ethics officer shall be submitted to the internal affairs committee who shall render a report to the board of mayor and aldermen.
- (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. Any advisory board, authority or commission may seek the counsel of the advisory board, authority or commission's legal counsel on questions regarding the interpretation of these ethics guidelines or other conflict of interest matters. The interpretation may include a recommendation on whether or not the advisory board, authority or commission member should excuse himself/herself from voting. The advisory board, authority or commission member may request that counsel respond in writing. (as added by Ord. #1349, Jan. 2007)

1-711. <u>Violations</u>. 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. #1349, Jan. 2007)

# **CITY JUDGE**

# **SECTION**

1-801. Salary.

1-801. Salary. Under the authority of Tennessee Code Annotated, § 16-18-205(1), and § 16B of the Charter of the City of Tullahoma, that the salary of the Tullahoma city judge shall be fixed by the board of mayor and aldermen at sixteen thousand five hundred dollars (\$16,500.00) per year, effective with the term that will commence in August 2017. (as added by Ord. #1488, July 2017)

#### TITLE 2

#### BOARDS AND COMMISSIONS, ETC.

#### **CHAPTER**

- 1. BOARDS, COMMISSIONS, AUTHORITIES AND AGENCIES.
- 2. BOARD OF EDUCATION.
- 3. TULLAHOMA UTILITIES AUTHORITY.

#### CHAPTER 1

# BOARDS, COMMISSIONS, AUTHORITIES AND AGENCIES<sup>1</sup>

#### **SECTION**

- 2-101. Enumeration.
- 2-102. Appointment of members of board of mayor and aldermen to such bodies.
- 2-103. Budgets.
- 2-104. Reports.
- 2-105. Maximum terms.
- 2-106. Residence requirements for appointees.
- **2-101.** Enumeration. Boards, commissions, agencies, authorities and committees of the city include, but are not limited to, the following:

	Board, Etc.	How Appointed	Term of <u>Office</u>	$\underline{\text{Authority}}$
(1)	Industrial Development Board of the City of Tullahoma, Tennessee.	Board of mayor and aldermen.	6 years	<u>T.C.A</u> . § 7-53-301

<sup>&</sup>lt;sup>1</sup>Charter reference: § 8.

	Board, Etc.	How Appointed	Term of <u>Office</u>	Authority
(2)	The Tullahoma Municipal-Re gional	(a) Mayor or designee appointed by mayor;	1 year	<u>T.C.A</u> . § 13-4-101 and Code § 14-101
	Planning Commission	(b) Member of board of mayor and aldermen elected by board;	1 year	
		(c) Five members appointed by the mayor	5 years	
(3)	Tullahoma Community Development and Housing Commission	Mayor	5 years	<u>T.C.A</u> . § 13-20-408
(4)	Tullahoma Board of Education	Elected by registered voters of city	4 years	Code § 2-201
(5)	Tullahoma Municipal Airport Authority	Board of mayor and aldermen	5 years	<u>T.C.A</u> . § 42-3-103 Code § 20-1101
(6)	Duck River Utility Commission	Nomination and election by ballot-board of mayor and aldermen	3 years	Compact between Tullahoma-Manche ster Water and sewer Commission and Tullahoma Utilities Board

(1988 Code,  $\S$  1-301, modified, as amended by Ord. #1295, Oct. 2004, and Ord. #1492, Aug. 2017)

**2-102.** Appointment of members of board of mayor and aldermen to such bodies. The mayor may henceforth appoint a member of the board of mayor and aldermen to each of the boards, agencies, commissions, authorities and committees which do not already have a member of the board of mayor and aldermen serving as a member thereof under the requirements of other ordinances of the city or laws of the state. Said appointees shall be nonvoting,

ex officio members and shall attend meetings of the bodies to which they are appointed and act as liaison between them and the board of mayor and aldermen. The terms of said appointments shall be for one year and said appointments shall be made by the mayor at the first meeting of the board of mayor and aldermen in August of each year or as soon thereafter as possible. (1988 Code, § 1-302, modified)

- **2-103.** <u>Budgets</u>. (1) All boards, agencies, commissions, authorities and committees of the city shall render their budgets for review by the board of mayor and aldermen on or before May first of each year for the next respective fiscal year of said boards, agencies, commissions, authorities and committees, and upon approval of said budget by the board of mayor and aldermen shall adhere to and follow same in all respects.
- (2) Each of the boards, agencies, commissions and committees of the City of Tullahoma, Tennessee, in rendering the budgets required hereunder for review to the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on or before May first of each year, are hereby required to utilize and prepare budget documents for responsible fiscal control in as much detail as to parallel matters shown on year-end operating statements for the last ending fiscal year, said budget to be reviewed by and utilized by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, in establishing its own budget for the next ensuing fiscal year after receipt of budget documents from the aforementioned boards, agencies, commissions and committees.
- (3) All boards, agencies, commissions, authorities, and committees of the city after rendering to the board of mayor and aldermen their budgets for review on or before May first of each year for the next respective fiscal year, shall have thirty (30) days from May first in each year to render or file with the board of mayor and aldermen amendments to said basic budget document. (1988 Code, § 1-303)
- **2-104.** Reports. (1) All boards, agencies, authorities and committees appointed by the mayor or the board of mayor and aldermen are hereby required to render to the board of mayor and aldermen an annual report each year regarding the activities of their board, etc., or the board, etc., to which they have been appointed; said report to be filed by April first of each year, or, if abolished, on date of abolishment of such body.
- (2) In addition to said reports being filed, minutes of each meeting shall be submitted by such boards, etc., to the board of mayor and aldermen as soon as same have been approved from time to time. (1988 Code, § 1-304)
- **2-105.** <u>Maximum terms</u>. (1) Maximum length of continuous service on any city appointed board, commission, committee, or authority, shall be as follows:

	1 Term Equals	Terms
Industrial Board		
	6 years	2
Housing Authority		
į į	5 years	2
Planning Commission		
	5 years	2
Airport Authority		
ı v	5 years	2
Duck River Commission		
	3 years	3

These limits are not to be exceeded, even though partial terms, but for the sole exception when there are not eligible volunteers seeking to fill the position. A partial term of less than six (6) months will not be considered as a term. All appointees now serving on any of the above enumerated agencies may continue to serve until their present term expires, whether or not their total number of years served exceeds the above applicable limit. (1988 Code, § 1-305, as amended by Ord. #1157, Oct. 1996, and Ord. #1252, Sept. 2002, replaced by Ord. #1382, Feb. 2009, and amended by Ord. #1492, Aug. 2017, and Ord. #1547, March 2021 *Ch11\_08\_08\_22*)

**2-106.** Residence requirements for appointees. (1) All appointees, either of the Mayor of the City of Tullahoma or of the Board of Mayor and Aldermen of the City of Tullahoma, by whatever methods of appointment are authorized by ordinance or statute, shall be citizens and residents of the City of Tullahoma, Tennessee. They shall serve in their appointed positions either until the term thereof has expired or until they no longer maintain their domicile within the city limits of the City of Tullahoma, Tennessee. For the purposes of this section, the term "domicile" shall be defined as follows:

"A place where a person lives or has his home; in a strict legal sense, the place where he has his true, fixed, permanent home and principal establishment, and to which place he has, whenever he is absent, the intention of returning. In a sense, it is synonymous with home, or residence, or the house of usual abode." Also.... "Domicile means more than residence. It imports residence and fixed intention to remain there. A man may be a resident of a locality without having his domicile there. He can have only one domicile at the same time, though he may have more than one residence."

(2) At such time as any appointee hereinabove referred to shall remove his domicile from the City of Tullahoma, Tennessee, it shall be his duty and responsibility to so notify the board of mayor and aldermen; provided, however, that should said appointee fail to do so, then upon reasonable assurance that said appointee has, in fact, changed his domicile, the board of mayor and aldermen shall appoint some other person to serve out the unexpired term of the appointee and shall so notify both the original appointee and the successor appointee, in writing.

(3) The provisions of this section shall be applicable to, but not limited to membership on the Industrial Development Board of the City of Tullahoma; Tullahoma Municipal-Regional Planning Commission; the Tullahoma Community Development and Housing Commission; the Tullahoma Board of Education; the Tullahoma Airport Authority; the Duck River Utility Commission. The foregoing list of boards, committees and authorities is provided by way of enumeration, but not limitation. (1988 Code, § 1-307, modified, as amended by Ord. #1492, Aug. 2017)

# BOARD OF EDUCATION<sup>1</sup>

#### **SECTION**

- 2-201. Created, composition, election, term of office.
- 2-202. Powers and duties generally, to prescribe course of study, etc.
- 2-203. Annual report required.
- 2-204. Pupils eligible to attend; construction of buildings.
- 2-205. Selection of teachers.
- 2-206. Teachers not to be members of board of education.
- 2-207. Teachers may run for offices of mayor and aldermen.
- 2-208. Board of education finances.
- **2-201.** Created, composition, election, term of office. There is hereby created a Board of Education for the City of Tullahoma, Tennessee, which shall consist of seven (7) citizens of the city, (except during the transition period contemplated hereby) who shall be elected by the voters of the City of Tullahoma, Tennessee, at large, to serve for a term of four (4) years. Election of the members of the board of education shall commence after the enactment hereof and shall continue pursuant hereto until this section is repealed and/or amended, said elections to be as follows:
- (1) The two (2) members of the board of education appointed in February, 1996, pursuant to the prior ordinance under which they were appointed shall serve a three (3) year term ending in February, 1999. Should these members desire to retain their positions on the board of education, they will stand for election in the city general election in August, 1998. If these members are elected to the board, they will be sworn in at the next board of education meeting following the city general election and shall serve a four (4) year term. If these members choose not to seek re-election to the board or are defeated, they will continue to serve their appointed term until February, 1999, and the newly elected replacement members of the board will be sworn in at the next board of education meeting following the city general election and shall each serve a four (4) year term. These positions shall stand for re-election every four (4) years thereafter.
- (2) The three (3) positions for membership on the board of education for which terms expire in February, 1997, shall stand for election in the city general election in August, 1996. The members elected to the board will be sworn in at the next board of education meeting following the city general election and shall each serve a four (4) year term. If current members choose not to seek re-election to the board or are defeated, they will continue to serve

<sup>&</sup>lt;sup>1</sup>Charter reference: § 8.

their appointed term until February, 1997. The newly elected members of the board will be sworn in at the next board of education meeting following the city general election and shall each serve a four (4) year term. These positions shall stand for re-election every four (4) years thereafter.

The two (2) positions for membership on the board of education which terms expire in February, 1998, shall stand for election in the city general election in August, 1997. The members elected to the board will be sworn in at the next board of education meeting following the city general election and shall each serve a four (4) year term. If current members choose not to seek re-election to the board or are defeated, they will continue to serve their appointed term until February, 1998. The newly elected members of the board will be sworn in at the next board of education meeting following the city general election and shall each serve a four (4) year tern. These positions shall stand for re-election every four (4) years. (1988 Code, § 1-1701)

# 2-202. Powers and duties generally, to prescribe course of study,

- etc. (1) The board of education is hereby invested with all the powers and authority necessary for the establishment and maintenance of a graded free school within the city.
- (2) The organization of the public schools and the course of studies to be pursued therein, as well as the plan of instruction, shall be such as may be adopted by the board of education. (1988 Code, § 1-1702)
- **2-203.** Annual report required. The board of education shall make an annual report of the condition of the public schools to the board of mayor and aldermen on or before April first in each year. (1988 Code, § 1-1703)

# 2-204. Pupils eligible to attend, construction of buildings.

- (1) Pupils allowed to attend the public schools of the city free shall be those of the ages allowed to attend the public free schools of the state, and they shall be under charge of such teachers and in such buildings as the board of education may deem most suitable.
- (2) The children and wards of all actual residents within the city shall be entitled to seats as pupils in the public free schools, provided that said children shall themselves be bona fide residents of the city; but provision may be made for the reception of other pupils, on such terms and conditions as the board of education may provide.
- (3) The board of education shall have the right, with the consent of the board of mayor and aldermen, to either buy or erect such buildings for school purposes as in its judgment may be necessary to carry into effect the intent and purpose of this division, and in either the erection or purchase it shall look well to the healthfulness of the locality and the ample ventilation of the buildings and rooms.

- (4) It shall be unlawful for any person to send a pupil to the public free school, knowing that said pupil is not entitled to free education therein, without first making arrangements with the board of education and paying tuition. It shall be unlawful for any teacher knowingly to receive such pupil. (1988 Code, § 1-1704)
- **2-205.** Selection of teachers. In the selection of teachers for the public school, a majority vote of the members of the board of education shall be required for the selection of each teacher. (1988 Code, § 1-1705)
- **2-206.** Teachers not to be members of board of education. No person shall be a member of the board of education, and at the same time be a teacher in the public schools. (1988 Code, § 1-1706)
- **2-207.** Teachers may run for offices of mayor and aldermen. All teachers employed by the city board of education, if otherwise eligible, may be eligible to qualify for and run for the offices of mayor and aldermen of the city, in all municipal elections. (1988 Code, § 1-1707)
- **2-208.** Board of education finances. (1) The city board of education is hereby authorized to receive all monies and funds for the operation of the city school system and to draw checks or drafts on said accounts in its name for the payment of the obligations of the city school system as set forth in the budget for the city board of education approved by the board of mayor and aldermen; however, such disbursements shall be for services rendered only and not in advance and shall be in accordance with the budget limitations.
- (2) The city board of education shall keep accurate records of all receipts and disbursements in keeping with sound accounting principles and report annually to the board of mayor and aldermen the disposition of all school funds.
- (3) The person designated by the city board of education to disburse said funds shall be bonded with a corporate bond in accordance with state requirements. (1988 Code, § 1-1708)

# **TULLAHOMA UTILITIES AUTHORITY**

# **SECTION**

2-301. Tullahoma Utilities Authority created. 2-302.--2-303. Deleted.

**2-301.** <u>Tullahoma Utilities Authority created</u>. The Tullahoma Utilities Authority was created by charter amendment and the provisions therein shall apply. (1988 Code, § 13-101, as replaced by Ord. #1492, Aug. 2017)

**2-302.–2-303. Deleted**. (as deleted by Ord. #1492, Aug. 2017)

#### TITLE 3

# MUNICIPAL COURT<sup>1</sup>

#### **CHAPTER**

1. CITY COURT.

#### **CHAPTER 1**

# **CITY COURT**

#### **SECTION**

- 3-101. City judge--duties.
- 3-102. Court costs.
- 3-103. Issuance of warrants.
- 3-104. Prosecution of cases.
- 3-105. Costs in malicious prosecution cases.
- 3-106. Issuance of distress warrants by clerk.
- **3-101.** <u>City judge—duties</u>. The city judge shall try all persons charged with a violation of the laws and ordinances of the city and for this purpose shall keep, in a well-bound book, a judgement and execution docket of all cases tried by him for offenses under the laws and ordinances of the city, which docket shall show in continuous order and in distinct columns:
  - (1) The number of the case:
  - (2) The date of trial and continuances, if any;
  - (3) The name or names of the defendant or defendants in full;
  - (4) The amount of the judgment;
  - (5) The name of the security, if any;
  - (6) The name of the policeman who returns the warrant;
  - (7) The date of the issuance of each execution and to whom delivered;
  - (8) The bill of costs, the items written in words and the amounts in figures:
  - (9) The date of the return of the execution and the substances of the same.

Before putting upon trial any person who has been arrested without warrant, the judge shall issue a warrant or a summons setting forth the offense

<sup>&</sup>lt;sup>1</sup>Charter references: §§ 10, 14, 16A, and 16B.

See Ord. #1076 of record in the office of the city recorder setting a term of eight years for the city judge beginning with the judge elected in August 1993.

with which such person is charged, and cause the same to be served upon the defendant. (1988 Code, § 1-1101)

- **3-102.** <u>Court costs</u>. The court costs to be used by the city judge in assessing the bill of costs in cases in the city court shall be as follows:
- (1) There are hereby established court costs for the municipal court for the City of Tullahoma, Tennessee, as follows:

Ninety dollars (\$90.00), not to include applicable municipal litigation tax.

- (2) The police department's costs shall be the same as those costs charged by the sheriffs and constables as appears in <u>Tennessee Code Annotated</u>,  $\S$  8-21-901, as amended. (1988 Code,  $\S$  1-1102, as amended by Ord. #1256, Nov. 2002)
- **3-103.** <u>Issuance of warrants</u>. Whenever a complaint shall be made, on oath before the city judge, that an offense under this code has been committed, he shall issue a warrant, except as may be otherwise provided in § 6-105, for the arrest of the offender, addressed to the chief of police or any policeman of the city, commanding him, in the name of the city, to arrest such offender and bring him before the city judge for trial. (1988 Code, § 1-1103)
- **3-104.** Prosecution of cases. It shall be the duty of the chief of police or any policeman to prosecute, before the city judge, in the name of the city, all suits for a violation of the ordinances of the city. If the chief of police or any policeman shall fail to prosecute any such suits, any other person may do so. (1988 Code, § 1-1104)
- **3-105.** Costs in malicious prosecution cases. If any person shall maliciously prosecute another before the city judge, it shall be the duty of the judge, and he is hereby authorized to tax such prosecutor with the costs. (1988 Code, § 1-1105)
- 3-106. <u>Issuance of distress warrants by clerk</u>. In order to clear up old fines which remain unpaid by violators convicted of offenses under the ordinances of the City of Tullahoma, Tennessee, the clerk of the city court shall prepare a distress warrant to be served upon the offender by the chief of police or any police officer employed by the City of Tullahoma, Tennessee, who shall, after service, make his return thereon, in writing to the City Court of the City of Tullahoma, Tennessee. Said distress warrants may be served by any police officer of the City of Tullahoma, Tennessee, within all areas over which the City Court of the City of Tullahoma, Tennessee, has jurisdiction. In the event that the distress warrant is returned "nulla bona" indicating that there are no assets of the offender to be found to subject to the fine owed by said offender, the matter will be retired from the court's docket. (1988 Code, § 1-1106)

# TITLE 4

# **MUNICIPAL PERSONNEL**

#### **CHAPTER**

- 1. PERSONNEL.
- 2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
- 3. INFECTIOUS DISEASE CONTROL POLICY.

#### **CHAPTER 1**

# PERSONNEL<sup>1</sup>

#### **SECTION**

- 4-101. Table of organization.
- 4-102. Personnel policies.
- 4-103. Conduct of officers and employees--contracting with city.
- 4-104. Holding other office or employment.
- 4-105. Nepotism.
- 4-106. Representing others in city court.
- 4-107. Withholdings from salaries and wages.
- 4-108. Elected officials not to politic with employees.
- 4-109. Drug and alcohol testing policy.
- **4-101.** <u>Table of organization</u>. The board may establish, amend, or repeal a table of organization by resolution and shall keep a current table on file in the office of the recorder at all times.
- 4-102. Personnel policies. All policies, procedures, rules, and regulations regarding employees within the system shall be reduced to writing. These personnel policies shall establish specific procedures for the administration and maintenance of the personnel system of the city. Such written statements of policy shall set out all pertinent information concerning working hours, attendance, holidays, leaves of absence, vacations, residency requirements, minimum age requirements, maximum age requirements, programs available to employees, and all other information which properly may be the subject of such statement of policy. These policies shall be adopted by resolution of the board of mayor and aldermen and shall be changed from time to time by said board by resolution. These policies may be set forth in a personnel policy handbook, and can provide for the delegation of certain authority by the board of mayor and aldermen to the city administrator in the

<sup>&</sup>lt;sup>1</sup>Charter references: §§ 7, 8, and 13.

carrying out of the functions set forth in said policies, including the hiring, suspension and dismissal of personnel. (1988 Code, § 1-702)

# 4-103. Conduct of officers and employees-contracting with city.

- (1) It shall be unlawful for any person holding office under the city, during the time for which he is elected or appointed, to contract with the city for the performance of any work or service which is to be paid for out of the city treasury; or to hold or have any interest in such contract, either by himself or by another, directly or indirectly.
- (2) Every officer or employee of the city who shall be concerned in making such contracts, or who shall pay money upon the same to or for any person, prohibited by this section, shall forfeit the amount so paid; and they shall be jointly and severally liable to any action for the same, which action may be prosecuted by any citizen of the city in its name.
- (3) It shall be unlawful for any officer or employee, whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or contract in which the city shall or may be interested, to be directly or indirectly interested in such contract.
- (4) Should any person acting as such officer or employee, be or become directly or indirectly interested in such contact, he shall forfeit all pay and compensation therefor.
- (5) For a violation of this section such officer or employee shall be dismissed from the office or position he then occupies and be ineligible for the same, or similar position, for ten (10) years.
- (6) It shall be unlawful to appoint any member of the board of mayor and aldermen, or any officer thereof, to any position or place of honor, profit or trust within the gift or bestowal of the board, or employ any member or officer thereof, either as laborer, foreman, or agent, or attorney for, or in behalf of the city or board. (1988 Code, § 1-703)
- 4-104. Holding other office or employment. (1) Any employee of the city, drawing a salary from the city, or any of its departments, is hereby prohibited from holding any other public office of any character whatsoever, and is further prohibited from seeking any other employment while holding said employment under the city, unless said employee of the city or any of its departments applies, through the city administrator of the city for permission to seek and hold outside employment, which application must be approved by the department head under whose supervision said employee works, it being the intention of this section to assure that all employees of the city, drawing a salary from the city, devote adequate time to the duties of their employment to which appointed or employed, and not engage in outside employment in any manner whatsoever which might interfere with said city employment, or create a conflict of interest between said city employment and outside employment.

- (2) All employees of the City of Tullahoma currently engaged in outside employment as of the date of enactment of this section shall be deemed to have complied with the provisions hereof and said outside employment is hereby approved.
- (3) Any employee aggrieved by the decision of the city administrator or the department head regarding said employee's application for outside employment may appeal said decision through the grievance procedures as are more fully outlined in the personnel policies of the City of Tullahoma, Tennessee, according to the provisions set forth therein for grievances in general. (1988 Code, § 1-704, modified)
- **4-105.** <u>Nepotism</u>. It shall be unlawful for the mayor, chairman of any committee, or board of education or member thereof, to employ any person in any capacity to which there is a salary or compensation affixed, if related thereto by affinity or consanguinity nearer than third cousin, except by unanimous consent, and any such offense shall subject the offender to dismissal from the office by the board of mayor and aldermen. (1988 Code, § 1-705)
- 4-106. Representing others in city court. It shall be unlawful for the mayor or any member of the board of mayor and alderman or any other officer or employee of the city to appear, plead or speak for or in any manner represent any person, other than the city, upon any charge of any kind or character whatever brought before the city court. Nothing contained herein shall preclude or abridge the right of the city or any accused to subpoena the mayor, aldermen, officers or employees as witnesses. (1988 Code, § 1-706)
- 4-107. Withholding from salaries and wages. Withholding from salaries or wages for social security, insurance and other purposes as directed by the board of mayor and aldermen shall be the duty of the director of finance, and there shall be appropriated from available revenues such amounts as may be required for the employer's contributions for such programs that now exist or may be hereafter adopted and approved by the board of mayor and aldermen. (1988 Code, § 1-707, as amended by Ord. #1391, Oct. 2009)
- 4-108. Elected officials not to politic with employees. It shall be unlawful for any elected officials of the City of Tullahoma, including members of the board of mayor and aldermen, to contact, coerce, urge or encourage any paid city employees of the City of Tullahoma, Tennessee, to participate in any manner in any political campaign relative to the election of officers of the City of Tullahoma, including but not limited to the signing of qualifying petitions, making of political contributions in money or services and any and all other such activity. For violation of this provision, such official shall be dismissed from the office or position he then occupies and be ineligible for the same, or similar

position, for ten (10) years, upon a finding of such a violation by a court of competent jurisdiction. (1988 Code, § 1-708)

4-109. <u>Drug and alcohol testing policy</u>. All policies, procedures, rules, and regulations regarding drug and alcohol testing shall be reduced to writing, and shall be entitled "Drug and Alcohol Testing Policy." These regulations or policies shall establish specific procedures for drug and alcohol testing for the employees of the City of Tullahoma, Tennessee. The initial policy shall be enacted by a simple motion of the board of mayor and aldermen. Henceforth, said policy may be amended, items may be deleted therefrom, and provisions may be added thereto by resolution of the board of mayor and aldermen from time to time, adopted by a simple majority. (1988 Code, § 1-709)

# OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### **SECTION**

- 4-201. Purpose and coverage.
- 4-202. Definitions.
- 4-203. Employer's rights and duties.
- 4-204. Employee's rights and duties.
- 4-205. Administration.
- 4-206. Standards authorized.
- 4-207. Variance procedure.
- 4-208. Recordkeeping and reporting.
- 4-209. Employee complaint procedure.
- 4-210. Education and training.
- 4-211. General inspection procedures.
- 4-212. Imminent danger procedures.
- 4-213. Abatement orders and hearings.
- 4-214. Penalties.
- 4-215. Confidentiality of privileged information.
- 4-216. Discrimination investigations and sanctions.
- 4-217. Compliance with other laws not excused.
- 4-218. Appendices.
- **4-201.** <u>Purpose and coverage</u>. The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of the City of Tullahoma.

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

The City of Tullahoma in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

- (1) Provide a safe and healthful place and condition of employment.
- (2) Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the commissioner of labor and workforce development, his designated representatives, or persons within the department of labor and workforce development to whom such responsibilities have been delegated, including the safety director of the division of occupational safety and health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the commissioner of labor and workforce development or his designated representative with regard to the adequacy of the form and content of such records.

- (5) Consult with the commissioner of labor and workforce development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.
- (6) Assist the commissioner of labor and workforce development or his monitoring activities to determine program plan effectiveness and compliance with the occupational safety and health standards.
- (7) Make a report to the commissioner of labor and workforce development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- (8) Provide reasonable opportunity for and encourage 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 which may be injurious to employees' safety and health. (1988 Code, § 1-801, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- **4-202. Definitions**. For the purposes of this program plan, the following definitions apply:
- (1) "Commission of labor and workforce development" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor and workforce development.
- (2) "Employer" means the City of Tullahoma and includes each administrative department, board, commission, division, or other agency of the City of Tullahoma.
- (3) "Safety director of occupational and health" or "safety director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program plan for the employees of the City of Tullahoma.
- (4) "Inspectors(s)" means the individual(s) appointed or designated by the safety director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the safety director of occupational safety and health.
- (5) "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from a specific department, board, commission, division, or other agency of this employer.
- (6) "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time,

full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

- (7) "Person" means one (1) or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- (8) "Standard" means an occupational safety and health standard promulgated by the commissioner of labor and workforce development in accordance with section VI(6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- (9) "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- (10) "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- (11) "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
  - (a) A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
  - (b) A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).
  - (c) On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.
- (12) "Act" or "TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- (13) "Governing body" means the Board of Aldermen of the City of Tullahoma, Tennessee.
- (14) "Chief executive officer" means the chief administrative official, county judge, county chairman, county mayor, mayor, city manager, general manager, etc., as may be applicable. (1988 Code, § 1-802, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)

- **4-203.** Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:
- (1) Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- (2) Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI(6) of the Tennessee Occupational Safety and Health Act of 1972.
- (3) Employer shall refrain from and unreasonable restraint on the right of the Commissioner of labor and workforce development to inspect the employers place(s) of business. Employer shall assist the commissioner of labor and workforce development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- (4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- (5) Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- (6) Employer is entitled to protection of its legally privileged communication.
- (7) Employer shall inspect all worksites to insure the provisions of this program plan are complied with and carried out.
- (8) Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- (9) Employer shall notify all employees of their rights and duties under this program plan. (1988 Code, § 1-803, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- **4-204.** Employee's rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:
- (1) Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- (2) Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.

- (3) Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- (4) Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program plan may file a petition with the commissioner of labor and workforce development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- (5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- (6) Subject to regulations issued pursuant to this program plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the safety director or inspector at the time of the physical inspection of the worksite.
- (7) Any employee may bring to the attention of the safety director any violation or suspected violations of the standards or any other health or safety hazards.
- (8) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program plan.
- (9) Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (8) of this section may file a complaint alleging such discrimination with the safety director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the commissioner of labor and workforce development alleging such discrimination.
- (10) Nothing in this or any other provisions of this program plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- (11) Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the safety director within twenty-four (24) hours after the occurrence. (1988 Code, § 1-804, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, Ord. #1498, April 2018, and Ord. #1498, April 2018)
- **4-205.** Administration. (1) The safety director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program plan.

- (a) The safety director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program plan.
- (b) The safety director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the safety director.
- (c) The safety director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program plan.
- (d) The safety director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program plan.
- (e) The safety director shall prepare the report to the commissioner of labor and workforce development required by § 4-201(7) of this plan.
- (f) The safety director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
- (g) The safety director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
- (h) The safety director shall maintain or cause to be maintained records required under § 4-208 of this plan.
- (i) The safety director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three (3) or more employees insure that the commissioner of labor and workforce development receives notification of the occurrence within eight (8) hours. All work-related inpatient hospitalizations, amputations, and loss of an eye must be reports to TOSHA within twenty-four (24) hours.
- (2) The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program plan within their respective areas.
  - (a) The administrative or operational head shall follow the directions of the safety director on all issues involving occupational safety and health of employees as set forth in this plan.
  - (b) The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the safety director within the abatement period.

- (c) The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
- (d) The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the safety director along with his findings and/or recommendations in accordance with Appendix IV of this plan. (1988 Code, § 1-805, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- 4-206. Standards authorized. The standards adopted under this program plan are the applicable standards developed and promulgated under section VI(6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, chapter 0800-01-1 through chapter 0800-01-11 are the standards and rules invoked. (1988 Code, § 1-806, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- **4-207.** <u>Variance procedure</u>. The safety director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The safety director should definitely believe that a variance is needed before the application for a variance is submitted to the commissioner of labor and workforce development.

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

- (1) The application for a variance shall be prepared in writing and shall contain:
  - (a) A specification of the standard or portion thereof from which the variance is sought.
  - (b) A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
  - (c) A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
  - (d) A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.

- (e) A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the commissioner of labor and workforce development for a hearing.
- (2) The application for a variance should be sent to the commissioner of labor and workforce development by registered or certified mail.
- (3) The commissioner of labor and workforce development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
  - (a) The employer:
  - (i) Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
  - (ii) Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
  - (iii) Has as effective program plan for coming into compliance with the standard as quickly as possible.
  - (b) The employee is engaged in an experimental program plan as described in subsection (b), section 13 of the Act.
- (4) A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- (5) Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- (6) The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (1)(e) of this section). (1988 Code, § 1-807, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- **4-208.** Recordkeeping and reporting. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed at <a href="www.osha.gov">www.osha.gov</a> or as prescribed by the Tennessee Department of Labor and Workforce Development. (1988 Code,

§ 1-808, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)

- **4-209.** Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the safety director of occupational safety and health.
- (1) The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see § 14-201(8)).
- (2) Upon receipt of the complaint letter, the safety director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the safety director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- (3) If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- (4) The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- (5) After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the commissioner of labor and workforce development. Any complaint filed with the commissioner of labor and workforce development in such cases shall include copies of all related correspondence with the safety director and the chief executive officer or the representative of the governing body.
- (6) Copies of all complaint and answers thereto will be filed by the safety director who shall make them available to the commissioner of labor and workforce development or his designated representative upon request. (1988)

code, § 1-809, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)

# **4-210.** Education and training. (1) Safety director and/or compliance inspector(s):

- (a) Arrangements will be made for the safety director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of seminars can be obtained.
- (b) Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- (2) <u>All Employees (including supervisory personnel)</u>: A suitable safety and health training program for employees will be established. This program will, as a minimum:
  - (a) Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
  - (b) Instruct employees who are required to handle or use poisons, acids, caustics, toxicant, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
  - (c) Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
  - (d) Instruct all employees of the common deadly hazards and how to avoid them, such as falls; equipment turnover; electrocution; struck by/caught in; trench cave in; heat stress and drowning.
  - (e) Instruct employees on hazards and dangers of confined or enclosed spaces.
    - (i) Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open

top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.

- (ii) Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
- (iii) The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (1988 Code, § 1-810, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- **4-211.** General inspection procedures. It is the intention of the governing body and responsible officials to have an occupational safety and health program plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.
- (1) In order to carry out the purposes of this chapter, the safety director and/or compliance inspector(s), if appointed, is authorized:
  - (a) To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
  - (b) To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- (2) If an imminent danger situation is found, alleged, or otherwise brought to the attention of the safety director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with § 4-412 of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

- (3) An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the safety director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- (4) The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- (5) The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- (6) Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
  - (7) Advance notice of inspections. (a) Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
  - (b) There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- (8) The safety director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
  - (a) Inspections conducted by supervisors or other personnel are at least as effective as those made by the safety director.
  - (b) Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the safety director.
- (9) The safety director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the commissioner of labor and workforce development or his authorized representative. (1988 Code, § 1-811, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- **4-212.** <u>Imminent danger procedures</u>. (1) Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
  - (a) The safety director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
  - (b) If the alleged imminent danger situation is determined to have merit by the safety director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.

- (c) As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the safety director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
- (d) The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the safety director or compliance inspector and to the mutual satisfaction of all parties involved.
  - (e) The imminent danger shall be deemed abated if:
  - (i) The imminence of the danger has been eliminated by removal of employees from the area of danger.
  - (ii) Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
- (f) A written report shall be made by or to the safety director describing in detail the imminent danger and its abatement. This report will be maintained by the safety director in accordance with § 4-211(9) of this plan.
- (2) <u>Refusal to abate</u>. (a) Any refusal to abate an imminent danger situation shall be reported to the safety director and chief executive officer immediately.
- (b) The safety director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (1988 Code, § 1-812, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- **4-213.** Abatement orders and hearings. (1) Whenever, as a result of an inspection or investigation, the safety director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the safety director shall:
  - (a) Issue an abatement order to the head of the worksite.
  - (b) Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
  - (2) <u>Abatement orders shall contain the following information:</u>
  - (a) The standard, rule, or regulation which was found to violated.
    - (b) A description of the nature and location of the violation.

- (c) A description of what is required to abate or correct the violation.
- (d) A reasonable period of time during which the violation must be abated or corrected.
- (3) At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the safety director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the safety director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the safety director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (1988 Code, § 1-813, as replaced by Ord. #1272, Sept. 2003, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- **4-214.** <u>Penalties</u>. (1) No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program plan.
- (2) Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
  - (a) Oral reprimand.
  - (b) Written reprimand.
  - (c) Suspension for three (3) or more working days.
  - (d) Termination of employment. (as added by Ord. #1272, Sept. 2003, and replaced by Ord. #1498, April 2018)
- 4-215. Confidentiality of privileged information. All information obtained by or reported to the safety director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program plan or when relevant in any proceeding under this program plan. Such information may also be disclosed to the commissioner of labor and workforce development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (as added by Ord. #1272, Sept. 2003, and replaced by Ord. #1435, April 2013, and Ord. #1498, April 2018)

- 4-216. Discrimination investigation and sanctions. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by Tennessee Code Annotated, title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tennessee Code Annotated, § 50-3-409 can file a complaint with their agency/safety director within thirty (30) days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the commissioner of labor and workforce development within the same thirty (30) day period. The commissioner of labor and workforce development may investigate such complaints, make recommendations, and/or issue a written notification of a violation. (as added by Ord. #1272, Sept. 2003, and replaced by Ord. #1435, April 2013, and Ord. #1498, April 2018)
- **4-217.** Compliance with other laws not excused. (1) Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program plan.
- (2) Compliance with any provisions of this program plan or any standard, rule, regulation, or order issued pursuant to this program plan shall not excuse the employer, the employee, or any other person from compliance with the law, statue, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (as added by Ord. #1272, sept. 2003, and replaced by Ord. #1435, April 2013, Ord. #1435, April 2013, and Ord. #1498, April 2018)
- 4-281. Appendices. (1) Notice to all employees of the City of Tullahoma. The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as state standards and jobsite inspections will be conducted to insure compliance with the Act.

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

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

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

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

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

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

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

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

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

A copy of the occupational safety and health program plan for the employees of the City of Tullahoma is available for inspection by any employee at city hall during regular office hours.

- (2) <u>Statement of financial resource availability</u>. The City of Tullahoma has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its occupational safety and health program plan and to comply with standards.
  - (3) Accident reporting procedures. (a) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the safety director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness.
  - (b) All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the safety director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the safety director, if needed) and will

complete a written report on the accident or illness and forward it to the safety director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.

- (c) Since workers' compensation form 6A or OSHA NO. 301 form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:
  - (i) Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
  - (ii) Name, home address, age, sex, and occupation (regular job title) of injured or ill employee.
  - (iii) Title of the department or division in which the injured or ill employee is normally employed.
  - (iv) Specific description of what the employee was doing when injured.
    - (v) Specific description of how the accident occurred.
  - (vi) A description of the injury or illness in detail and the part of the body affected.
  - (vii) Name of the object or substance which directly injured the employee.
    - (viii) Date and time of injury or diagnosis of illness.
    - (ix) Name and address of physician, if applicable.
  - (x) If employee was hospitalized, name and address of hospital.
  - (xi) Date of report. (as added by Ord. #1435, April 2013, and replaced by Ord. #1498, April 2018)

## **CHAPTER 3**

#### INFECTIOUS DISEASE CONTROL POLICY

## **SECTION**

- 4-301. Purpose.
- 4-302. Coverage.
- 4-303. Administration.
- 4-304. Definitions.
- 4-305. Policy statement.
- 4-306. General guidelines.
- 4-307. Specific guidelines for fire and police personnel.
- 4-308. Hepatitis B vaccinations.
- 4-309. Reporting potential exposure.
- 4-310. Hepatitis B virus post-exposure management.
- 4-311. Human immunodeficiency virus post-exposure management.
- 4-312. Disability benefits.
- 4-313. Training regular employees.
- 4-314. Training high risk employees.
- 4-315. Training new employees.
- 4-316. Records and reports.
- 4-317. Legal rights of victims of communicable diseases.
- 4-318. Amendments.
- **4-301. Purpose**. It is the responsibility of the City of Tullahoma to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Tullahoma, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (1988 Code, Appendix G)

- **4-302.** Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:
  - (1) Police and security personnel;

- (2) Firefighters;
- (3) Sanitation workers; and
- (4) Any other employee deemed to be at high risk per this policy and an exposure determination. (1988 Code, Appendix G)
- **4-303. Administration**. This infection control policy shall be administered by the city administrator or his/her designated representative who shall have the following duties and responsibilities:
- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood and body fluids;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to body fluids and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (1988 Code, Appendix G)
- **4-304.** <u>**Definitions**</u>. (1) "Body fluids" fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.
- (2) "Exposure" the contact with blood or other body fluids to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.
- (3) "Hepatitis B Virus (HBV)" a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.
- (4) "Human Immunodeficiency Virus (HIV)" the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through

sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

- (5) "Tuberculosis (TB)" an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.
- (6) "Universal precautions" refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with body fluids to be protected as though such body fluid were HBV or HIV infected. (1988 Code, Appendix G)
- **4-305.** Policy statement. All blood and body fluids are infectious for several blood-borne pathogens and some body fluids can transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that <u>all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens</u>. Universal precautions apply to blood, tissues, and other body fluids which contain visible blood. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (1988 Code, Appendix G)

- **4-306.** General guidelines. General guidelines which shall be used by everyone include:
- (1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or body fluids which require universal precautions.
- (2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.
- (3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or body fluids to which universal precautions apply, then wash immediately and thoroughly with hot running water and soap for a full minute before rinsing and drying. This procedure should include rubbing vigorously after applying soap creating friction to remove surface bacteria for a minimum of ten (10) seconds. Hands and forearms shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, use a waterless antiseptic hand cleaner according to the manufacturer's recommendation for the product.

- (4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp objects. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. In the event that they must be used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use or handle area.
- (5) The city will provide gloves of appropriate material and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or body fluids to which universal precautions apply:
  - (a) While handling an individual where exposure is possible;
  - (b) While cleaning or handling contaminated items or equipment;
  - (c) While cleaning up an area that has been contaminated with one of the above;
    - (i) Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.
    - (ii) Disposable gloves should be removed inside out with the contaminated side not exposed. The hands and forearms should then be washed.
- (6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or potentially provide emergency treatment.
- (7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other body fluids to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.
- (8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other body fluids.
- (9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A solution of 5.25% sodium hypochlorite (household chlorine bleach) diluted to 1 part chlorine to 10 parts water shall be applied to the contaminated surface as a disinfectant leaving it on for at least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective. It shall

be the responsibility of the immediate supervisor, fire department or police department shift commander to ensure that this procedure is performed in a timely manner as approved.

- (10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination. Contaminated uniforms should be placed in a clearly marked "BIOHAZARD" plastic bag and stored immediately in an area of the city facility marked with the signal word "BIOHAZARD". The city infectious disease control coordinator should be notified immediately to arrange for proper handling of the contaminated material(s).
- (11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. NOTE: Sharp objects must be placed in an impervious container for proper disposal.
- (12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

- (a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD", or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.
- (b) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.
- (c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.
- (13) Linen, clothing or fabrics soiled with body fluids shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the material.
  - (a) All soiled fabric shall be bagged at the location where it was used or confiscated. It shall not be sorted or rinsed in the area. Soiled materials shall be placed and transported in bags that prevent leakage.
  - (b) The employee(s) responsible for transported soiled linen, clothing or fabrics should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with body fluids.
- (14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (1988 Code, Appendix G)

- 4-307. Specific guidelines for fire and police personnel. (1) Fire department personnel. These guidelines apply to all fire department personnel including full time and volunteer structural fire fighters. Fire department personnel are engaged in the delivery and assistance of emergency medical care in the pre-ambulance, pre-hospital setting. The following guidelines are intended to assist these personnel in making decisions concerning use of personal protective equipment and resuscitation equipment, as well as for decontamination, disinfection and disposal procedures.
  - (a) Appropriate personal protective equipment shall be made available routinely by the city to reduce the risk of exposure as defined above. For many instances, the chance that the rescuer will be exposed to blood and other body fluids can be determined in advance. Therefore, if the chances of being exposed to blood is high (e.g. CPR, trauma, delivering babies, etc...), the employee shall put on protective attire before beginning patient care.
  - (b) Disposable gloves shall be a standard component of emergency response equipment, and shall be donned by all personnel prior to initiating any emergency patient care tasks involving exposure to blood or other body fluids and extra pairs shall always be available on the department vehicles.
    - (i) For situations where large amounts of blood are likely to be encountered, it is important that gloves fit tightly at the wrist to prevent blood contamination of hands around the cuff.
    - (ii) For multiple trauma victims, gloves should be changed between patient contacts, if the emergency situation allows.
    - (iii) Greater personal protective equipment measures are indicated for situations where broken glass and sharp edges are likely to be encountered, such as extricating a person from an automobile wreck. Structural fire fighting gloves that meet Federal OSHA requirements for fire fighters' gloves shall be worn in any situation where sharp or rough surfaces are likely to be encountered.
    - (iv) While wearing gloves, avoid handling personal items, such as combs and pens that could become soiled or contaminated.
      - (A) Gloves that have become contaminated with blood or other body fluids should be removed as soon as possible, taking care to avoid skin contact with the exterior surface.
      - (B) Contaminated gloves shall be placed and transported in clearly marked "BIOHAZARD" bags to prevent leakage and shall be disposed of by placing in a designated "hazardous" dumpster. "BIOHAZARD" bags

shall be a standard component of emergency response vehicles.

- (C) Reusable gloves shall be cleaned and disinfected immediately.
- (c) Masks, eyewear and other protective gear shall be present on all emergency vehicles that respond or potentially respond to medical emergencies or victim rescues.
  - (i) Protective barriers shall be used in accordance with the level of exposure encountered.
  - (ii) Minor lacerations or small amounts of blood do not merit the same extent of barrier use as required for exsanguinating victims or massive arterial bleeding.
  - (iii) Management of the patient who is not bleeding, and who has no bloody body fluids present, should not routinely require use of barrier precautions.
  - (iv) Masks and eyewear shall he worn together, or a face mask shall be used by all personnel prior to any situation where splashes of blood or other body fluids are likely to occur. Gowns or aprons shall be worn to protect clothing from splashes with blood when possible. If large splashes or quantities of blood are present or anticipated, impervious gowns or aprons shall be worn. An extra change of work clothing should be available at all times.
  - (v) Contaminated clothing should be placed in a clearly marked "BIOHAZARD" plastic bag as soon as possible and stored in an area of the fire hall marked with the signal word "BIOHAZARD". The city infectious disease control coordinator should be immediately notified to proceed with the procurement of proper professional cleaning services or disposal.
- (d) Disposable resuscitation equipment and devices shall be used once and disposed of or, if reusable, thoroughly cleaned and disinfected after each use.
  - (i) Resuscitators shall be available on all emergency vehicles and to all trained fire department personnel who respond or potentially respond to medical emergencies or victim rescues.
  - (ii) Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with victims' blood and blood contaminated saliva, respiratory secretions, and vomitus shall be provided to all fire department personnel who provide or potentially provide emergency treatment.
- (2) <u>Police department personnel</u>. Law enforcement officers and public service officers may face the risk of exposure to blood during the conduct of their duties. There is an extremely diverse range of potential situations which may occur in the control of persons with unpredictable, violent, or psychotic behaviors. Therefore, informed judgment of the individual officer is paramount

when unusual circumstances or events arise. And, in order to minimize potential exposure to communicable disease, officers must assume that all persons are potential carriers of a communicable disease.

The following guidelines are intended to serve as an adjunct to rational decision making in those situations where specific guidelines do not exist, particularly where immediate action is required to preserve life or prevent significant injury.

- (a) Law enforcement personnel are exposed to a range of assaultive and disruptive behavior through which they may potentially become exposed to blood or other body fluids containing blood.
  - (i) Behaviors of particular concern are biting, attacks resulting in blood exposure, and attacks with sharp objects. Such behavior may occur in a range of law enforcement situations including arrest, routine interrogations, domestic disputes and lockup operations.
  - (ii) Hand-to-hand combat may result in bleeding and thus incur a greater chance for blood-to-blood exposure. In all cases, extreme caution must be used in dealing with suspects if there is any indication of assaultive or combative behavior.
  - (iii) When blood is present and a suspect is combative or threatening to staff, gloves should always be put on as soon — as conditions permit. In case of blood contamination of clothing, an extra change of clothing should be available at all times.
  - (b) Law enforcement personnel should be concerned about infection through the administration of cardiopulmonary resuscitation. Protective masks or airways shall be issued to officers and officers shall be provided with the proper training in their use.
- (c) An officer should use great caution in searching the clothing of suspects. Individual discretion, based on the circumstances at hand should determine if a suspect or prisoner should empty his/her pockets by pulling the pocket inside-out or if the officer should use his/her own skills in determining the contents of a suspect's clothing. When a search is warranted the following guidelines shall be used:
  - (i) A safe distance should always be maintained between the officer and the suspect.
  - (ii) Protective gloves should be worn if exposure to blood is likely to be encountered. Disposable latex gloves shall be worn when handling any person, clothing or equipment with bloody fluids on them or when an officer anticipates becoming involved in assaultive behavior through which he/she may potentially become exposed to blood or body fluids containing blood.

- (iii) Gloves should not be reused, and a new pair should be put on before handling a different person or touching uncontaminated items.
- (iv) Protective gloves should be used for all body cavity searches.
- (d) If cotton gloves are to be worn when working with evidence of potential latent fingerprints value at the crime scene, they can be worn over protective disposable gloves when exposure to blood may occur.
- (e) All sharp instruments such as knives, scalpels, broken glass and needles shall be handled with extraordinary care and shall be considered to be contaminated items.
  - (i) Needles shall not be recapped, bent, broken, removed from a disposable syringe or, otherwise manipulated.
    - (A) Needles or similar items or sharp edged instruments shall be placed in puncture-resistant, non-porous containers when being collected for evidence or disposal purposes.
    - (B) All containers used for disposal of sharp instruments shall be marked accordingly, to show contents.
  - (ii) Leather gloves shall be worn when searching for or handling sharp instruments.
  - (iii) Officers shall not place their hands in areas where sharp instruments might be hidden.
    - (A) An initial visual search of the area should be conducted, using a flashlight.
    - (B) Whenever possible, use long-handled mirrors and flashlights to search under car seats.
  - (iv) If searching a purse, carefully empty contents directly from the purse by turning it upside down onto a flat surface.
- (f) Officers shall not smoke, eat, drink, handle contact lenses, apply makeup or lip balm around body fluid spills or in designated work areas where there is a reasonable likelihood of occupational exposure to contaminated clothing or other materials, or when wearing gloves.
- (g) Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets or on a counter top or bench where blood or other potentially infectious material is present.
- (h) Use puncture-proof containers to store sharp instruments and clearly marked "BIOHAZARD" plastic bags to store other possibly contaminated items.
- (i) Masks, protective eye goggles and protective disposable coveralls shall be worn where body fluids may be splashed on the officer, or where airborne contamination of a communicable disease is anticipated.

- (j) Any evidence contaminated with body fluids shall first be air dried, then double bagged in plastic and marked to identify suspected or known communicable disease containment. Stapling of evidence bags should be avoided.
- (k) Department issued tongs shall be utilized in gathering evidence.
- (l) Non-disposable items such as handcuffs, etc., should be disinfected with either bleach solution, rubbing alcohol or commercial, disinfectant. Contaminated shoes and boots, including soles, should also be disinfected with approved disinfectant or placed in a clearly marked "BIOHAZARD" bag for proper disposal.
- (3) <u>Detectives, investigators, and crime scene guidelines</u>. Detectives, officers and investigators may confront unusual hazards, especially when the crime scene involves violent behavior such as a homicide where large amounts of blood are present. The following guidelines shall be followed:
  - (a) Protective gloves shall be available and worn in this setting.
  - (i) While wearing gloves, avoid handling personal items such as combs and pens that may become soiled or contaminated.
  - (ii) Do not smoke, handle food or drink, or apply lip balm or makeup while wearing gloves which may have been contaminated.
  - (b) For large spills, consideration should be given to other protective clothing such as overalls, aprons, boots, or protective shoe covers. They should he changed if torn or soiled, and always removed prior to leaving the scene.
  - (c) Face masks and eye protection or a face shield are required for all department personnel whose jobs entail potential exposure to blood via a splash to the face, mouth, nose or eyes. Airborne particles of dried blood may be generated when a stain is scraped.
  - (d) While processing the crime scene, personnel should be alert for the presence of sharp objects such as hypodermic needles, knives, razors, broken glass, nails or other sharp objects.
  - (e) For detectives and other department personnel who may have to touch or remove a body, the response should be the same as for situations requiring CPR or first aid;
    - (i) Wear gloves and cover all cuts and abrasions to create a barrier and carefully wash all exposed areas after any contact with blood.
    - (ii) The precautions to be used with blood and deceased persons should also be used when handling amputated limbs, hands or other body parts.
  - (f) Protective masks and eyewear, laboratory coats, gloves and waterproof aprons should be worn when attending all autopsies. All autopsy materials should be considered infectious for both HIV and HBV.

Onlookers with an opportunity for exposure to blood splashes should be similarly protected.

- (4) <u>Police department transportation and custody</u>. (a) Where appropriate protective equipment is available, no officer shall refuse to interview, assist, arrest or otherwise physically handle any person who may have a communicable disease. Should an officer encounter a circumstance where appropriate equipment is not available, the officer shall immediately contact his or her supervisor and request assistance.
- (b) Officers shall not put their fingers in or near the mouth of any conscious person. Officers utilizing protective gloves can, if need be, insert their finger into the mouth of an unconscious person in an attempt to clear a blocked airway. This action should be performed in accordance with prescribed foreign body airway obstruction procedures.
- (c) Individuals with body fluids on their persons shall be transported in separate vehicles from other individuals.
- (d) During a transfer of custody, officers have an obligation to notify, in a discrete manner, relevant support personnel that the suspect/victim has body fluids present on his or her person or has stated that he/she has a communicable disease. Reasonable care should be taken that the information is not transmitted to the general public or to those who have no need for that information.
- (e) Suspects taken into custody with body fluids on their persons, and not in need of medical attention, shall be directly placed in the designated holding area for processing. The holding area shall be posted with an "Isolated Area-Do Not Enter" sign.
  - (i) The shift commander shall be immediately advised of the suspect's status.
  - (ii) Officers shall document in the narrative section of the arrest report that a suspect taken into custody has body fluids on his or her person or has stated that he/she has a communicable disease.
  - (iii) All officers entering an isolated area shall be equipped with protective gear that is dictated by the circumstance.
  - (iv) The suspect, his or her contaminated clothing, and the holding area shall be controlled and/or disinfected in accordance with established exposure control policy guidelines.
- (f) Officers may not smoke, eat, drink, or apply makeup while transporting blood, individuals or materials contaminated with body fluids.
- (g) Disinfection procedures shall be initiated as per this policy whenever body fluids are spilled in or when an individual with body fluids on his or her person is transported in a municipal vehicle.

- (i) The supervisor shall be notified and the vehicle shall be taken out of service.
- (ii) A "Do Not Use--Possible Communicable Disease Contamination" sign shall be posted on the steering wheel of the vehicle.
- (iii) The affected vehicle shall remain out of service until it has been disinfected by washing the contaminated areas with a commercial disinfectant approved by the infectious disease control coordinator.
- (5) <u>Line of duty exposures to communicable diseases-fire fighters and police officers.</u>
  - (a) Any officer or fire fighter who has been bitten by a person, or who has physical contact with body fluids of another person while in the line of duty, shall be considered to have been exposed to a communicable disease.
    - (i) Reports of direct contact to communicable diseases shall be evaluated on the merits of the particular incident by departmental health care officials.
  - (b) The employee's immediate supervisor shall be contacted and the appropriated injury forms shall be completed.
  - (c) Immediately, or as soon as possible after exposure, the officer or fire fighter shall meet with the infectious disease control coordinator and his/ her supervisor and shall be referred or transported to the appropriate health care facility for clinical and serological testing for evidence of infection. The health care officials shall evaluate the test results, along with the circumstances surrounding the incident, and make a final determination as to the extent, if any, of exposure to a communicable disease.
  - (d) Any person responsible for potentially exposing the employee to a communicable disease shall be encouraged to undergo testing to determine whether the person has a communicable disease.
  - (e) Officers or fire fighters who test positive for a communicable disease may continue working as long as they maintain acceptable performance and do not pose a safety and/or health threat to themselves, the public or the department.
    - (i) The city administrator and the infectious disease control coordinator shall make a determination as to the employee's work status solely on the advice of the health care official.
    - (ii) The department head shall make all decisions concerning the employee's work status solely on the advice of the city administrator and the infectious disease control coordinator.

- (6) <u>Supplies</u>. (a) Each division or sift commander is responsible for maintaining and storing in a convenient location an adequate amount of communicable disease control supplies for the division or shift.
- (b) All police emergency vehicles shall be continuously stocked with the following communicable disease control supplies:
  - (i) Disposable coveralls and shoe coverings in appropriate sizes.
    - (ii) Disposable latex gloves and leather gloves.
  - (iii) Puncture-resistant containers and sealable plastic bags.
  - (iv) Barrier resuscitation equipment, protective eye goggles, and surgical face masks.
  - (v) Disposable towelettes (70 percent isopropyl alcohol or other hospital approved disinfectant).
    - (vi) Waterproof bandages.
    - (vii) Absorbent cleaning materials.
  - (viii) "Do Not Use--Possible Communicable Disease Contamination" signs.
    - (ix) "Isolation Area-Do Not Enter" signs.
    - (x) Biohazard disposable bags.
    - (xi) Portable metal mirrors.
    - (xii) Non-porous tongs.
- (c) Fire vehicles shall be equipped with those supplies appropriate to the needs of the fire department.
- (d) Officers using supplies stored in police or fire service vehicles are responsible for their immediate replacement.
- (e) Officers are to keep disposable gloves in their possession at all times. (1988 Code, Appendix G)
- 4-308. <u>Hepatitis B vaccinations</u>. The City of Tullahoma shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the infectious disease control coordinator. (1988 Code, Appendix G)
- **4-309.** Reporting potential exposure. All city employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for TB, HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):
- (1) Immediately (or as soon as possible after first aid and disinfectant procedures following an exposure) notify the immediate supervisor and infectious disease control coordinator of the contact incident and details thereof.

- (2) The supervisor shall complete the appropriate accident reports and any other specific form required and submit an original foreman's accident report (report of exposure) to the infectious disease coordinator within 24 hours of the incident.
  - (a) The report of exposure shall include the route(s) of exposure, and the circumstances under which the exposure incident occurred.
  - (b) The report shall include identification and documentation of the source individual, unless the identification is infeasible or prohibited by state or local law.
- (3) The employee will meet with the supervisor and the infectious disease control coordinator at which time arrangements will be made for the person to be seen by a physician as with any job related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (1988 Code, Appendix G)

**4-310.** Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the employee who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to employees who have previously received the vaccine, the exposed employee should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the employee has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (1988 Code, Appendix G)

**4-311.** <u>Human</u> <u>immunodeficiency</u> <u>virus</u> <u>post-exposure</u> <u>management</u>. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any

acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (1988 Code, Appendix G)

- **4-312.** <u>Disability benefits</u>. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A., § 50-6-303. (1988 Code, Appendix G)
- **4-313.** Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or body fluids. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (1988 Code, Appendix G)
- 4-314. <u>Training high risk employees</u>. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (1988 Code, Appendix G)
- 4-315. <u>Training new employees</u>. During the new employee's orientation to his/her job, all new employees will be trained on the effects of infectious disease prior to putting them to work. (1988 Code, Appendix G)

- **4-316.** Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the human resources manager. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.
- (2) <u>Needle sticks</u>. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.
- (3) <u>Prescription medication</u>. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.
- (4) <u>Employee interviews</u>. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (1988 Code, Appendix G)
- 4-317. <u>Legal rights of victims of communicable diseases</u>. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.
- (1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.
- (2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall the subject to disciplinary measures along with civil and criminal prosecution.
- (3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.
- (4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.
- (5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

- (6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.
- (7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.
- (8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the city administrator, the infectious disease coordinator or city attorney.
- (9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.
- (10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.
- (11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (1988 Code, Appendix G)
- **4-318.** <u>Amendments</u>. Amendments or revisions of these rules may be recommended for adoption by any member of the board of mayor and aldermen, the city administrator or the infectious disease coordinator. Such amendments or revisions of these rules shall be by ordinance and shall become effective after public hearing and approval by the governing body. (1988 Code, Appendix G)

## TITLE 5

# MUNICIPAL FINANCE AND TAXATION<sup>1</sup>

## **CHAPTER**

- 1. IN GENERAL.
- 2. PROPERTY TAX.
- 3. BUSINESS TAX.
- 4. LOCAL SALES TAX.
- 5. PRIVILEGE TAX UPON THE PRIVILEGE OF OCCUPANCY IN ANY HOTEL OF EACH TRANSIENT.
- 6. PURCHASE AND SALE PROCEDURES.

## **CHAPTER 1**

#### IN GENERAL

#### **SECTION**

- 5-101. Fiscal year and selection of depository.
- 5-102. Budget--city administrator to submit; mayor's budget message.
- 5-103. Hearing.
- 5-104. Appropriations; recorder's monthly report.
- 5-105. Depository to be designated.
- 5-106. Annual audit; publication.
- 5-107. Annual audit of financial activities of franchise holders.
- 5-108. Excess city funds, investments, investment income; trust fund for proceeds from sale of hospital.
- 5-109. Sale or exchange of assets owned by the city; methods; procedures; terms; execution of documents.
- 5-110. Contracts, correspondence, etc., to be in the name of city.
- 5-111. Establishment of capital equipment purchase account and the authorization of charging of depreciation on all equipment serviced by the public works shop division and provisions relating thereto.
- 5-112. Capital improvements program.
- 5-113. Application for permits, licenses, and/or privileges--payment of all delinquent charges, taxes, and fees.
- 5-114. Authority to borrow money and issue bonds as security therefor.
- 5-115. Reimbursement of expenses, travel pay.
- 5-116. Regulation of basic cable television service and equipment.
- 5-117. Management of bonds and notes.

<sup>&</sup>lt;sup>1</sup>Charter references: §§ 9, 10(1), 10(6), 12, 27, and 28.

- **5-101.** Fiscal year and selection of depository. The fiscal year of the city government shall begin on the 1st day of July and end on the 30th day of June of the succeeding year. The city shall establish its depository on a five-year basis after having developed specifications and having solicited bids from financial institutions for said city business. (1988 Code, § 6-101, modified)
- 5-102. <u>Budget-city administrator to submit; mayor's budget message</u>. (1) On or before a date fixed by the board of mayor and aldermen, but not later than fifteen (15) days prior to the beginning of each fiscal year, the city administrator shall prepare and submit to the board a proposed budget for the next fiscal year, showing separately from the general fund, each utility, and for each other fund the following:
  - (a) Revenue and expenditures during the preceding fiscal year;
  - (b) Appropriations and estimated revenue and expenditures for the current fiscal year;
  - (c) Estimated revenue and recommended expenditures for the next fiscal year.
- (2) The mayor and/or the city administrator may recommend and estimate additional revenue measures, provided such estimates are separated clearly from normal revenue estimates.
- (3) The budget shall be accomplished by a message from the mayor containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year as compared with the current fiscal year, a general summary of the budget and such other comments and information as he may deem pertinent.
- (4) A sufficient number of copies of the mayor's message shall be reproduced to furnish a copy to any person desiring one, and a copy of the budget in full shall be filed with the board and furnished to each alderman. (1988 Code, § 6-102)
- **5-103. Hearing**. After receiving the annual budget and the mayor's budget message, the board shall fix a time and place for a public hearing thereon and shall cause a public notice thereof to be published once in a newspaper of general circulation in the city at least five (5) days in advance of the date of the hearing. The public hearing shall be held before the board at the stated time and place, and all persons present shall be given an opportunity to be heard. (1988 Code, § 6-103)
- **5-104.** Appropriations; recorder's monthly report. (1) After the public hearing provided for in § 5-103, and before the beginning of the ensuing fiscal year the board shall adopt an appropriation ordinance, based on the budget with such modifications as the board considers necessary or desirable. Appropriations need not be in more detail than a lump sum for each department and agency. The board shall not make any appropriations in excess of estimated

revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the city, provided, the board unanimously agrees there is such an emergency. If emergency conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year shall become the appropriations for the new fiscal year, subject to amendment as provided in this section. Amendments may be made to the original appropriation ordinance at any time during a current fiscal year after a public hearing before the board on five (5) days' notice published once in a newspaper of general circulation in the city. Any portion of an annual appropriation remaining unexpended and unencumbered at the close of a fiscal year shall elapse and be credited to the general fund, except that any balance remaining in any other fund at the end of a fiscal year may remain to the credit of that fund and be subject to further appropriation.

- At the end of each month the director of finance shall submit a (2)detailed budget report to the board, showing estimated and actual receipts and expenditures or encumbrances for that month and the fiscal year to the end of that month, as well as the amount encumbered or expended in excess of any of the itemized estimates of expenditures supporting the appropriations.
- All appropriation and budget ordinances enacted pursuant to the provisions of this section, as well as all amendments thereto enacted pursuant to said provisions, are incorporated in this code by reference as though same were fully copied herein, and shall be kept on file at the office of the City Recorder, City of Tullahoma, Tennessee, for review by any interested parties during normal business hours.
- Prior to the approval of any amendment to the annual budget that would increase appropriations for the expenditure of city funds, the city board shall approve a resolution that identifies a corresponding source of funds to cover the proposed additional expenditure, and/or identifies a corresponding reduction in expenditure to compensate for the proposed additional expenditure. The format for said resolution is as follows:

RESOLUTION NO
TEDULETION NO

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understands that prior to including the above described additional expenditure of funds in a budget amendment ordinance, that it must identify a corresponding source of funds and/or expenditure reduction, as provided in \_\_\_\_\_. \_\_. \_\_\_ of the Tullahoma Municipal Code.

BE IT FURTHER RESOLVED that the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee hereby identifies the following income source and/or expenditure reduction to allow for the proposed expenditure increase described above, and that the following budget changes will be included in a forthcoming ordinance amending the annual budget:

# Increased Revenue/Expenditure Reduction

Account No.	Description		Amount
	Increased Expenditure/A	ppropri	ation
Account No.	Description		Amount
	APPROVED BY THE Board of Tennessee this Day of		
		I	Mayor
		]	Recorder

- (5) Nothing in this section shall be constructed or interpreted as an expansion or limitation of any power or authority granted to the city by the State of Tennessee. (1988 Code, § 6-104, as amended by Ord. #1391, Oct. 2009)
- **5-105.** <u>Depository to be designated</u>. Every five (5) years, or before thirty (30) days prior to the end of the respective fiscal year (June 30), the City of Tullahoma shall solicit bids from the banks in the city for the safe keeping of

the general fund of the city, and the bank offering terms deemed most advantageous to the financial interest of the city shall be designated as the depository of the city for the ensuing three-year period. Said bids shall be opened and awarded prior to July 1st of each year for which bids have been solicited. Said financial arrangements shall be reviewed annually, during said three-year period thereafter, and the board of mayor and aldermen may take whatever action they believe to be in the best interest of the city upon said review. Bids may also be solicited for the deposit of different funds of the city in different accounts and upon different terms, all as is deemed in the best interest of the city by the board of mayor and aldermen from time to time. Any arrangements may be cancelled by city upon ninety (90) days' notice to any depository or depositories. (1988 Code, § 6-105, modified)

**5-106.** Annual audit; publication. The board shall employ a certified public accountant to make an annual audit of all financial books and records of the city. The accountant shall file his report as required by law, and with the board at a time agreed to between him and the board, and he shall prepare a summary of the report which shall be published once in a newspaper of general circulation in the city.

The Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, shall take whatever action is necessary to see that it and all departments, boards and agencies under its jurisdiction shall fully comply with the provisions of <u>Tennessee Code Annotated</u>, § 6-56-105. The board is hereby authorized hereunder to enter into contracts and to take any other actions deemed necessary by it, to provide for master, single audits for all city agencies, except the Tullahoma Housing Authority if exempted by HUD regulations. (1988 Code, § 6-106)

5-107. Annual audit of financial activities of franchise holders. Pursuant to Tennessee Code Annotated, § 6-56-105, there shall be prepared, annually, an audit, for any corporation, public utility, quasi-public utility or other organization operating under a franchise from the city. (1988 Code, § 6-107)

5-108. Excess city funds, investments, investment income; trust fund for proceeds from sale of hospital. (1) Power of board of mayor and aldermen. The board of mayor and aldermen of the City of Tullahoma, Tennessee, is hereby empowered to invest excess city funds from time to time in any and all investments as are authorized by the laws of the State of Tennessee pertaining to municipal corporations, and is further authorized to direct that the income created by and generated from said investments be deposited to the general fund of the City of Tullahoma, Tennessee, and the application thereof to be as is set forth in the annual budgets of the Mayor and

Aldermen of the City of Tullahoma, Tennessee, as amended from time to time.

(2)Creation of trust fund for net proceeds of sale of John W. Harton Memorial Hospital. There is hereby established a trust fund to be created by those funds representing the net proceeds realized by the City of Tullahoma, Tennessee, from the sale of the John Harton Memorial Hospital, as said net proceeds are hereinafter defined. The Mayor and City Recorder of the City of Tullahoma, hereinafter referred to as "trustors," are hereby appointed as "trustors," in their official capacities and not as individuals. Said trust hereby established is set forth for the use and benefit of the City of Tullahoma, Tennessee, hereinafter referred to as "beneficiary." Said trust is established to utilize funds belonging to the City of Tullahoma, Tennessee, in the creation of this trust, the purpose of said trust being to facilitate the investment of the net proceeds realized by the City of Tullahoma, Tennessee, from the sale of the John Harton Memorial Hospital, in such form of investments and/or securities as are hereinafter set forth, and to insure that the income generated from said investments shall be deposited to the general fund of the City of Tullahoma, Tennessee, as received, and the application thereof shall be as is directed in various budgetary documents as are enacted by the board of mayor and aldermen from time to time. Said trust created by this subsection (2) which has been executed by the said trustors aforementioned, indicating their approval of the matters contained herein, hereby provides that said funds shall be administered by the trustees herein appointed who shall be the Mayor of the City of Tullahoma, Tennessee; the Mayor Pro-Tem of the City of Tullahoma, Tennessee; the city recorder and the city administrator, and their successors in office acting in their respective official capacities as officers of the city and not as individuals, which trustees have indicated their acceptance and approval of the matters contained herein, and their willingness to assume the duties imposed upon them hereby. Said trustees shall be bonded to insure the faithful performance of their duties in an amount to be established by the beneficiary, City of Tullahoma, by and through the board of mayor and aldermen upon motion properly adopted. No action shall be taken by said trustees regarding any assets comprising all or a portion of said trust fund, except upon the direction of the board of mayor and alderman, by proper authority, and no documents shall be valid regarding any of said assets comprising said trust fund unless executed by all of the trustees hereinabove appointed.

The duration of this trust shall be for twenty (20) years and during said term the trust shall be irrevocable, except as hereinafter set out and the corpus hereof shall remain in trust and none of same shall be distributed to the beneficiary or others during the term of said trust, except as is hereinafter set out. Securities to be purchased with said trust funds or investments to be made by said trustees with said trust funds shall be securities issued by the United States government or some agency thereof, in the form of United States treasury securities, or federal agencies securities issued by the following agencies:

- (a) Federal Farm Credit Bonds;
- (b) Federal Home Loan Bank Bonds, with a maturity not to exceed twenty (20) years, or such other securities or certificates of deposit or other debt instruments as are secured by a pledge of United States government guaranteed securities with a market value adjusted monthly, equal to or greater than the deposit instrument.

The corpus of said trust fund shall be created by the net proceeds of sale of John W. Harton Memorial Hospital as said net proceeds are hereinafter defined, as received, after payment of legal, administrative and other expenses incident to the sale of said hospital. The corpus of said trust shall be held in trust under the provisions set forth herein. Although the provisions of said trust agreement are that said trust is irrevocable for the term of twenty (20) years, said trust may be revoked in whole or in part by the unanimous vote of the trustees herein appointed in the event, and only in the event, that it becomes desirable and/or necessary for the City of Tullahoma, Tennessee, to repurchase John W. Harton Memorial Hospital, or any of its properties, from the parties to whom said hospital has been sold, pursuant to any contractual rights, agreements or obligations contained in that certain asset purchase agreement entered into on the 17th day of June, 1982, between the City of Tullahoma, Tennessee, a municipal corporation ("seller") and American Healthcorp of Tullahoma, Inc., a Delaware corporation ("Healthcorp"), or any agreements, exhibits, letter memos, or undertakings associated therewith, or in the event that it becomes necessary to expend any of said corpus for the purposes of satisfying and fulfilling any contractual obligations of the City of Tullahoma assumed by it or imposed upon it by virtue of that certain asset purchase agreement aforementioned. Said trustees shall be directed by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, representatives of the beneficiary, to revoke said trust created hereby in whole or in part to fulfill any of said aforementioned contractual obligations or to take advantage of any rights conferred upon the city in said asset purchase agreement.

Said net proceeds derived from the sale of the John W. Harton Memorial Hospital shall be those net amounts received by the City of Tullahoma pursuant to said sale after payment of legal fees, recording expenses, fees for professional services rendered other than legal fees, fees connected with the investment of said proceeds pursuant to the terms hereof, and any and all other costs and expenses necessarily incidental to the consummation of the sale of said hospital, and costs and expenses necessary to fulfill the contractual obligations of the city imposed upon it, at closing, by virtue of said asset purchase agreement aforementioned, and the investment of the proceeds derived therefrom.

Initially, upon consummation of said sale, the trustees herein appointed shall direct the investment of approximately ten million dollars (\$10,000,000.00) according to those terms and conditions as are hereinabove set forth. The balance of said net proceeds over and above the approximate amount of ten million dollars (\$10,000,000.00) shall be invested by said trustees on an interim

basis in such short term investments as said trustees deem to be wise and expedient under the circumstances then prevailing to be held for such time as the trustees deem advisable, for utilization in the satisfaction of any contractual obligations assumed by or imposed upon the City of Tullahoma as a result of said asset purchase agreement aforementioned, and any agreements, exhibits, letter memos, or undertakings associated therewith. At such time as said trustees determine that there is no longer any necessity to retain said funds in excess of ten million dollars (\$10,000,000.00) in short term investments, then said trustees shall invest any funds so remaining, under those terms and conditions as are hereinabove set forth pertaining to the investment of said initial approximate amount of ten million dollars (\$10,000,000.00), and in such investments as are hereinabove defined, for a term not to exceed twenty (20) years from the date of final enactment hereof. If any investment made by the trustees is for a term or period of less than twenty (20) years from the date of the final enactment hereof, then at the maturity of said investment the trustees shall reinvest said funds as they deem to be proper and expedient under the circumstances then prevailing.

The City Recorder of the City of Tullahoma, Tennessee, is hereby directed to pay such fees, costs and expenses incident to the sale of said Harton Memorial Hospital and the consummation thereof, as are hereinabove set forth from said funds in excess of ten million dollars (\$10,000,000.00) upon receipt of same from the purchaser, prior to turning over the balance thereof to said trustees, or at their direction to invest the balance thereof short term, as is hereinabove set forth.

The trustees herein shall report any and all activities conducted by them, as such, in fulfillment of the duties herein imposed upon them, in writing, from time to time to the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, said board of mayor and aldermen acting in behalf of the beneficiary herein named, which board shall ratify in the official minutes of the City of Tullahoma all of said activities, as reported to them.

The trustees shall immediately report to and pay over to the City of Tullahoma all net income received as a result of the investment of the trust funds as is hereinabove directed.

At the termination of the trust created herein, twenty (20) years from the date of enactment hereof, the trustees shall pay over to the City of Tullahoma the corpus or any remaining portion thereof, of said trust estate and this trust shall be at an end.

The Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, shall require financial institutions acting as depositories for any funds owned and/or controlled by the City of Tullahoma or any of its agencies, including but not limited to, the Tullahoma Utilities Board, the Tullahoma Board of Education, etc., to pledge assets to secure said public funds, at any time when said funds located in and deposited with said financial institution are in excess of deposit insurance coverages applicable to said deposit or deposits, said assets

so pledged to be as are designated by the board of mayor and alderman, from time to time, by action properly taken and/or as is required by the laws of the State of Tennessee, including but not limited to, Tennessee Code Annotated, § 9-1-107; and any Tennessee state or national bank, or savings and loan association may be utilized as a depository for city money so long as the portion of the money on deposit, that is not insured either by the Federal Deposit Insurance Corporation or the Federal Saving and Loan Insurance Corporation, is secured by collateral having a market value of 105% of the uninsured portion of deposits. Such collateral shall be securities of a type and quality as specified by the board of mayor and aldermen as aforedescribed, except that securities of the United States Government or its agencies, securities backed by the full faith and credit of the State of Tennessee, and securities backed by the full faith and credit of the City of Tullahoma and Coffee County, Tennessee, and Franklin County, Tennessee, shall always be acceptable as collateral for deposits. Securities will be pledged to the City of Tullahoma as collateral for deposits by placing them in escrow with a trustee approved by the Board of Mayor and Aldermen of the City of Tullahoma, by resolution, from time to time. Any security thus placed in escrow may be replaced by a security of the kind specified in this paragraph, which has an equal or greater market value, without prior authorization by the City of Tullahoma. Replacement by any other security must first be authorized in writing by the city official having custody of the funds, or by the board of mayor and aldermen.

Any present city depository that has pledged as collateral for deposits any securities not of the kind specified as acceptable must replace those securities by July 1, 1984, after the final enactment of this ordinance.

For purposes of this section, "money on deposit" means the aggregate of the balances in non-interest bearing demand deposit accounts, interest bearing time deposit accounts, certificates of deposit and any other liquid assets held by the depository for the city, and for all of the city's agencies as defined above, or for any individuals whose money is in trust with the city; provided, however, that the provisions of this ordinance shall not apply to repurchase agreements, since repurchase agreements, by definition, call for the pledging of assets, which assets might be of different nature from those required herein; however, said assets so pledged, pursuant to any repurchase agreement, must be acceptable to the Director of Finance of the City of Tullahoma at all times.

Further, provided that the provisions of this section shall not apply to deposits generated by the Tullahoma Utilities Board for payment of utility bills at participating institutions. (1988 Code, § 6-108, modified)

5-109. Sale or exchange of assets owned by the city; methods; procedures; terms; execution of documents. The Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, is hereby authorized from time to time to enter into, by and through the mayor and city recorder, contracts for the sale, exchange or disposition of any and all assets owned by the City of

Tullahoma, the execution of said contracts to be approved by the ordinances of the City of Tullahoma, Tennessee, which approving ordinances shall provide for the execution of documents transferring or conveying title and any and all other documents to consummate said transactions. Any and all ordinances enacted for the purposes aforementioned shall be enacted pursuant to this section of the code of ordinances of the City of Tullahoma from time to time and shall be included under said heading in said city code. (1988 Code, § 6-109)

- 5-110. <u>Contracts, correspondence, etc., to be in the name of city</u>. All contracts, agreements, purchases, correspondence, bills, and invoices for the city must be made in the name of the city. (1988 Code, § 6-110)
- 5-111. Establishment of a capital equipment purchase account and the authorization of charging of depreciation on all equipment serviced by the public works shop division, and provisions relating thereto. Capital equipment replacement fund. The City of Tullahoma has a substantial investment in motor vehicular equipment and other equipment serviced by the public works shop division; and the depreciation of said equipment is a major part of the cost of operation of the same; and it is both necessary and desirable that funds representative of the cost of depreciation of the said vehicles and equipment be charged to the various departments of the city during the life of the said vehicles and equipment and the proceeds thereof be set aside and reserved for the purpose of replacement of said motor vehicles and equipment so that funds will be available for replacement of vehicles and equipment as and when needed. In order to accomplish the foregoing the following is hereby enacted:
- (1) The city administrator is hereby authorized to establish and adopt, and to revise and amend from time-to-time a schedule of charges to be made to each department of the city, representing an allocation of such charges as between the cost of maintenance and depreciation of such equipment.
- (2) The finance director shall, in the normal accounting procedures of the city, and the management of its funds, charge each department of the city for the operation of each of its motor vehicles and equipment, or as amended and revised from time-to-time, such charges to be made at regular intervals on each piece of equipment of the city serviced by the public works shop division.
- (3) The finance director is directed to set aside and to place in a separate account in the capital equipment replacement fund all such amounts charged as depreciation, and to use the said fund and the moneys therein and to expend the same only for the purchase of replacement motor vehicles and equipment as and when such purchases shall be required from time-to-time.
- (4) All moneys received as a result of the sale of used equipment of this city shall likewise be set aside and placed in said account, to be used and expended as aforesaid.

- (5) All moneys received as interest on investments from the capital equipment replacement fund shall be placed in said account. (1988 Code, § 6-111, modified)
- 5-112. <u>Capital improvements program</u>. There is hereby established and authorized a Capital Improvements Program for the City of Tullahoma, Tennessee. The city administrator is authorized to initiate and develop such a program and maintain same and keep same up to date hereafter. All boards and agencies of the City of Tullahoma, Tennessee, must submit capital improvement items requiring city financing to the city administrator for inclusion in said capital improvements program. (1988 Code, § 6-112, modified)
- 5-113. Application for permits, licenses, and/or privileges—payment of all delinquent charges, taxes and fees. At such time as any entity, whether it be a natural person, partnership, corporation, unincorporated association, etc., shall make application to the City of Tullahoma for a permit or license or other privilege for which application is required in the code of ordinances of the City of Tullahoma, Tennessee, and for which a permit, license, fee, tax or application is required by this code in advance of conducting any operations, prior to such permit, license or privilege, etc., being granted and/or issued by the city, said applicant must pay all delinquent charges, fees, taxes, assessments, fines, etc., previously assessed against said entity, of every nature whatsoever, including but not limited to real or personal property taxes assessed against said entity, including appropriate penalties, interest, collection costs, attorney fees, etc. (1988 Code, § 6-113, as replaced by Ord. #1396, Feb. 2010)
- 5-114. Authority to borrow money and issue bonds as security The Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, shall, from time to time, pursuant to its statutory authority and to the authority set forth in the Charter of the City of Tullahoma, Tennessee, issue bonds, both revenue and general obligation for the purpose of borrowing money to provide funds for the fulfillment of the various powers and authority set forth in the Charter of the City of Tullahoma, Tennessee, and the statutes of the State of Tennessee, for providing funds for the erection and/or establishment of facilities in the interest of the health of the inhabitants of the City of Tullahoma, Tennessee, and their well being, and in the interest of all other matters set forth in section 9 of the Charter of the City of Tullahoma, Tennessee, and otherwise as is found in the Charter of the City of Tullahoma, Tennessee, and may by resolution or ordinance hereafter approve the issuance of said bonds from time to time pursuant to the provisions hereof, which ordinances and/or resolutions shall be spread upon the minutes of the City of Tullahoma, Tennessee, but need not be incorporated in this code. (1988 Code, § 6-114)

**5-115.** Reimbursement of expenses, travel pay. The City of Tullahoma will reimburse authorized board members and employees for reasonable travel expense on official business. Authorization for trips will be made by the city administrator or CAO of the specific board/agency and a signed copy of authorization will be presented to the finance director prior to the contemplated trip and issuance for cash advance for expenses.

In the interpretation of this section, the term "traveler" or "authorized traveler" shall mean any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this section. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless such person or persons otherwise qualify as an authorized traveler under this section.

To qualify for reimbursement, travel expenses must be:

- (1) Directly related to the conduct of the city business for which travel was authorized: and
- (2) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.
  - (a) Reimbursement of expenses for members of the board of mayor and aldermen. Members of the board of mayor and aldermen shall be allowed the same mileage rate per mile as is set out in sub-paragraph (1) above and the same meal allowances as are provided in sub-paragraph (3) above. However, said board members will only be reimbursed for miles in any one month over 50 miles of travel within the city limits of Tullahoma. All out of town travel shall be fully reimbursable. Travel vouchers must be submitted for approval to the city administrator or CAO of the board/agency for reimbursement for mileage. Reimbursement mileage over 50 miles per month shall not include mileage incurred by board members to attend regular board meetings or regular meetings of agencies, boards or commissions to which board members are appointed, nor shall said mileage to said regular meetings be included in computing the exempt first 50 miles. (1988 Code, § 6-115)

## 5-116. Regulation of basic cable television service and equipment.

1. 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 Tullahoma to regulate basic cable television service within the boundaries of the city; and for the purposes of regulating the rates charged to customers of any cable television operator franchised by the city, 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.

- (2) Whenever the regulations cited in subsection (1) above refer to "franchising authority", it shall be deemed to be a reference to the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee. (1988 Code, § 6-116)
- **5-117.** <u>Management of bonds and notes</u>. All revenues derived from general obligation bonds and notes shall be managed and disbursed from the finance office. The finance office shall disburse said funds based on invoice, only for the purpose for which the general obligation bonds or notes were issued.
- (1) In the event funds remain after project completion, the board of mayor and aldermen shall provide direction as to the use of the funds, whether to pay down principal and interest or apply the funds to another project.
- (2) In the case of a school or education-related capital project, should funds remain after project completion, the city board of education may recommend to the board of mayor and alderman that the said funds be used for another school capital project and the board of mayor and alderman may consider that recommendation in the designation and application of those remaining funds to other school or education-related capital projects. (as added by Ord. #1358, Dec. 2007, and amended by Ord. #1391, Oct. 2009)

# PROPERTY TAX

- 5-201. Ad valorem property taxes--establishing rate and assessment valuation.
- 5-202. Correction of errors in assessments.
- 5-203. Discoveries.
- 5-204. Exemption for disabled veterans.
- 5-205. Exemption of city from tax delinquency suit restriction.
- 5-201. Ad valorem property taxes—establishing rate and assessment valuation. The municipal tax rate on every one hundred dollars (\$100.00) of taxable property within the city shall be as the board of mayor and aldermen directs. The assessment valuation of all property located within the county shall be taken from the books of the tax assessor of the county wherein such property is located, and shall be the same as the assessment of the state and county. (1988 Code, § 6-301)
- **5-202.** Correction of errors in assessments. All complaints of erroneous assessments for taxes shall be referred to the recorder, who is hereby empowered to investigate and correct the same upon the tax books and report the action to the board of mayor and aldermen. (1988 Code, § 6-302)
- **5-203.** <u>Discoveries</u>. The tax collector shall add to his list, value and assess and collect taxes upon all property which he may find omitted or overlooked by the county tax assessor, and report the same to the board of mayor and aldermen. (1988 Code, § 6-303)
- **5-204.** Exemption for disabled veterans. (1) There shall be exempt from all property taxation real property up to the value of ten thousand dollars (\$10,000.00) when such property is owned and is used exclusively by a disabled veteran as a home.
- (2) For the purposes of this section, a disabled veteran is defined to mean a person who has served in the Armed Forces of the United States in time of war and who has acquired in connection with such service a disability from paraplegia or permanent paralysis of both legs and lower parts of the body resulting from traumatic injury to the spinal cord or brain, or from total blindness, or from the amputation of both legs or both arms. For the purposes of this section, "in time of war" shall be defined to mean and include any time in the periods when this nation is or was in actual conflict with an aggressor nation, or any time when the president of the United States has declared this country to be in a state of emergency.

- (3) Under no conditions shall this exemption extend to any person who was dishonorably discharged from any of the armed services in time of war. (1988 Code, § 6-304)
- **5-205.** Exemption of city from tax delinquency suit restriction. The board of mayor and aldermen hereby exempts the city from the provisions of <u>Tennessee Code Annotated</u>, § 67-5-2413, as are provided for therein. (1988 Code, § 6-305)

# **BUSINESS TAX**

# **SECTION**

5-301. Levy; adjustments and refunds.

5-301. Levy; adjustments and refunds. The taxes provided for in Tennessee Code Annotated, § 67-4-701, et seq., known as the "Business Tax Act," as amended from time to time, are hereby enacted and levied on the businesses and business activities, vocations or occupations doing business or exercising a taxable privilege as provided for by said act, in the city at the rates and in the manner prescribed by said act. The proceeds of the privilege taxes herein levied shall accrue to the general fund. All provisions of said "Business Tax Act" are incorporated herein by reference. The City Recorder of the City of Tullahoma is authorized and empowered to settle and adjust with taxpayers all errors and double assessments of city taxes erroneously or illegally collected by the city and to direct the refunding of the same. Any claim for such refund by the city of taxes or revenue alleged to have been erroneously or illegally paid shall be filed with the city recorder supported by proper proof within one (1) year from the date of payment, otherwise the taxpayer shall not be entitled to refund and said claim for refund shall be barred. (1988 Code, § 6-401)

# LOCAL SALES TAX

- 5-401. Basic sales tax--levy; amounts.
- 5-402. Incorporation of state law.
- 5-403. Collection by state.
- 5-404. Suits for tax illegally collected.
- 5-405. Additional sales tax--levy; amounts.
- 5-406. Collection by state.
- 5-407. Suits for recovery of illegally collected taxes.
- 5-408. Further additional sales tax--levied; amounts.
- 5-409. Collection by state.
- 5-410. Suits for tax illegally collected.
- 5-411. Allocation of retailer's sales tax.
- 5-401. Basic sales tax--levy; amounts. As authorized by Tennessee Code Annotated, title 67, chapter 6, part 7, 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. The tax is levied on all such privileges at a rate of one-third 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 five dollars (\$5.00) on the sale or use of any single article of personal property, and there is excepted from the tax levied by this section 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. (1988 Code, § 6-501)
- **5-402.** <u>Incorporation of state law</u>. All the provisions of all applicable state laws relating to the levy and collection of retailers' sales taxes by the state department of revenue under certain conditions are hereby incorporated by reference and made a part hereof as though they were copied herein in full. (1988 Code, § 6-502)
- 5-403. <u>Collection by state</u>. It having been determined by the department of revenue of the state 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 mayor 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. (1988 Code, § 6-503)

- **5-404.** <u>Suits for tax illegally collected</u>. 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 mayor of the city. (1988 Code, § 6-504)
- 5-405. Additional sales tax-levy; amounts. As authorized by Tennessee Code Annotated, § 67, 6-701, as amended, 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. The tax is levied on all such privileges at a rate of four-ninths (4/9) of the rates levied in the Retailers' Sales Tax Act, Tennessee Code Annotated, title 67, chapter 6, as amended, so long as the general state rate continues at four and five-tenths (4.5) per cent, and at two-thirds (2/3) of the state rates if and when the general state rate is reduced to three (3) per cent, and on farm and industrial machinery at the rate of one-half (1/2) of one per cent.

The tax levied shall be in addition to the sales tax now being levied by the state and county. The additional tax herein levied shall not exceed seven dollars and fifty cents (\$7.50) on the sale or use of any single article of personal property, and there is excepted from the tax levied herein 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 <u>Tennessee Code Annotated</u>, §§ 67-6-505, 67-6-506, and 67-6-516. (1988 Code, § 6-505)

5-406. Collection by state. It having been determined by the department of revenue of the state 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 and in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The mayor 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. (1988 Code, § 6-506)

- **5-407.** <u>Suits for recovery of illegally collected taxes</u>. In the event the tax is collected by the department of revenue, suits for recovery of any tax illegally assessed or collected shall be brought against the mayor. (1988 Code, § 6-507)
- **5-408.** Further additional sales tax-levied; amounts. As authorized by Tennessee code Annotated, title 67, chapter 6, part 7, as amended, there is levied a tax in the same manner and on the same privileges subject to the Retailers' Sales Tax Act under <u>Tennessee Code Annotated</u>, title 67, chapter 6, as the same may be amended, which are exercised in the city. The tax is levied on all such privileges at a rate of one-ninth (1/9) of the rates levied in the Retailers' Sales Tax Act, Tennessee Code Annotated, title 67, chapter 6, as amended, so long as the general state rate continues at four and one-half (4-1/2) per cent, and at one-sixth (1/6) of the state rates if and when the general state rate is reduced to three (3) per cent. Provided with respect to industrial and farm machinery as defined in Tennessee Code Annotated, § 67-6-102, subparagraphs (n) and (p), and with respect to water sold to or used by manufacturers, the tax thereon is imposed at the rate of one-half (1/2) of one per cent. Provided, further, the tax shall not exceed seven dollars and fifty cents (\$7.50) on the sale or use of any single article of personal property, and there is excepted from the tax levied hereby the sale, purchase, use, consumption or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil, so long as such exception is required by state law. 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. (1988 Code, § 6-508)
- 5-409. Collection by state. It having been determined by the department of revenue of the state 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 mayor 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. (1988 Code, § 6-509)
- **5-410.** Suits for tax illegally collected. 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 mayor. (1988 Code, § 6-510)

- **5-411.** Allocation of retailer's sales tax. (1) Allocation of any revenues received by the city pursuant to a levy of retailers' sales taxes, as provided for in this chapter, shall be made as provided by law or ordinance.
- (2) Anticipated revenues may be estimated and allocated pursuant to subsection (1) prior to their actual receipt by the city. (1988 Code, § 6-511)

# PRIVILEGE TAX UPON THE PRIVILEGE OF OCCUPANCY IN ANY HOTEL OF EACH TRANSIENT

## **SECTION**

5-501. Tax levied.

- **5-501.** Tax levied. Pursuant to Tennessee Code Annotated, § 67-4-1401, et seq., and section 29 of the charter of the City of Tullahoma, there is hereby levied a privilege tax upon the privilege of occupancy in any "hotel" as is defined therein of each transient in an amount of five percent (5%) of the consideration charged by the operator of said hotel. The disposition of the proceeds received by the City of Tullahoma from the tax shall be:
- 1. Not to exceed twelve percent (12%), Tullahoma Area Chamber of Commerce:
  - 2. Not to exceed three percent (3%) Hands-On Science Center;
  - 3. Not to exceed half a percent (.5%) Historic Preservation Society;
- 4. Not to exceed one and a half percent (1.5%), Keep Coffee County Beautiful;
- 5. Not to exceed six percent (6%), South Jackson Civic Center appropriations;
- 6. Not to exceed three percent (3%), South Jackson Civic Center insurance;
  - 7. Not to exceed two percent (2%), Tennessee's Backroads Heritage;
  - 8. Not to exceed six percent (6%), Tullahoma Fine Arts Center;
- 9. Not to exceed six percent (6%) for miscellaneous beautification and forestry projects in the City of Tullahoma.
- 10. The balance for the general fund. (1988 Code, § 6-601, as amended by Ord. #1186, Aug. 1997, Ord. #1199, June 1998, Ord. #1270, Aug. 2003, and Ord. #1342, Nov. 2006, and replaced by Ord. #1419, Sept. 2011)

# PURCHASE AND SALE PROCEDURES

- 5-601. Establishing and amending; enacting rules and regulations.
- 5-602. Contract procedures.
- **5-601.** Establishing and amending; enacting rules and regulations. There shall be a uniform purchasing and sale procedure for the city, established by the board of mayor and aldermen, a copy of which purchasing and sale procedure shall be maintained in the office of the city recorder and kept up to date as to all amendments which are made thereto from time to time, this section being in the nature of enabling legislation for the purpose of allowing the establishment of such a purchasing and sale procedure to be administered by the board of mayor and aldermen. Said purchasing policy and regulations, and sale procedures, which shall be known as "The Purchasing Policy and Regulations of the City of Tullahoma, Tennessee," shall be as are established by the board of mayor and aldermen from time to time by resolution, and as amended by the board of mayor and aldermen, from time to time, by resolution. This provision shall be retroactive as of January 10, 1983. (1988 Code, § 6-201)
- 5-602. <u>Contract procedures</u>. The provisions of <u>Tennessee Code Annotated</u>, § 12-4-201, <u>et sequitur</u>, relative to surety bonds, are hereby adopted in relation to all contracts for public works entered into by the City of Tullahoma, Tennessee, and any contractor, and requirements set forth in said statutes shall apply in all cases. (1988 Code, § 6-205)

# TITLE 6

# **LAW ENFORCEMENT**

# **CHAPTER**

- 1. POLICE AND ARREST.
- 2. RESERVE POLICE FORCE.

#### CHAPTER 1

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

- 6-101. Police operating procedure manual to be maintained.
- 6-102. Chief of police.
- 6-103. When arrests to be made.
- 6-104. Disposition of persons arrested.
- 6-105. Citations or complaints in lieu of arrest.
- **6-101.** Police operating procedure manual to be maintained. It shall be the duty of the city administrator to see that there is maintained a standard operating procedure manual for the operations of the police department. It shall also be the duty of the city administrator to see that said manual is updated from time to time to conform with modern concepts of law enforcement operating procedures and administration. (1988 Code, § 1-901)
- **6-102.** Chief of police. (1) The chief of police shall hold his office at the will and pleasure of the board of mayor and aldermen, and his salary shall be as the board directs. He may be removed at any time by a simple majority vote of the board, either at a regular meeting or a meeting called for that purpose.
- (2) During his incumbency in office he shall devote himself to the duties of his office, and he shall follow no other vocation, nor be interested in any business that requires a license or on which a privilege tax is imposed.
- (3) Before entering upon the discharge of his duties, the chief of police shall execute a bond with good and sufficient security in the sum of ten thousand dollars (\$10,000.00) payable to the board of mayor and aldermen, and conditioned that he will faithfully account for all money that may or ought to come into his hands, and that he will faithfully account for all money that may or ought to be collected by him, by virtue of his office, and that he will well and truly do and perform all other duties pertaining to his office, which bond shall

<sup>&</sup>lt;sup>1</sup>Charter references: §§ 10 and 16.

be acknowledged by the chief of police and his securities before the board of mayor and aldermen and approved by it.

- (4) The chief of police shall perform all the duties required of him by the ordinances, rules, or regulations of the board of mayor and aldermen, or by the laws of the state, or that may be imposed on him by the board, or by the mayor during intermission. It shall be the duty of the chief of police:
  - (a) To make himself thoroughly acquainted with all the laws and ordinances of the city, and to see that the same are faithfully enforced;
  - (b) To execute all manner of process in behalf of the mayor and aldermen, upon any persons, or their property, under any law or ordinance of the city requiring such service;
  - (c) To see that no trespasses are committed upon the property of the city:
  - (d) To repair without delay to any part of the city when he is advised that a breach of the peace or violation of any law or ordinance of the city has been or is about to be committed. (1988 Code, § 1-902)
- **6-103.** When arrests to be made. The chief of police or any policeman shall make arrests in the following cases:
- (1) Whenever any such warrant as is mentioned in § 3-103 shall come to his hands.
- (2) Whenever any offense shall be committed in his presence, except as provided in § 6-105.
- (3) Whenever the commission of any offense shall be otherwise brought to his knowledge.

In either of the last two cases he may make arrests without a warrant; provided the city judge shall issue a warrant and cause the same to be served upon his trial. (1988 Code, § 1-903)

- **6-104.** Disposition of persons arrested. (1) Persons arrested for a violation of the ordinances of the city shall be carried without delay before the city judge for trial.
- (2) When the chief of police or any policeman making an arrest shall deem it necessary for the safe custody of the person arrested, the offender shall be confined in jail, to be tried as early as practicable. (1988 Code, § 1-904)
- 6-105. <u>Citations or complaints in lieu of arrest</u>. When any person violates any traffic or other ordinance, law, or regulation of the city in the presence of any police or peace officer of said city, or in the presence of any member of the fire department or building department of the city who are designated as special police officers of the city, it shall not be necessary for said officer to arrest said offender and have a warrant issued for said person, but in lieu thereof, said officer may issue a citation or complaint, leaving a copy with

said offender showing the offense charged and the time and place where such offender is to appear in court. The procedure hereinabove enumerated as to giving citations or complaints in lieu of making arrests or taking out warrants, shall also apply when said officer makes a personal investigation at the scene of a traffic accident or makes a personal investigation at the place of violation, as a result of which the officer has reasonable and probable grounds to believe that the driver of any vehicle involved in said accident has violated any ordinance, law, or regulation of the city, or in the case of violations other than traffic accidents, the officer has reasonable and probable grounds to believe that the owner or occupant of property involved in a violation, has violated any ordinance, law, or regulation of the city.

- (1) In order to prevent the offender's arrest and issuance of the warrant against the offender, said offender aforementioned must sign an agreement to appear at the place indicated and waive the issuance and service of a warrant on such offender.
- (2) When said offender has signed the agreement and waiver provided for herein, it shall be the duty of the municipal court to try the case upon said citation or complaint, without the issuance and/or service of a warrant upon the defendant, and said citation or complaint shall in all respects be deemed and treated as though it were a warrant properly served upon the defendant.
- (3) In the event said offender refuses to sign said agreement to appear in court and to waive the issuance and service upon such offender of a warrant, then it shall be the duty of the officer in whose presence the offense is committed, forthwith to place the offender under arrest and take such offender before the proper authority, procure a warrant, serve the same upon the offender and book the offender as in other cases of violations, and the authority issuing the warrant shall take bail from the accused for appearance in court for trial, or in lieu thereof commit the offender to jail.
- (4) In the event that the offender signs said agreement and waiver as is herein provided and then fails to appear for trial at the time and place designated, then the municipal court shall immediately issue a warrant against said offender for said offense, and an additional warrant for the offense of violating said agreement to appear, it being established hereby that failure to appear is an offense punishable as is provided by the code of ordinances, and said warrant or warrants shall then be served upon said offender and the procedure followed as set out above regarding the service of warrants, booking the defendant, and taking appearance bail or committing to jail. (1988 Code, § 1-905)

# RESERVE POLICE FORCE

- 6-201. Created.
- 6-202. Composition.
- 6-203. Appointment of members.
- 6-204. Compensation.
- 6-205. Members under authority of chief of police.
- 6-206. Members authorized to act.
- 6-207. Rules and regulations.
- 6-208. Response to duty call.
- **6-201.** Created. There is hereby created a reserve police force for the City of Tullahoma, Tennessee. (1988 Code, § 1-1001)
- **6-202.** <u>Composition</u>. The reserve police force shall consist of no more than twenty-five (25) officers of which all shall meet the eligibility requirements of the personnel regulations of the City of Tullahoma, Tennessee, and shall be the age of eighteen (18) years or older and shall be bonded by the City of Tullahoma, Tennessee. (1988 Code, § 1-1002, as replaced by Ord. #1362, Jan. 2008)
- **6-203.** Appointment of members. Members of the reserve police force shall be appointed by the chief of police. Such appointment shall be evidenced by a document on file in the office of the city recorder and chief of police, setting forth the names of the reserve policemen and the same to be signed by the mayor. In addition, the mayor shall issue to each reserve policeman a card stating the date and fact of such appointment. (1988 Code, § 1-1003)
- **6-204.** Compensation. The members of the reserve police force shall receive no compensation for acting as such, unless recommended by the chief and approved by the city administrator. (1988 Code, § 1-1004)
- **6-205.** Members under authority of chief of police. The members of the reserve police force shall operate under the authority of the chief of police. (1988 Code, § 1-1005)
- **6-206.** <u>Members authorized to act</u>. The members of the reserve police force shall have no authority to act as such until the reserves or as many of them as shall be required are ordered to duty by the chief of police. When ordered to duty the reserve policemen shall have those duties and that power

and authority which is directed to them for the particular time, or as are established in rules and regulations promulgated. (1988 Code, § 1-1006)

- **6-207.** Rules and regulations. The chief of police and the safety committee shall have the authority to make and promulgate rules and regulations for the government of the reserve police force subject to approval by the board of mayor and aldermen. When so promulgated, such rules and regulations shall have the same force and effect as if set out in full in this chapter. It shall be unlawful and grounds for dismissal from the reserve police force for any reserve policeman to fail to obey such rules and regulations. Such rules and regulations shall be supervised by the chief of police. (1988 Code, § 1-1007)
- **6-208.** Response to duty call. When called to duty, the members of the reserve police force shall instantly respond in the manner required by the rules and regulations governing the force. When so called to duty, the reserve force shall take such action and perform such duties as shall be ordered by the authority calling them to duty. (1988 Code, § 1-1008)

# TITLE 7

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

# **CHAPTER**

- 1. IN GENERAL.
- 2. FIRE PREVENTION CODE.
- 3. FIRE DEPARTMENT.
- 4. HAZARDOUS MATERIALS.
- 5. OPEN BURNING.
- 6. FIREWORKS.

### CHAPTER 1

## IN GENERAL

# **SECTION**

- 7-101. Fire districts.
- 7-102. False alarms.
- 7-103. Unauthorized use of fire hydrants.
- 7-104. [Deleted.]
- **7-101. Fire districts**. The fire districts of the city may be as established by the board of mayor and aldermen and shown on an official map to be kept by the building official and/or fire chief, with the initial map and any changes thereto to be approved by resolution of the board of mayor and aldermen from time to time upon recommendations of the building official and/or fire chief. (1988 Code, § 7-101, modified)
- 7-102. <u>False alarms</u>. It shall be unlawful for any person to wilfully and knowingly originate, utter, circulate, or cause to be uttered or circulated any false or untrue fire alarm, or untrue statement that any building or structure of any character in the city is afire, or to originate, utter or circulate any false or untrue statement as to any conflagration in the city or to turn in to the fire department verbally, by telephone, or otherwise, any false or untrue fire alarm, unless the person so originating, uttering, or circulating, or turning in said statement, or giving said alarm, has reason to believe the same to be true. (1988 Code, § 7-102)

<sup>1</sup>Charter references: §§ 9 and 10 (18).

Municipal code reference

Building, utility and housing codes: title 12.

- **7-103.** <u>Unauthorized use of fire hydrants</u>. It shall be unlawful for any unauthorized person to turn on the water from any city owned fire hydrant. (1988 Code, § 7-103)
- **7-104.**  $^1$  [Deleted]. (1988 Code, § 7-105, as renumbered by Ord. #1241, Sept. 2001, and deleted by Ord. #1280, March 2004)

 $<sup>^1\</sup>mathrm{Ord.}$  #1241, Sept. 2001, repealed § 7-104, "Permit to burn refuse" and renumbered § 7-105 as 7-104. That ordinance also added chapter 5 of title 7 entitled "Open burning." Ord. #1280, March 2004, deleted § 7-104, "Fireworks" and added chapter 6 of this title entitled "Fireworks."

# **FIRE PREVENTION CODE**

# **SECTION**

7-201. Adopted.

7-202. Adoption of amendments to the <u>International Fire Prevention Code</u>.

7-203. Amendments to ICC

**7-201.** Adopted. There is hereby adopted, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the International Fire Prevention Code being particularly the 2015 edition, thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office, and the same are hereby adopted and incorporated as fully as if set out at length herein. (Ord. #1202, July 1998, as amended by Ord. #1364, Feb. 2008, Ord. #1474, Feb. 2017, and Ord. #1493, Dec. 2017)

# 7-202. Adoption of amendments to the International Fire Code.

That Sections 103.1 and 103.2 of the <u>International Fire Code</u> are stricken and new Sections 103.1 and 103.2 be created as follows:

Section 103.1 General. The Fire Department is established within the jurisdiction under the direction of the Fire Chief. The function of the department shall be implementation, administration, and enforcement of the provisions of this code. When the title "Fire Code Official" is used in the adopted International Fire Code it shall mean "Fire Chief".

Section 103.2 [Reserved]. (Ord. #1202, July 1998, as amended by Ord. #1364, Feb. 2008, and replaced by Ord. #1474, Feb. 2017, and Ord. #1493, Dec. 2017)

# FIRE DEPARTMENT

- 7-301. Created.
- 7-302. Composition.
- 7-303. Personnel; employment; compensation; removals.
- 7-304. Duties of chief.
- 7-305. Duties of members.
- 7-306. Authority at fires.
- **7-301.** Created. There is hereby created a full-time paid fire department for the city, to be assisted by part-time paid firemen. (1988 Code, § 7-201)
- **7-302.** Composition. The fire department shall consist of a full-time paid fire chief; and such other staff and members as the safety committee shall establish. (1988 Code, § 7-202)
- 7-303. Personnel; employment; compensation; removals. The salaries of all the fire department personnel shall be set by the board of mayor and aldermen. (1988 Code, § 7-203, modified)
- **7-304.** <u>Duties of chief</u>. It shall be the duty of the chief of the fire department to fulfill all obligations set forth in his job description as found in the personnel policies and other regulations of the city and such other duties as are from time to time prescribed by the board of mayor and aldermen. (1988 Code, § 7-204)
- **7-305.** <u>Duties of members</u>. It shall be the duty of all members of the fire department to fulfill all obligations set forth in his job description as found in the personnel policies and other regulations of the city and such other duties as are from time to time prescribed by the board of mayor and aldermen. (1988 Code, § 7-205)
- **7-306.** Authority at fires. The chief of the fire department and his assistant in command at any fire are hereby clothed with full and complete police power and authority, and are hereby authorized and directed to require and secure the removal of any obstructions from in front of and around fire hydrants, and for the purpose are hereby authorized to call upon the head of any municipal department for the aid and assistance in securing such removal of obstruction. The chief will also have authority to remove any person who may be in any way interfering with operation of the fire department at any fire, and

may if necessary arrest or cause the arrest of such persons. He shall see that all persons at fires keep out of the way of the fire equipment and at such a distance from the fire as safety requires. (1988 Code, § 7-206)

## **HAZARDOUS MATERIALS**

- 7-401. Definitions.
- 7-402. General requirements.
- 7-403. Hazardous material management plan.
- 7-404. Transportation and shipment of radioactive material.
- 7-405. Transportation, shipment and underground storage of hazardous materials.
- 7-406. Disposal of hazardous waste.
- 7-407. Exemptions.
- 7-408. Inspections.
- 7-409. Right of entry.
- 7-410. Penalties.
- 7-411. Injunctive relief.
- 7-412. Hazardous materials committee.
- **7-401. Definitions**. For the purposes of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively:
  - (1) "Hazardous substance" means any of the following:
    - (a) Any hazardous waste.
    - (b) Any radioactive material.
  - (c) Any acutely toxic chemicals defined in <u>Chemical Emergency Preparedness Program</u>, Appendix A--List of Acutely Toxic Chemicals, Environmental Protection Agency, Washington, D. C., November 1985, and as amended.
  - (d) Any substance defined in the <u>Registry of Toxic Effects of Chemical Substances</u> (RTECS), as amended.
  - (e) Any substance indicated in 49 CFR 172.101, for explosive, flammable, reactive, and corrosive chemicals, as amended.
  - (f) Any material which is listed on the list of Environmental Protection Agency pollutants, 40 CFR 401.15, as amended.
  - (g) Any chemical substance listed below, or mixture containing any chemical substance listed below:
    - (i) PCB or PCBs (polychlorinated biphenyl).
- (2) "Hazardous waste" means any substance, combination of substances or mixtures defined as "hazardous waste" in 40 CFR, Part 261, Subpart A, Section 261.3 which is not specifically excluded under Section 261.4 (b) under said Title or this chapter of the Tullahoma Code of Ordinances. The provisions of 40 CFR Part 261, Subpart A, Section 261.2, 261.3, and 261.4, and corresponding sections of Subparts C and D and appendices cited therein, which

define, describe, and identify hazardous waste are hereby incorporated by reference into this section and made a part hereof the same as if each were set forth fully herein. All subsequent amendments to said provisions of Subparts C and D and appendices cited therein which define, describe, and identify hazardous waste, and the sections of Subpart B specifically delineated herein, automatically become a part of this section as of the effective date of each amendment, subject to the provisions of this section. Hazardous wastes do not include chemical substances or mixtures listed in (1) (f) or any radioactive material.

- (3) "Chemical substance" except as provided in Subparagraph (3) of this paragraph, means any organic or inorganic substance of a particular molecular identity, including:
  - (a) Any combination of such substances occurring in whole or part as a result of a chemical reaction or occurring in nature, and
    - (b) Any element or uncombined radical.
    - (c) Such term does not include:
      - (i) Any mixture.
    - (ii) Any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide.
      - (iii) Tobacco or any tobacco product.
    - (iv) Any source material, special nuclear material, or by-product material (as such terms are defined in the Atomic Energy Act of 1954, as amended, and regulations issued under such Act, and the Energy Reorganization Act of 1974 and any regulations issued under such Act).
    - (v) Any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or section 4221 or any provisions of such Code), and
    - (vi) Any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as food, food additive, drug, cosmetic, or device.
- (4) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

- (5) "By-product" means a chemical substance produced without separate commercial intent during the manufacturing or processing of another chemical substance(s) or mixture(s).
  - (6) "Use"--putting into service to attain an end other than disposal.
- (7) "Store for disposal" means to store, confine or contain for or incidental to discarding, destroying, decontaminating, degrading, reprocessing or recycling of substances whose useful life has been terminated or completed, or which have otherwise been taken out of service.
- (8) "Person" means any natural or legally created artificial person including any individual, corporation, partnership, or association. "Person" includes any individual partnership, association, or corporation engaged in the transportation of passengers or property, as common, contract, or private carrier, or freight forwarder, as those terms are used in the Interstate Commerce Act, as amended.
- (9) "Radioactive material" means any material or combination of materials, which spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive materials.
- (10) "Curie" means an expression of the quantity of radiation in terms of the number of atoms which disintegrate per second; a curie is that quantity of radioactive materials which decays such that 37 billion atoms disintegrate per second.
  - (11) "Microcurie" means one millionth of a curie.
- (12) "Waste oil"--used products primarily derived from petroleum, which includes, but are not limited to, fuel oils, motor oils, gear oils, cutting oils, transmission fluids, hydraulic fluids and dielectric fluids.
- (13) "Hazardous substance disposal site" means any chemical waste landfill or incinerator used to dispose of hazardous substances.
- (14) "Chemical waste landfill" means a landfill at which protection against risk of injury to health or the environment from migration of hazardous substances to land, water, or the atmosphere is provided from hazardous substances deposited therein by locating, engineering, and operating the landfill in accordance with federal and state law. (1988 Code, § 7-401)
- **7-402.** General requirements. (1) The manufacture, storage, on-site transportation or use of hazardous materials shall be safeguarded with such protective devices as public safety requires.
  - (2) The chief of the fire department may require the following:
  - (a) The separation or isolation by both primary and secondary containment of any material that, in combination with other substances, may bring about fire or explosion, or may liberate a flammable or poisonous gas, or cause the deterioration of the primary or secondary containment.

- (b) The separation of occupancies or buildings from other storage when the quantity of hazardous materials stored constitutes a fire or life hazard.
- (3) Defective storage facilities which permit leakage or spillage shall be disposed of or repaired in accordance with recognized safe practices; no spilled hazardous material shall be allowed to accumulate on floors or shelves.
- (4) Where kept for retail sale in containers or packages usual to the retail trade, storage of hazardous materials shall be neat and orderly and shelves shall be of substantial construction. Hazardous material contained solely in consumer products stored in retail establishments or used by the general public or commercial products used at the facility solely for janitorial or minor maintenance purposes are excluded from the requirements of subdivision (10) of this section.
- (5) Where specific requirements are not otherwise established, storage, transportation or use of hazardous materials shall be in accordance with nationally recognized standards or good practices. This may require that the permittee retain a suitably qualified independent engineer, or chemist, or other appropriate professional consultant, acceptable to the hazardous materials committee for the purpose of evaluating and rendering a professional opinion respecting the adequacy of such practice to achieve the purpose of this chapter. The committee shall be entitled to rely on such evaluation and/or opinion of such engineer, chemist or professional consultant in making the relevant determinations provided for in this chapter.
- (6) Visible hazard identification signs as specified in U.F.C. Standard No. 79-3 shall be placed at all entrances to and in locations where hazardous materials are stored, handled or used in quantities requiring submission of a Hazardous Materials Management Plan. Labels shall conform with U.F.C. Standard No. 79-3 for size and color and shall be affixed to tank, vessel or container so as to be conspicuously visible at all times.
- (7) Satisfactory provisions shall be made for containment, neutralization and removal of spills or leakage of hazardous materials which may occur during storage, handling, transportation or use. This shall include necessary safety equipment for personnel.

An inventory of the above items shall be provided to the fire department. The equipment shall be regularly tested and adequately maintained. Safety equipment used by personnel for fire fighting or chemical spill emergencies shall be compatible with the same equipment used by the City of Tullahoma Fire Department.

EXCEPTION--Equipment, already in existence but not compatible with fire department equipment, but easily adaptable, shall have adapters available.

- (8) Material safety data sheets shall be readily available for all hazardous materials on the premises.
- (9) Storage facilities shall be secured in such a manner as to prevent unauthorized access.

(10) An annual inventory of hazardous materials shall be provided to the fire chief on approved forms and said list shall identify the location of use, storage, amount, name, and hazard of each material.

Any change to the inventory that would create a new hazard class or exceeds the permit quantity limit shall be submitted to the fire chief for approval before the change is made. (1988 Code, § 7-402)

- 7-403. <u>Hazardous material management plan</u>. Each applicant for a hazardous materials permit pursuant to this chapter shall file a written plan, for hazardous materials committee approval, to be known as a hazardous materials management plan (HMMP), which shall demonstrate the suitable storage of hazardous materials. The HMMP may be amended at any time with the consent of the board of mayor and aldermen. The HMMP shall be a public record except as otherwise specified. Approval of the HMMP shall mean that the HMMP has provided adequate information for the purposes of evaluating the permit approval. Such approval shall not be understood to mean that the hazardous materials committee has made an independent determination of the adequacy of that which is described in the HMMP.
  - (1) Short form HMMP-- minimal storage site.
  - (a) The short form hazardous materials management plan may be submitted for a storage facility if the quantity of each hazardous material stored in one or more storage facilities in an aggregate quantity for the facility, is 500 pounds for solids, 55 gallons or less for liquids, or 200 cubic feet or less at standard temperature and pressure (STP) for compressed gases. All other facilities shall file a standard HMMP (See subsection 2 below).
  - (b) The applicant for a permit for a facility which qualifies as a minimal storage site may choose to file the short form hazardous materials management plan with the approval of the hazardous materials committee. Such plan should include the following components:
    - (i) General information required in the application form:
    - (ii) A simple line drawing of the facility showing the location of the storage facilities and indicating the hazard class or classes and physical state of the hazardous material(s) being stored and whether any of the material is a waste;
    - (iii) Information describing the manner that hazardous materials will be stored;
    - (iv) Description of emergency equipment to be maintained on the premises;
    - (v) Statement that the disposal of any hazardous materials will be in an appropriate manner as determined by the hazardous materials committee.
    - (vi) Demonstrate compliance with the Tennessee "Right-To-Know" provisions based on OSHA "HAZARDOUS

- COMMUNICATION" 1910.1200 passed May 23, 1985, as a law to become effective on May 25, 1986.
- (2) <u>Standard form HMMP</u>. The standard form hazardous materials management plan must be submitted unless the facility qualifies as a minimal storage site under subsection (1) above. The standard form HMMP shall include the following:
  - (a) General information/facility description.
  - (i) <u>General information</u>. The HMMP shall contain the name and address of the facility and business phone number of applicant, the name and titles and emergency phone numbers of the primary response person(s) and alternate(s), the number of employees, number of shifts, hours of operation, and principal business activity.
  - (ii) General facility description. The HMMP shall contain a map drawn to scale and in a format and detail as determined by the hazardous materials committee and shall specify the location of all buildings and structures, chemical loading areas, parking lots, internal roads, storm and sewer drains, and the uses of adjacent properties.

The plan shall require information as to the location of wells, flood plains, surface water bodies, and/or general land uses (schools, hospitals, institutions, residential areas) within one mile of the facility boundaries.

- (b) Facility storage map. The HMMP shall be accompanied by a map drawn to scale as approved by the hazardous materials committee. The facility storage map shall indicate the location of each hazardous material storage facility, including all interior, exterior, and underground storage facilities, and the manner of access to such storage facilities. In addition, the map shall indicate the location of emergency equipment that is used in connection with each storage facility, the general purpose of the other areas within each facility, and;
  - (i) A floor plan to scale and the permit quantity limit;
  - (ii) A list of each non-waste hazardous material which is stored in a quantity greater than the quantities specified in subsection (1) above which list shall include: general chemical name, common/trade name, major constituents for mixtures, North American (NA) number, if available, and physical state of such non-waste hazardous material;
  - (iii) A list of each waste hazardous material, using the above guidelines wherever practical;
  - (iv) A description of the hazard class or classes, the quantity range for each such class or classes aggregated within each storage facility for every type of hazardous material that is included within the following ranges.

- (c) <u>Hazardous materials inventory statement</u>. A hazardous materials inventory statement shall be filed in accordance with general requirements § 7-402(10) above.
- (d) <u>Separation of materials</u>. The HMMP shall include a description of the methods to be utilized to ensure separation and protection of stored hazardous materials from factors which may cause a fire or explosion, or the production of a flammable, toxic, or poisonous gas, or the deterioration of the primary and secondary containment.
- (e) <u>Monitoring program</u>. The HMMP shall include a description of the location, type, manufacturer's specifications (if applicable), and suitability of monitoring methods to be used in each storage facility storing hazardous materials. It shall also specify the frequency of inspections of storage facilities which will be conducted by the permittee.
- (f) Record keeping forms. The HMMP shall include an inspection checksheet or log designed to be used in conjunction with routine inspections. The checksheet or log shall provide for the recording of the date and time of any corrective action taken, the name of the inspector, and the counter signature of the designated safety official for the facility or the responsible official as designated in the HMMP.
- (g) <u>Emergency equipment</u>. The HMMP shall include a statement of emergency equipment availability, testing, and maintenance.
- (h) <u>Drainage plan</u>. The HMMP shall include a statement as to the manner that drainage of hazardous materials is to be provided.
- (i) Additional information. Additional information may be required in connection with the HMMP if such information is reasonably necessary to meet the intent of this section. Requirements for information in the HMMP may be waived where such information is not reasonably necessary to meet the intent of this section. Whenever a permittee has submitted a plan which includes substantially the same information as is required for any component(s) of the HMMP to any other public agency regulating hazardous materials, such plan may be submitted to the hazardous materials committee in lieu of such component(s).
- (j) <u>Annual update</u>. The facility storage map shall be updated annually or whenever an additional approval is required for the facility or whenever the hazardous materials inventory statement is required to be amended pursuant to the general requirements § 7-402(10) above.
- (k) <u>Confidentiality of information</u>. The fire department and hazardous materials committee shall not disclose any information to the public without the consent of the permittee or permit applicant unless ordered to do so by a court of competent jurisdiction. The permittee or permit shall be deemed a real party in interest in any such action. Prompt notice of a law suit to compel disclosure shall be given by the fire

department or hazardous materials committee to a permittee or permit applicant. However, the fire department or hazardous materials committee shall be under no duty to prevent disclosures where there has been any unauthorized discharge of hazardous materials stored in a storage facility (ies) shown on such map or where such disclosure arises out of any official emergency response relating to the storage facility (ies). (1988 Code, § 7-403)

- 7-404. <u>Transportation and shipment of radioactive material</u>. No person shall ship or transport into, within, through or out of the city any radioactive material contrary to the applicable federal regulations of the United States Department of Transportation and the United States Nuclear Regulatory Commission in effect at date of shipment or transport. (1988 Code, § 7-404)
- 7-405. Transportation, shipment and underground storage of hazardous materials. (1) No person shall ship or transport into, within, through or out of the city any hazardous materials contrary to the applicable federal regulations of the United States Department of Transportation or applicable state regulations of the Tennessee Department of Transportation, or the Tennessee Public Service Commission in effect at the date of shipment or transport.
- (2) No person shall bury or cause to be buried any underground storage container or tank designed to be used for the storage of any toxic or flammable material without the inspection and approval of the fire chief or his designated representative. The fire chief or emergency management office shall be notified prior to removal of any such containers or tanks presently buried within the city limits and shall be inspected upon removal to determine if leakage shall have occurred. Any contamination of soil or ground water from leaking underground storage tanks shall be the responsibility of the tank owner, and clean up must satisfy the requirements of the applicable state and federal agencies. (1988 Code, § 7-405)
- 7-406. <u>Disposal of hazardous waste</u>. (1) No person shall knowingly discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake or pond, water course or ditch, into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City of Tullahoma.
- (2) No person shall knowingly cause any other persons by contract or otherwise to discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer, or culvert, into any lake, pond, water course or ditch, or into any pit or

excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City of Tullahoma.

- (3) No person shall negligently discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, water course, or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City of Tullahoma. (1988 Code, § 7-406)
- **7-407.** Exemptions. (1) The provisions of this chapter shall not apply to the storage or disposal of hazardous waste, and PCB or PCBs in any hazardous substance disposal site specifically approved by either the United States Environmental Protection Agency or the Tennessee Environmental Protection Agency and which comport to federal and state law.
- (2) A person may petition the board of mayor and aldermen or its designee for an exemption from the requirements of this chapter, and the board of mayor and aldermen or its designee may grant in writing an exemption, where not precluded by state or federal law, if it finds that:
  - (a) Unreasonable risk of injury to health or environment would not result;
  - (b) Good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such PCB;
  - (c) The best interest of the city would be served by granting an exemption. (1988 Code, § 7-407)
- **7-408.** <u>Inspections</u>. The fire chief, fire marshall, or a designated representative, any law enforcement officer, or building, housing, or zoning inspector shall have the authority to inspect all structures and premises, as often as may be necessary for the purposes of ascertaining or causing to be corrected, any condition which may be a violation of this chapter, or otherwise enforcing any of the provisions of this chapter. Only certified fire and building inspectors are empowered to cite offenders for violations in judicial proceedings. (1988 Code, § 7-408, modified)
- 7-409. <u>Right of entry</u>. Whenever necessary for the purpose of enforcing the provisions of this chapter, or whenever the fire chief, fire marshall, or his designated representative, any law enforcement officer, or any building, housing or zoning inspector has reasonable cause to believe that there exists in any structure or upon any premises, any condition which constitutes a violation of this chapter, said officials may enter such structure or premises at all reasonable times to inspect the same, or to perform any duty imposed upon any of said respective officials by law; provided that if such structure or premises be

occupied, he shall first present proper credentials and request entry. If such entry is refused, the official seeking entry shall recourse to every remedy provided by law to secure entry. (1988 Code, § 7-409)

- **7-410. Penalties**. (1) Any person who knowingly violates any of the provisions of this chapter shall be subject to a civil penalty of \$500 for each such violation.
- (2) If any violation of the provisions of this chapter is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed \$25,000 for any related series of violations.
- (3) The city attorney shall have the authority to commence an action in a court of competent jurisdiction to enforce the penalty provisions of this section.
- (4) Any civil penalty under this section may be compromised by the city attorney with approval by the board of mayor and aldermen. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business or the person charged and the gravity of the violation shall be considered.
- (5) Any individual director, officer, or agent of a corporation who knowingly authorizes, orders or performs any of the acts constituting in whole or in part a violation of this chapter shall be subject to the penalties under this section without regard to any civil penalties to which the corporation may be subject. (1988 Code, § 7-410, modified)
- **7-411.** <u>Injunctive relief</u>. Violation of the provisions of this chapter shall constitute a public nuisance. The city attorney shall have the authority to commence any action in a court of competent jurisdiction to enjoin the actions of any person who violates any of the provisions of this chapter. (1988 Code, § 7-411)
- **7-412.** <u>Hazardous materials committee</u>. The hazardous materials committee shall be composed of the following members: (or their designated representatives)

Fire chief Fire marshall Police chief Building inspector City administrator

The committee shall be responsible for the enforcement of the provisions of this chapter. The committee shall also review for approval all hazardous materials management plans. The committee shall keep all records of

proceedings including those documents filed in accordance with the requirements of this chapter. (1988 Code,  $\S$  7-412, modified)

# **OPEN BURNING**

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Standards for open burning.
- 7-504. Permits.
- 7-505. Penalties.
- **7-501. Purpose**. The purpose of this chapter is to regulate certain open burning in order to protect the public from the hazards of uncontrolled fires and pollution. This chapter will not relieve the person who will be burning from complying with <u>Tennessee Code Annotated</u>, §§ 39-14-305; 39-14-401; 68-102-146 and 68-211-101 <u>et seq</u>. (as added by Ord. #1241, Sept. 2001)
- **7-502. Definition of terms**. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise:
- 1. "Authority having jurisdiction." The organization, agency, office, department or individual responsible for approval or enforcement.
- 2. "Open burning." Any person burning or causing to be burned any flammable material in a method other than within an enclosure from which burning material cannot escape.
- 3. "Permit" means the written authority of the City of Tullahoma issued under the authority of this chapter.
- 4. "Person" means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency. (as added by Ord. #1241, Sept. 2001)
- **7-503.** <u>Standards for open burning</u>. It shall be unlawful for any person, as defined herein, to conduct an open burn within the corporate limits of the City of Tullahoma without a permit.
- 1. No person shall willfully start or cause to be started any open fire within the corporate limits of Tullahoma without first obtaining a burn permit from the city.
- 2. Prevailing winds at the time of ignition must be away from any dwelling, structure, highway or other populated area, the ambient air of which may be significantly affected by smoke, fly ash, or other contaminates from burning.
- 3. Burning shall not be limited when it is determined by the fire chief or his designee, based on information suppled by the National Weather Service

or other competent authority, that stagnant air conditions or inversions exist, or that such conditions may occur during the duration of the burn.

- 4. Burning shall not be initiated when it is determined and or announced by the state fire marshal that dry, drought, high wind or other hazardous conditions exist to prohibit burning either statewide or in regions affecting the geographical or corporate limits of Tullahoma.
- 5. Burning shall not be initiated when it is determined and or announced by the fire chief or his designee that dry, drought, high wind or other hazardous conditions exist to prohibit burning within the corporate limits of Tullahoma.
- 6. Asphaltic material, PVC, treated lumber, or items containing natural or synthetic rubber, or materials made with hydrocarbons shall not be burned or used to ignite the material to be burned or to promote the burning of such material.
- 7. No burning shall be permitted within thirty (30) feet of any structure or dwelling.
- 8. All fires must be attended to and under the direct supervision at all times of a person or persons that have sufficient capability and equipment to provide for complete extinguishment of the fire as needed.
- 9. With the exception of permitted bonfires and campfires, all fires shall be completely extinguished by 5:00 P.M. local time. (as added by Ord. #1241, Sept. 2001)
- 7-504. Permits. Burn permits will obtained from the fire chief or his designee.
- 1. Permits issued under this chapter shall be under either one of two classes; standard class and large class.
  - a. Standard class permits are for leaves and materials under three (3) cubic yards and may be issued by the fire chief or his designee by telephone. Standard class permits shall be good for one day between the hours of 11:00 A.M. and 4:00 P.M. local time.
  - b. Large class permits are for material in an amount of three (3) or more cubic yards and require the person requesting the permit to complete the form in person at least one (1) working day prior to the planned burn.
- 2. All permits issued under this chapter shall be in writing, on forms provided by the fire department, in the name of the person undertaking the burning and with emergency contact information, and shall specify the specific address and area in which the burning is to occur, the type and amount of material to be burned, the duration of the permit, and such other factors as are necessary to identify the burning which is allowed under the permit.
- 3. Burn sites containing three (3) cubic yards or more of material shall be inspected by the fire chief or his designee prior to the issuance of the permit.

- 4. Permits shall not be issued when it is determined by the fire chief or his designee, based on information supplied by a competent authority, that stagnant air conditions or inversions exist, or that such conditions may occur during the duration of the burn.
- 5. Permits shall not be issued when it is determined or announced by the state fire marshal that dry, drought, or other conditions exist to prohibit burning either statewide or in regions affecting the geographical or corporate limits of Tullahoma.
- 6. Permits shall not be issued when it is determined or announced by the fire chief or his designee that dry, drought, or other hazardous conditions exist to prohibit burning within the corporate limits of Tullahoma.
- 7. Permits shall not be issued without the approval of the authority having jurisdiction when it has cited the person or designated the burn site as being in violation of federal, state or municipal laws.
- 8. The city through the fire chief has the authority to revoke a permit and to extinguish a fire for any reason affecting the health, safety or welfare of the City of Tullahoma.
- 9. The fire chief has the authority to provide additional supplemental conditions, written on the permit, when in the best interest of the health, safety, and welfare of the City of Tullahoma it is required. (as added by Ord. #1241, Sept. 2001)
- **7-505.** Penalties. Any person violating the provisions of this chapter, or of any permit issued under the authority of this chapter, or any provisions herein, shall be subject to the provisions of § 1-107 of the Code of Ordinances of the City of Tullahoma, Tennessee. Each day of violations shall constitute a separate offense. The penalties provided in said section shall be separate and apart and not in lieu of all other civil or criminal penalties which may be imposed under the laws of the State of Tennessee, or the City of Tullahoma, Tennessee. (as added by Ord. #1241, Sept. 2001)

# **FIREWORKS**

- 7-601. Definitions.
- 7-602. Permits and permit fees.
- 7-603. Separate sales and use tax numbers required.
- 7-604. Permit revocation.
- 7-605. Permissible fireworks.
- 7-606. Sale of fireworks.
- 7-607. Storing and structures.
- 7-608. Limitations on structures.
- 7-609. Location of fireworks outlets.
- 7-610. Parking for retail fireworks sales site.
- 7-611. Additional standards for fireworks retailers.
- 7-612. Children, unlawful sale and use of fireworks.
- 7-613. Limited time period to use fireworks.
- 7-614. Exclusions.
- 7-615. Penalty for violation.
- **7-601. Definitions**. (1) As used in this chapter, unless the content otherwise requires:
  - (a) "D.O.T. 1.4G Consumer Fireworks" means all articles of fireworks as are now or hereafter classified as 1.4G or formerly referred to as "D.O.T. Class C Common Fireworks" in the regulations of the United States Department of Transportation.
  - (b) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motor bikes.
  - (c) "Permit" means the written authority of the City of Tullahoma issued under the authority of this section.
  - (d) "Person" means any individual, firm, partnership, or corporation.
  - (e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.
  - (f) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer thereof and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, co-partnership, or one (1) or more individual(s).
  - (g) "State Fire Marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of <u>Tennessee Code Annotated</u>, § 68-104-101, <u>et seq</u>.

- (2) Singular words and plural words used in the singular include the plural and the plural as singular. (as added by Ord. #1280, March 2004, as replaced by Ord. #1520, May 2019  $\it Ch10\_6-22-20$ )
- **7-602.** Permits and permit fees. (1) It shall be unlawful for any person to sell, offer for sale, ship, or cause to be shipped, into the City of Tullahoma any item of fireworks without first having secured a state fire marshal permit, and a permit issued by the City of Tullahoma.
  - (2) Permits are not transferable.
- (3) A permit (to sell fireworks to the general public) shall be valid only from June 17 through July 9 or December 21 through January 5.
- (4) The City of Tullahoma shall charge a permit fee in the amount of one thousand dollars (\$1,000.00) for the summer period and five hundred dollars (\$500.00) for the winter period as provided for in this section for retail permits.
- (5) The fee for public display events using Special Display (1.3G) fireworks shall be five dollars (\$5.00).
- (6) The fee schedule may be revised from time to time by adoption of the annual budget ordinance and fee schedules.
- (7) Community groups such as schools, weddings, business, and civic clubs who desire to have a group display of 1.3G Special Display or 1.4G Consumer Fireworks may obtain a permit to use fireworks for any time of the year if a five dollar (\$5.00) permit is obtained from the City of Tullahoma.
- (8) A permit to sell fireworks in the City of Tullahoma must be obtained at least one (1) week prior to the date on which the applicant desires to begin making sales. Each application shall contain the following:
  - (a) Name, address, and telephone number of applicant. The applicant must be the natural person who will operate or be responsible for sales. The applicant's name shall also be the same as the name on the state fire marshal permit. The applicant shall be liable for all violations of this ordinance by persons under their supervision. A copy of the state fire marshal permit. (In order for a state permit to be obtained by a retailer, the city administrator, or mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)
  - (b) Any person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.
  - (c) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of adjacent structures that are occupied, location and number of the parking places, location of any nearby residences, location of adjacent fuel outlets and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.
    - (d) Mobile vendors are not permitted.

- (e) Flashing signs are not permitted.
- (f) One (1) double-faced sign is permitted, however, each sign face shall not exceed thirty-six (36) square feet.
- (g) Evidence that general liability insurance has been obtained by applicant naming the City of Tullahoma as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.
- (h) The location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.
- (i) Applicant shall pay one hundred dollars (\$100.00) clean-up deposit per location, which shall be refunded after the fireworks season, or used by the city to clean up the retail fireworks site, if needed.
- (j) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance. (as added by Ord. #1280, March 2004, replaced by Ord. #1520, May 2019 *Ch10\_6-22-20*, and amended by Ord. #1569, Feb. 2022 *Ch11\_08-08-22*)
- **7-603.** Separate sales and tax numbers required. A separate sales and use tax number shall be required for each location where consumer fireworks are sold. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10\_6-22-20*)
- **7-604. Permit revocation**. The codes director and/or fire official shall be authorized to revoke any permit upon failure of retailer to correct any of the following conditions within thirty six (36) hours after written notice is given by the codes director.
- (1) In the event that the permittee or the permittee's operator violates any lawful rule, regulation, or order of the City Codes Director of Tullahoma.
- (2) In the event that the permittee's application contains any false or untrue statements.
- (3) In the event the permittee fails to timely file and/or pay any report, tax, fee, fine, or charge.
- (4) In the event the permittee or the permittee's operator violates any fireworks ordinance or statute.
- (5) In the event any activities of the permittee constitute a distinct hazard to life or property, the permit may be revoked immediately by said codes director and/or fire official. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10 6-22-20*)
- **7-605.** <u>Permissible fireworks</u>. It is unlawful for any individual, firm, partnership, or corporation to possess, sell, or use within the City of Tullahoma

or ship into the city, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items:

- (1) Those items now or hereafter classified by the U.S. Department of Transportation as 1.4G Consumer Fireworks; or
- (2) Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.
- (3) Any display event using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10\_6-22-20*)
- **7-606.** Sale of fireworks. Permissible items or fireworks may be sold within the City of Tullahoma only from June 17 through July 5 and December 21 through January 1 of each year. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10\_6-22-20*, and amended by Ord. #1569, Feb. 2022 *Ch11\_08-08-22*)
- 7-607. Storing and structures. No person shall smoke within a structure where fireworks are sold. No person selling fireworks shall permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks--No Smoking" in letters not less than four inches (4") high. An inspected and currently tagged 10# ABC rated portable fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail shall only be sold from a free-standing structure. Fireworks are not permitted to be stored in residential districts, except for personal use. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10\_6-22-20*)
- **7-608.** <u>Limitations on structures</u>. Tents meeting the current adopted Standard Building Code and Standard Fire Prevention Code may be used for the retail sale of fireworks. No structure from which fireworks are sold shall exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10 6-22-20*)
- **7-609.** Location of fireworks outlets. Fireworks sales structures shall be no closer than sixty feet (60') from any occupied building. Fireworks sales are only permissible on commercial/industrial property as approved by the planning department and the sales structure must be located a minimum of forty-five feet (45') from the right of way. Any fireworks sales structure must be at least one

hundred fifty feet (150') from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of one hundred twenty five thousand (125,000) square feet. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10 6-22-20*)

- **7-610.** Parking for retail firework sales site. The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 **Ch10\_6-22-20**)
- **7-611.** Additional standards for fireworks retailers. (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source.
- (2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred and fifty feet (750') from other similar uses. This distance shall be measured the closest distance from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location.
- (3) Each retailer must provide for each site toilet facilities for the retailer's employees.
- (4) Each retailer must conspicuously post a sign notifying the public of the requirements of the §§ 7-612, 7-613 and 7-615. Said signs shall not exceed six (6) square feet in size and shall not contain advertising.
- (5) Each retailer shall provide adequate generators, which shall be placed no closer than ten feet (10') from any tent or structure, and protected from rain. (as added by Ord. #1280, March 2004, amended by Ord. #1302, Nov. 2004, and replaced by Ord. #1520, May 2019 *Ch10\_6-22-20*)
- 7-612. Children, unlawful sale and use of fireworks. It shall be unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated or seemingly irresponsible person. It shall be unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person or throw any ignited article of fireworks into or at such motor vehicle, or at or near any person or group of persons. A user of fireworks shall not ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the

property. Fireworks shall not be launched or fired onto property of persons who have not given permission. Fireworks shall not be used at times, places, or in any manner, which adversely affects other persons. Fireworks shall not be used during a burning ban declared by either the State of Tennessee or the Tullahoma Fire Department, except for public (and/or group) displays for which permits have been granted. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10\_6-22-20*)

- **7-613.** <u>Limited time period to use fireworks</u>. It shall be unlawful to discharge or use fireworks except for the following time periods:
- (1) July 1 through July 4 --- The permissible hours shall only be from 10:00 A.M. to 10:30 P.M. except for July 4 when the permissible hours shall be from 10:00 A.M. to 11:30 P.M.
- (2) December 31 and January 1 -- The permissible hours shall only be from four (4) hours before and one (1) hour after the start of the new year.
- (3) June 19 -- The permissible hours shall only be from 10:00 A.M. to 10:30 P.M. (as added by Ord. #1280, March 2004, and amended by Ord. #1569, Feb. 2022  $Ch11_08-08-22$ )
- **7-614.** Exclusions. Nothing in this chapter shall be construed to prohibit:
- (1) The sale of any kind of fireworks which are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.
- (2) The use of fireworks by railroads or other transportation agencies for signal purposes or illumination.
  - (3) The sale or use of blank cartridges for theater, or sporting events.
- (4) The use of fireworks for military operations of agencies of the state or federal government.
- (5) The use of fireworks for purposes under conditions approved by the fire chief or his designee.
- (6) Supervised displays of fireworks or hereinafter provided. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 **Ch10\_6-22-20**)
- **7-615.** Penalty for violation. All individuals that violate any provision of this chapter shall be guilty of an offense and upon conviction shall be punished by a fine not to exceed fifty dollars (\$50.00) plus costs. Each violation or transaction shall be considered a separate violation. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 **Ch10\_6-22-20**)

# TITLE 8

# ALCOHOLIC BEVERAGES<sup>1</sup>

### **CHAPTER**

- 1. IN GENERAL.
- 2. INTOXICATING LIQUORS.
- 3. BEER.

#### CHAPTER 1

#### IN GENERAL

### **SECTION**

- 8-101. Privilege taxes for sale of alcoholic beverages at retail.
- 8-102. Prohibition against permitting any alcoholic beverages in public places where minors are present.

#### 8-101. Privilege taxes for sale of alcoholic beverages at retail.

There is hereby levied against all retail establishments selling at retail in this state alcoholic beverages for consumption on the premises a privilege tax pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 57-4-301, the provisions of which are incorporated herein by reference as though same were fully set forth herein, the privilege taxes provided for therein being levied at the same amounts by the City of Tullahoma. This section shall apply to private clubs as well as hotels and motels and all other types of establishments and/or facilities enumerated in said statute. (1988 Code, § 2-101)

Municipal code reference

Prohibiting public consumption, etc., of alcoholic beverages: §§ 11-101.

State law reference

Tennessee Code Annotated, title 57.

<sup>&</sup>lt;sup>1</sup>Charter references: §§ 10(13) and 28.

- 8-102. Prohibition against permitting any alcoholic beverages in public places where minors are present.<sup>1</sup> (1) It shall be unlawful for any owner, operator, and/or lessee of any type of business establishment open to the public to permit and/or allow the consumption of alcoholic beverages on the premises of such establishment and/or to permit and/or allow persons to bring thereto alcoholic beverages in open containers of any type whatsoever if/and when minors are upon said premises, except as is hereinafter provided.
- Excepted from the provisions of this section shall be those business establishments which are primarily operated as restaurants and have beer permits, or are operated as restaurants, as restaurants are hereinafter defined in conjunction with other legitimate business enterprises such as bowling alleys, etc. For the purpose of this section, "restaurant" is defined as follows: Any establishment, place or location, whether permanent, temporary, seasonal or itinerant, where the public is offered to be regularly served, and/or is served, food, including, but not limited to, foods and vegetables and/or beverages not in an original package or container, which establishment, etc., has on its premises facilities for the preparation of said food products so served, i.e., contains adequate and sanitary kitchen and dining room equipment usually incidental to food service operations and a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests and which establishment is engaged in the sale and service of food of the type described above. The term "restaurant" shall not include grocery stores which may, incidentally, make infrequent sales of food for consumption on the premises, or any establishment where food is dispensed only through vending machines, or where pre-prepared foods are only warmed and/or sold to customers. These exceptions apply only to establishments with beer permits.
- (3) Further excepted from the provisions of this section shall be private clubs and/or organizations; provided, however, that minors shall not be allowed in portions of the premises occupied by any private club or organization devoted exclusively to the sale and consumption of alcoholic beverages of every kind and character, including beer and/or alcoholic beverages as are defined in this chapter.
- (4) The provisions of this section shall be subject to the general penalty provisions of the Code of Ordinances of the City of Tullahoma, Tennessee. (1988 Code, § 2-104)

Prohibiting public consumption, etc., of alcoholic beverages: § 11-101. Visible open containers on streets, etc., prohibited: § 8-223.

<sup>&</sup>lt;sup>1</sup>Municipal code references

# **CHAPTER 2**

# **INTOXICATING LIQUORS**

### **SECTION**

- 8-201. Definitions.
- 8-202. Chapter not applicable to beer.
- 8-203. Adoption of state law.
- 8-204. Adoption of state regulations.
- 8-205. Compliance with state law and regulations.
- 8-206. Applications; certificates of good moral character.
- 8-207. License for retail package business authorized and required; filing application; issuance; fees.
- 8-208. Location restrictions on retailers.
- 8-209. Limitation of number of retail licenses granted.
- 8-210. Bonds of retailers.
- 8-211. Restrictions on license holders and their employees.
- 8-212. License to be displayed.
- 8-213. Transfer of licenses prohibited; term of licenses; use of agents.
- 8-214. New license after revocation.
- 8-215. Expiration and renewal of licenses.
- 8-216. Federal license, effect of.
- 8-217. Inspection fee.
- 8-218. Regulations for purchase and sale of intoxicating liquors.
- 8-219. Retailers not to solicit orders or make deliveries off their premises.
- 8-220. Regulation of retailers.
- 8-221. Failure to pay license or inspection fee, etc.
- 8-222. City recorder and/or board of mayor and aldermen may examine premises, books, papers, etc., of dealers.
- 8-223. Visible open containers on streets, etc., prohibited.
- 8-224. Possession, etc., by minor.
- 8-225. Violations.
- **8-201. Definitions**. Whenever used in this chapter, unless the context requires otherwise, the following terms shall have the respective meanings ascribed to them:
- (1) "Alcoholic beverage or beverage." 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 (2) contain an alcoholic content of five (5) percent by weight, or less.
  - (2) "Federal license." Shall "not" mean tax receipt or permit.
- (3) "Gallon or gallons." A wine gallon or wine gallons, of one hundred and twenty-eight (128) ounces.

- (4) "License." The license issued herein.
- (5) "Licensee." Any person to whom such license has been issued.
- (6) "Manufacture." Distilling, rectifying or operating a winery.
- (7) "Manufacturer." A distiller, vintner, and rectifier.
- (8) "Pint." One-eighth (1/8) of a wine gallon.
- (9) "Quart." One-forth (1/4) of a wine gallon.
- (10) "Retail sale or sale at retail." A sale to a consumer or to any person for any purpose other than for resale.
- (11) "Retailer." Any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.
- (12) "Wholesale sale or sale at wholesale." A sale to any person for purposes of resale.
- (13) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of <u>Tennessee Code Annotated</u>, §§ 57-3-101 through 57-3-110.
- (14) "Wine." The product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one (21) per cent by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominately produced, or an artificial or imitation wine. (1988 Code, § 2-201)
- 8-202. <u>Chapter not applicable to beer</u>. No provision of this chapter shall be considered or construed as in any way modifying, changing or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five (5) per cent or less. (1988 Code, § 2-202)
- **8-203.** Adoption of state law. The general provisions in the state law relating to intoxicating liquors as contained in <u>Tennessee Code Annotated</u>, title 57, are hereby adopted as a part of this chapter and incorporated herein fully by reference. (1988 Code, § 2-203)
- 8-204. Adoption of state regulations. The various regulations promulgated from time to time by the alcoholic beverage commission and department of revenue of the state regarding the sale of alcoholic beverages as herein defined are hereby adopted as a part of this chapter and incorporated herein fully by reference. (1988 Code, § 2-204)
- **8-205.** Compliance with state law and regulations. It shall be unlawful to engage in the business of selling, storing, transporting, or distributing, or to purchase or possess alcoholic beverages within the corporate

limits of this municipality except as provided by <u>Tennessee Code Annotated</u>, title 57, and by rules and regulations promulgated thereunder, as provided in this chapter and as provided by the rules of the alcoholic beverage commission of the state. (1988 Code, § 2-205)

- 8-206. Applications; certificates of good moral character. Every applicant for a license shall submit in duplicate to the board of mayor and aldermen a copy of his application to the alcoholic beverage commission, along with a copy of any supplemental or additional forms required by said commission, and shall request a certificate signed by a majority of the board of mayor and aldermen certifying that the applicants, who are to be in actual charge of said business, and/or are owners of same, are of good moral character and are personally known to a majority of the board of mayor and aldermen, and if a corporation, that the executive officers, all directors, all stockholders and those in control are of good moral character and personally known to a majority of the board of mayor and aldermen, or that the board of mayor and aldermen has made careful investigation of the applicant's general character and from such investigation it is found to be good, and that in the opinion of the majority of the board of mayor and aldermen the applicant will refrain from a violation of the applicable statutes of the state governing sale of intoxicating liquors. A majority of the board of mayor and aldermen may request any applicants hereunder to appear personally before the board and to furnish any additional information desired by the board. (1988 Code, § 2-206)
- 8-207. <u>License for retail package business authorized and required; filing application; issuance; fees</u>. (1) For the retail sale of alcoholic beverages a license may be issued as herein provided. It shall be unlawful for anyone to sell alcoholic beverages within the corporate limits of the city without said retail license as provided herein, and a violation of the provisions of this section shall be treated under the general penalty provisions for this code.
- (2) Any person desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the board of mayor and aldermen for a retailer's license. The application shall be in writing on forms prescribed and furnished by the board of mayor and aldermen.
- (3) Subject to the issuance of a retail license by the alcoholic beverage commission of the state, a majority of the board of mayor and aldermen may issue such retailer's license. Such retailer's license shall not be issued unless and until the applicant therefor shall pay to the city recorder a license fee to two hundred fifty dollars (\$250.00); and no license shall be issued except to individuals or partnerships or corporations, said individuals, or the members and/or stockholders of which partnership or corporation have been, for at least two (2) years, citizens of the city. (1988 Code, § 2-207)

- 8-208. Location restrictions on retailers. No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the board of mayor and aldermen, expressed by a majority thereof, the carrying on of such business at the premises covered by the application for a license would be in too close proximity of a church, school, or public institution, or otherwise inimical to the public interest, considering guide lines for distance as is set out herein. A retailer's license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the board of mayor and aldermen, unless the new location is approved in writing by the board of mayor and aldermen. No retail stores shall be located in any area other than those zoned as "business" and/or "industrial" by the city planning commission. No retail stores shall be in closer proximity to any school (public or private), any community center, any church or religious building, any public library, any hospital, any funeral parlor, or any public recreation area, than three hundred (300) feet measured from the major entrance of said retail store to the major entrance of said aforementioned institutions or facilities by way of the closest route between same over public streets, and not crossing any property lines. No retail store shall be located on either side of the same block as are located the major entrances of any other of the aforementioned institutions and facilities. A majority of the board of mayor and aldermen shall determine, in all cases, whether or not the location at which a license for a retail store is to be granted or is sought, is acceptable under this section. It may consider any relevant facts in regard thereto brought to its attention and may waive any requirements as set out herein, but only in cases of unusual hardship or circumstances. (1988 Code, § 2-208)
- 8-209. <u>Limitation of number of retail licenses granted</u>. Not more than one license shall be issued for each four thousand (4,000) persons or fraction thereof within the corporate limits of the city, according to the last federal or official supplementary census. (1988 Code, § 2-209)
- **8-210.** Bonds of retailers. Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in the state. Bonds of retailers shall be not less than one thousand dollars (\$1,000). Said bonds shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal, or any taxes or fees due from him to the city. (1988 Code, § 2-210)

#### 8-211. Restrictions on license holders and their employees.

(1) The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter. In addition to all other penalties, a violation of this section shall authorize and require the

revocation of the license, the fee for which was paid by another, and also the revocation of the license, if any, of the person so paying for the license of another.

- (2) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissions where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.
- (3) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the concern with which he is connected shall receive a license; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.
- (4) No license shall under any condition be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the state or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.
- (5) No manufacturer, brewer, or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixtures of any such person.
- (6) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed hereunder, unless his interest in said business and the nature, extent, and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the board of mayor and aldermen and approved by a majority of the board. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the

issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

- (7) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.
- (8) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age in such retailer's place of business to engage in the storage, sale, or distribution of alcoholic beverages.
- (9) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgment in infamy has been removed by a court of competent jurisdiction.
- (10) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter.
- (11) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a license shall be a violation of this chapter. (1988 Code, § 2-211)
- **8-212.** <u>License to be displayed</u>. Persons granted a license to carry on the business or undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license. (1988 Code, § 2-212)
- 8-213. Transfer of licenses prohibited; term of licenses; use of agents. The holder of a license may not sell, assign, or transfer such license to any other person, and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. In any case where a licensee is an individual and the individual dies or becomes incapacitated during the term of the license, upon proper application to the board of mayor and aldermen and upon compliance with all regulations hereunder and all applicable laws of the state or regulations of the alcoholic beverage commission of the state, the widow or duly qualified and appointed

personal representative or guardian or conservator of said licensee may be issued a license for said retail establishment for the duration of the term of the original licensee's license. If a partnership, the surviving partner may do likewise, having said license issued to him as an individual. (1988 Code, § 2-213)

**8-214.** New license after revocation. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one year from the date said revocation becomes final and effective.

If the premises are owned by a person not the licensee, the board may, in its discretion, waive the provision of the preceding paragraph or reduce the time within which no new license may be granted with respect to the same premises. (1988 Code, § 2-214)

- 8-215. Expiration and renewal of licenses. Licenses issued under this chapter shall expire at the end of the anniversary year one year after the license has been applied for and granted and the license fee paid; and subject to the provisions of this chapter may be renewed on each anniversary year thereafter by payment of the licensing fee set out in § 8-207. (1988 Code, § 2-215)
- **8-216.** Federal license, effect of. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state and city license shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (1988 Code, § 2-216)
- **8-217.** Inspection fee. There is hereby levied upon every liquor retailer, as defined in Tennessee Code Annotated, § 57-3-101, within the corporate limits of the city, an inspection fee of eight (8) per cent, said fee to be collected by the wholesaler as provided by general law. All fees subject to collection by authority of general law and under this chapter shall be levied and collected in the same manner as specified in the general law. (1988 Code, § 2-217)

# 8-218. Regulations for purchase and sale of intoxicating liquors.

- (1) It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who, to the knowledge of the buyer, does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.
- (2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell alcoholic beverages to anyone other than a licensed retailer, or a licensed wholesaler, provided that such alcoholic beverages sold by one wholesaler to another

wholesaler shall be transported by common carrier or by vehicle owned or leased and operated by either the consignor wholesaler or the consignee wholesaler.

- (3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where any other business is carried on.
- (4)No retail store shall be located except on the ground floor and it shall have one main entrance opening on a public street and such place of business shall have no other entrance for use by the public except as hereinafter provided. When a retail store is located on the corner of two (2) public streets such retail store may maintain a door opening on each of the public streets. Any nonpublic outside doors to said retail stores shall be kept locked from the inside at all times, except when being used for loading or unloading of stock or supplies. Provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public; and provided further, that every retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances; and provided further, when the location of a retail liquor store is authorized to be located or operated within an established shopping center or shopping mall, and said liquor store cannot and does not have a main entrance or door opening onto a public street, but said main entrance or door would open or front on a shopping center parking area. Under such conditions and circumstances, the board in its discretion may approve the issuance of a liquor license to cover said location within the shopping center or shopping mall, irrespective of the fact that said main entrance or door does not or would not open onto a public street. All outside doors to the premises wherein a retail store is located shall be adequately lighted at all times during darkness.
- (5) No holder of a license for the sale of alcoholic beverages for retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit.
- (6) No alcoholic beverages shall be sold for consumption on the premises of the seller, except as provided in §§ 8-101, 8-102, and 8-103.
- (7) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee and curb service is not permitted.
- (8) To the fullest extent consistent with the nature of the establishment, full, free, and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.
- (9) No form of entertainment, including pin ball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold.
- (10) No advertising by a licensee on signs, billboards or posters is permitted within the corporate limits of the city, except that signs either lighted or unlighted, or advertisements of any character, may be erected on the

premises whereupon is located the licensee's retail establishment, or may be attached to the building wherein said retail operations are conducted, or may be painted upon the windows of the building or the outside walls of the building wherein said retail establishment is located provided, however, that said signs shall not in any way interfere with the vision of vehicles traveling upon the streets upon which said retail establishments are located or constitute, in any other manner, a hazard or public nuisance. Provided, further, that any such advertisements or signs or posters erected shall comply with the state alcoholic beverage commission's local option liquor rules and regulations, §§ 1:40, 1:50, 2:40, 2:50, 5, 6, 7, 8 and any other applicable regulations and, as well, shall comply with and not violate any of the laws of the state regulating said advertising and erection of signs, billboards and/or posters. (1988 Code, § 2-218)

- 8-219. Retailers not to solicit orders or make deliveries off their premises. No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This section shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises. (1988 Code, § 2-219)
- **8-220.** Regulation of retailers. (1) No retailer shall directly or indirectly operate more than one place of business for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.
- (2) No retailer shall sell, lend, or give away any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell, lend, or give away such beverages to any person accompanied by a person who is drunk.
- (3) No retailer shall sell, lend, or give away any alcoholic beverages to a person under twenty-one (21) years of age. It shall be the responsibility of the retailer, or his agents or employees, of ascertaining the age of any persons hereunder and, in the absence of false representations by any person under the age of twenty-one (21) years, reasonably relied upon by said retailer, his agent or employees, and any selling, lending, or giving away to persons under twenty-one (21) years of age shall be a violation of this section.
- (4) (a) Sale for consumption on licensed premises. No licensee shall permit alcoholic beverages to be consumed on the licensed premises between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday and between the hours of 3:00 A.M. and 10:00 A.M. on Sunday.

- (b) Sale for consumption off premises. Package sales. Hours of sale as prescribed by the Sate of Tennessee in <u>Tennessee Code Annotated</u>, § 57-3-406(e) and (f) and/or regulations of the Tennessee Alcoholic Beverage Commission as established from time to time shall apply.
- (5) No retailer shall sell, lend, or give away any alcoholic beverages on Christmas, Thanksgiving, Labor Day, New Year's Day or the Fourth of July.
- (6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.
- (7) No persons under the age of eighteen (18) years shall be permitted upon the premises of a retail store, and signs to that effect shall be posted in a conspicuous place by said retailer in said premises.
- (8) Licensees are at all times responsible for the conduct of their business and are at all times directly responsible for any act or conduct of any employee or agent which is in violation of the <u>Tennessee Code Annotated</u> or rules of the alcoholic beverage commission of the state or of this code, whether or not the licensee be present at any such time. Any unlawful, unauthorized or prohibited act on the part of an agent or employee shall be construed as the act of the employer-licensee and the employer-licensee shall be proceeded against as though he were present and had an active part in such unlawful, unauthorized or prohibited act and as if having been at the employer's direction and with his knowledge. (1988 Code, § 2-220, as amended by Ord. #1454, Feb. 2016)
- 8-221. Failure to pay license or inspection fee, etc. Whenever any person licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (1988 Code, § 2-221)
- 8-222. City recorder and/or board of mayor and aldermen may examine premises, books, papers, etc., of dealers. The city recorder and/or board of mayor and aldermen is authorized to examine the premises, books, papers, and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit the examination of any of such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of a license and/or the refusal to issue a license. (1988 Code, § 2-222)

- **8-223.** <u>Visible open containers on streets, etc., prohibited</u>. <sup>1</sup> Visible possession of alcoholic beverage in an unsealed container upon any public street or within any governmental building shall be a violation of this section, except as may be permitted by the city. (1988 Code, § 2-223, as replaced by Ord. #1534, Feb. 2020 *Ch 10 6-22-20*)
- **8-224.** Possession, etc., by minor. (1) It shall be unlawful for any person under the age of twenty-one (21) years to purchase or to attempt to purchase any alcoholic beverages as defined herein; or, except as authorized by state law, to enter a retail liquor establishment within the city; or for any person to purchase any such beverages for a person under twenty-one (21) years of age.
- (2) It shall be unlawful for any person under the age of twenty-one (21) years to have in his or her possession, any alcoholic beverages as defined herein for any purpose except in connection with his or her employment as authorized by state law.
- (3) Such person found guilty of violating any of the provisions of subsections (1) and (2) under the procedure for ascertaining other criminal violations in the city, shall, upon conviction, be fined not less than twenty-five dollars (\$25.00), nor more than fifty dollars (\$50.00). Provided, further, that any person under the age of eighteen (18) years who is arrested and charged with violating any of the provisions of subsections (1) and (2), said violations shall come within the jurisdiction of and be referred to the juvenile court of the county, and said juvenile court shall be requested to hear and dispose of the matter as in any other case coming before the juvenile court as may be authorized under the general statutes of the state relating to juvenile courts or any provision or special act applicable to the county.
- (4) Any citizen who has reason to believe that a violation, as hereinbefore defined, has occurred, may appear before the city judge and make a complaint upon oath as provided in § 1-103, and the procedure for trying said violation shall be as provided in said section. It shall especially be a duty imposed upon retail liquor licensees, their agents and employees, to report any violations of subsections (1) and (2) herein to the proper authorities and to cooperate with said authorities to the fullest extent. (1988 Code, § 2-224)
- **8-225.** <u>Violations</u>. Any violation of the terms of this chapter shall, except as otherwise provided herein, be treated, procedurally, as are all other violations of any ordinance of the city, as provided in title 3 and title 6, and shall be punishable as provided in § 1-107. In addition, in cases where a violation has

Prohibiting public consumption, etc., of alcoholic beverages: § 11-101. Prohibition against permitting any alcoholic beverages in public places where minors are present: § 8-102.

<sup>&</sup>lt;sup>1</sup>Municipal code references

been found to have been committed by a retail licensee, his agents or employees, the board of mayor and aldermen, upon the investigation by such board, or any portion thereof, to whom investigatory powers are delegated, and upon proper notice being given to said violator in order to provide him with an opportunity to be heard on such matters, shall conduct a hearing. For the purpose of this section five (5) days' notice to said retailer shall be deemed proper notice. Upon completion of said hearing a transcript thereof shall be certified by the city judge and forwarded to the alcoholic beverage commission of the state with recommendations of the board as to disposition. (1988 Code, § 2-225)

8-15

#### **CHAPTER 3**

### **BEER**

### **SECTION**

- 8-301. Beer business lawful but subject to regulation.
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- 8-325. Responsible vendor certification for off-premises sale.
- 8-326. Prohibited conduct or activities by beer permit holders.
- 8-327. Investigation of applicants, agents, and/or employees; health card required.
- 8-328. Suspension and revocation of beer permits.
- 8-329. Guidelines for discipline for violation; civil penalty in lieu of suspension.
- 8-330. Beer wholesalers, etc., to deal only with licensed retailers.
- 8-331. Penalty for violation of chapter.
- 8-332. Employees liable for violations of chapter.
- **8-301.** Beer business lawful but subject to regulation. It shall be lawful to transport, store, sell, distribute, possess, receive or manufacture beer of alcoholic content of not more than such weight, volume or alcoholic content

as is allowed by the statutory laws of the State of Tennessee, or any other beverages of like alcoholic content, within the corporate limits of the City of Tullahoma. However, said activities shall be subject to all of the regulations, limitations and restrictions hereinafter provided, and subject to the rules and regulations established by the board of mayor and aldermen and approved by the beer board of the City of Tullahoma, Tennessee. (1988 Code, § 2-301, as replaced by Ord. #1440, Sept. 2013)

- **8-302.** <u>Terms defined</u>. (1) Beer shall mean beer, ale, or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in <u>Tennessee Code Annotated</u>, § 57-3-101.
- (2) Person shall mean any private individual, partnership, joint venture, corporation, and any other business entity or association.
- (3) Premises shall mean on the property owned, leased, or controlled by the permittee and so connected with the beer business in which the permittee is engaged as to form a component or integral part of it, including, but not limited to, the building and the parking areas surrounding it. Premises includes all decks, patios and other well-defined 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 identified in the permit. A permit shall be valid for all decks, patios and other well-defined outdoor serving areas that are contiguous to the exterior of the building in which the business is located, that are operated by the business and only for a business operating under the name identified in the permit.
- (4) Applicant shall mean the person on whose behalf an application for beer permit is filed.
- (5) The pronouns he, him and his shall refer to persons of the female as well as the male gender, as applicable.
- (6) Storage shall mean the storing or possessing of beer or other alcoholic beverages for the purpose of resale by the permit holder. The practice by a private club of maintaining on its premises beer or other alcoholic beverages that have been brought there by a patron shall not constitute unlawful storing of alcohol in violation of any section of this code chapter.
  - (7) Private club shall mean an association that:
  - (a) Has members who pay regular dues for the privilege of membership, whether the club is organized or operated for profit or nonprofit purposes;
  - (b) Owns, hires, or leases a building or space therein for the exclusive use of its members and their invited guests, when accompanied by a member, and not otherwise open to the general public;
  - (c) Requires that a written application for membership be filed at least one (1) week before the applicant is admitted to membership;

- (d) Keeps a current roster of members that shows the date each member filed an application for membership, the date each member was admitted to membership, the dates on which each member has paid membership fees, and the amount of membership fee paid on each date;
- (e) Makes the roster of members available for inspection, during the hours the club is open, by members of the Tullahoma Police Department or any city official designated by the beer board or board of mayor and aldermen; and
  - (f) Applies for, receives, and holds a valid beer permit.
- (8) Certified clerk shall mean a clerk who has successfully satisfied the training requirements contained in this part, and who has received certification from a responsible vendor training program.
- (9) Clerk shall mean any person working in a capacity to sell beer directly to consumers for off-premises consumption.
- (10) Commission shall mean the Tennessee Alcoholic Beverage Commission.
- (11) Responsible vendor shall mean a vendor that has received certification from the commission pursuant to <u>Tennessee Code Annotated</u>, § 57-5-601 et seq.
- (12) Responsible vendor training program shall mean a training program related to the responsible sale of beer for off-premises consumption which has met all the statutory and regulatory requirements set forth in Tennessee Code Annotated, § 57-5-601 et seq.
- (13) TABC shall mean the Tennessee Alcoholic Beverage Commission. (1988 Code, § 2-302, as replaced by Ord. #1440, Sept. 2013)
- **8-303.** Beer board established. There is hereby established a beer board to be composed of the members of the governing body of the City of Tullahoma. The mayor shall serve as chairman of said board. (1988 Code, § 2-303, as replaced by Ord. #1440, Sept. 2013)
- **8-304.** Meetings of the board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings on the second and fourth Monday of each month at city hall to consider all business before the board. The time of the meetings shall be announced to the public. A special meeting of the beer board may be called by its chairman, provided reasonable notice to each board member is given. (1988 Code, § 2-304, as replaced by Ord. #1440, Sept. 2013)
- **8-305.** Record of beer board proceedings to be kept. The city recorder shall be ex officio secretary of the beer board and make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing

and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. The recorder shall also maintain an up-to-date list of the names and addresses of all beer permit holders. (1988 Code, § 2-305, as replaced by Ord. #1440, Sept. 2013)

- **8-306.** Reporting to state authorities. (1) The beer board secretary shall report to the commission the names of the permittee and the name of the employee who are found to be in violation of selling alcohol to a minor within fifteen (15) days from the date of the finding.
- (2) The beer board secretary shall file the annual report with the State of Tennessee as required in <u>Tennessee Code Annotated</u>, § 57-5-605. (1988 Code, § 2-306, as replaced by Ord. #1440, Sept. 2013)
- 8-307. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. (1988 Code, § 2-307, as replaced by Ord. #1440, Sept. 2013)
- **8-308.** Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to establish regulations governing the selling, storing for sale, distributing for sale, giving away, and manufacturing of beer within this municipality in accordance with the provisions of this chapter, and to issue permits related thereto. (1988 Code, § 2-308, as replaced by Ord. #1440, Sept. 2013)
- 8-309. Permit required for engaging in beer business and fees assessed. (1) Permit required. No person shall engage in the storing, selling, distribution, or manufacturing of beer, or other beverages of like alcoholic content, within the corporate limits of the City of Tullahoma until that person shall receive a permit to do so from the Beer Board of the City of Tullahoma. The types of permits that may be issued by the beer board include:
  - (a) A retailer's "off-premises" permit shall be issued to any person engaged in the sale of beer for consumption and not for resale where the beer sold is not to be consumed by the purchaser upon or near the premises of the seller;
  - (b) A retailer's "on-premises" permit shall be issued to any person engaged in the sale of beer where the beer is to be consumed by the purchaser or his guest upon the premises of the seller; and
    - (c) A "special event" permit.
  - (d) A "manufacturer's or distributor's" permit shall be issued to any firm engaged in the manufacture or distribution of beer.

A single permit for both on- and off-premises sales may be issued to an applicant. Permits shall at all times be subject to all of the limitations and restrictions provided under this code and state law and the applicant shall certify that he has read and is familiar with the provisions of this chapter.

- (2) <u>Fee</u>. All applications for the issuance of a beer permit shall be accompanied by an application fee in the amount of two hundred fifty dollars (\$250.00) and an owner/manager background check fee of fifty dollars (\$50.00), for use in offsetting the expenses of processing the application and investigating the applicant. No portion of the fee shall be refunded to the applicant notwithstanding whether the application is approved, however, the board may waive the fee for special event applications.
- (3) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate, or association.
- (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. (1988 Code, § 2-309, as replaced by Ord. #1440, Sept. 2013)
- **8-310.** <u>Applications for retail permits</u>. Each applicant for a beer permit shall be required to complete a formal, written application in a form approved by the beer board. Each application must explicitly and affirmatively state all of the following:
- (1) The location of the premises at which the business shall be conducted.
  - (2) The owner or owners of such premises.
- (3) Names and addresses of all persons, as defined in this chapter, with at least a five percent (5%) ownership interest in the applicant's business.
  - (4) (a) If the applicant is a partnership, a joint venture, or a corporation, the private individual who signs the application shall indicate, in words, that the signature is a valid, binding legal signature "on behalf of the business entity. By such signature, the partnership, the joint venture, or the corporation agrees to be bound by all regulations under this chapter and to be liable for any violations thereof. Where it deems it to be appropriate, the beer board may require the applicant to furnish as a condition of approval a certified copy of a resolution approved by the managing body of the business entity authorizing the individual signing the application on behalf of the business entity to obligate the entity.
  - (b) If the applicant will operate the business through a manager, the name and the address of the manager will be indicated. Any time the applicant/licensee changes managers, it shall notify the beer

board in writing within thirty (30) days of the change and shall supply the name and address of the new manager. If applicant is a corporation, it shall indicate whether it is authorized to do business within the State of Tennessee.

- (5) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant.
- (6) That no sale of such beverages will be made except in accordance with the permit granted.
- (7) That if the application is for a permit to sell, not for consumption on the premises, no sale will be made for consumption on the premises and that no consumption will be allowed on the premises thereof.
- (8) That no sales will be made to persons under twenty-one (21) years of age.
- (9) That the applicant understands it must secure a certificate or a statement from the health department or health officer that the premises which the application covers meet the requirements of § 8-323.
- (10) The application shall be submitted to the city recorder at least fifteen (15) days prior to the beer board meeting at which it is to be considered. The recorder shall notify each member of the beer board of such application prior to the next regularly scheduled meeting.
- (11) Applications shall at all times be kept on file by the city recorder and shall be open to inspection of the general public within the limits of federal, state and local law, and any person, firm, corporation or association knowingly making any false statement in the application shall forfeit his permit or right to a permit and shall not be eligible to receive any permit for a period of one (1) year thereafter.
- (12) No applicant for a beer permit for on- or off-premises consumption shall be issued a permit unless the city recorder has obtained approval of the premises from the building inspector and chief of the fire department, and a background report from the chief of police recommending approval.
- (13) The identity of the person, if different from the applicant, to receive tax notices and other communications from the beer board.
- (14) Any other relevant information as may be required beer board. (1988 Code, § 2-310, as replaced by Ord. #1260, Feb. 2003, and Ord. #1440, Sept. 2013)
- **8-311.** Special event permits. (1) The beer board is authorized to issue special event permits to bona fide charitable, nonprofit or political organizations for special events.
- (2) The special event permit shall not be issued for longer than one (1) forty-eight(48) hour period unless otherwise specified, subject to the limitations on the hours of sale imposed by law. The application for the special event permit shall state whether the applicant is a charitable, nonprofit or political

organization, include documents showing evidence of the type of organization, and state the location of the premises upon which alcoholic beverages shall be served and the purpose for the request of the license.

- (3) For purposes of this section:
- (a) Bona fide charitable or nonprofit organization means any corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.
- (b) Bona fide political organization means any political campaign committee as defined in <u>Tennessee Code Annotated</u>, § 2-10-101(a) or any political party as defined in <u>Tennessee Code</u> Annotated, § 2-13-101.
- (4) No charitable, nonprofit or political organization possessing a special event permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law.
- (5) Failure of the special event permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Tullahoma will result in a denial of a special event beer permit for the sale of beer for a period of one (1) year. (1988 Code, § 2-311, as replaced by Ord. #1353, Aug. 2007, and Ord. #1440, Sept. 2013)
- 8-312. Events not subject to permit; notice required. Any event which is catered and the caterer has a valid TABC license to serve alcohol is not required to obtain a special event permit. For the safety and welfare of the citizens of Tullahoma, the beer board requires prior notice of each event which is catered and not required to obtain a permit. Event coordinators shall furnish to the beer board a copy of the TABC catering liquor license or TABC special occasion license, as applicable, no later than five (5) days prior to the event. (1988 Code, § 2-312, as replaced by Ord. #1353, Aug. 2007, and Ord. #1440, Sept. 2013)
- 8-313. Consideration of permit application; restrictions upon granting permits; denial. (1) No permit shall be issued to sell any beverage coming within the provisions of this chapter:
  - (a) In violation of any provision of the state law or of this chapter.
  - (b) In violation of the Zoning Ordinance of the City of Tullahoma.
  - (c) When any requirement established in this chapter is not fully met.
  - (d) When any permit application fails to meet guidelines established by the beer board in its regulations for consideration and denial of any beer permit.

- (2) The judgment of the beer board on such matters shall be final, except as same is subject to review at law, under <u>Tennessee Code Annotated</u>, § 57-5-108. (1988 Code, § 2-313, as replaced by Ord. #1440, Sept. 2013)
- 8-314. Beer permit shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by the permit. It shall likewise be unlawful not to comply with any and all express restrictions or conditions which may be written into the permit by the beer board. (1988 Code, § 2-314, as replaced by Ord. #1440, Sept. 2013)
- 8-315. Permits not transferable; permitted locations for consumption. (1) A permit shall be valid only for the owner to whom the permit is issued, and under the name identified in the application and cannot be transferred. If the owner is a corporation, a change of ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.
- (2) Except as provided in § 8-312, a permit is valid only for a single location and cannot be transferred to another location. Under an on-premises permit, consumption of beer off or outside the premises is strictly prohibited. A permit is valid for all decks, patios, and other outdoor serving areas contiguous to the exterior of the building in which the business is located and that are operated by and remain under the control of the business. (Ord. #1205, Aug. 1998, as replaced by Ord. #1440, Sept. 2013)
- **8-316. Display of permit**. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder, together with all other permits, licenses, and stamps as required by law. (1988 Code, § 2-316, as replaced by Ord. #1440, Sept. 2013)
- 8-317. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax annually on or before January 1 to the City of Tullahoma. The tax shall be remitted to the City Recorder of the City of Tullahoma. Failure to remit the tax by January 1 shall result in automatic revocation of the license. At the time a new permit is issued to any business that is 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 is due. The tax funds so collected may be used for any valid public purpose. (1988 Code, § 2-317, as replaced by Ord. #1440, Sept. 2013)

- 8-318. <u>Interference</u> with <u>public</u> health, <u>safety</u>, and <u>morals</u> <u>prohibited</u>. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. (1988 Code, § 2-318, as replaced by Ord. #1440, Sept. 2013)
- 8-319. <u>Issuance of permits to persons convicted of certain crimes prohibited</u>. (1) No beer permit shall be issued to any person, firm, corporation, joint stock company, syndicate, or association, when any person having at least a five percent (5%) interest in the applicant business has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or of any felony, or of any crime involving moral turpitude, within the past ten (10) years. For purposes of this section, moral turpitude means an act of baseness, vileness, or depravity in private and social duties owed to someone or to society in general, contrary to accepted rule or right and duty between two (2) or more people.
- (2) Further, a beer permit may be denied where an owner or manager has been convicted of Driving Under the Influence (DUI). Provided, however, that a manager with a DUI conviction may continue such employment if that person is also the holder of a valid server permit issued by the alcoholic beverage commission. (1988 Code, § 2-319, as replaced by Ord. #1353, Aug. 2007, and Ord. #1440, Sept. 2013)
- **8-320.** Issuance of permits to hotels, clubs, etc. It shall be lawful for the beer board to issue a permit for the sale of any beverage coming within the provision of this chapter by hotels, motels, clubs, or lodges, subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions contained in the permit provided by this chapter. (1988 Code, § 2-320, as replaced by Ord. #1440, Sept. 2013)
- 8-321. Retail premises; restrictions as to visibility. To the fullest extent, consistent with the structure of the establishment, full, free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of beer there sold or dispensed. (1988 Code, § 2-321, as replaced by Ord. #1440, Sept. 2013)
- 8-322. <u>Hours of sale</u>. (1) <u>Sale for consumption on licensed premises</u>. No licensee shall permit alcoholic or malt beverages to be consumed on the licensed premises between the hours of 3:00 A.M. and 8:00 A.M. on Monday

through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday. Further all such establishments, excepting private clubs, shall remove all beer from tables by 3: 15 A.M., and thereafter shall close their doors to the public at 3:30 A.M. each day and require all patrons to vacate the premises at that time. Thereafter, no more than six (6) persons may remain on said premises for the purposes of cleanup, except that entertainers employed by the establishment may remain until 4:00 A.M.

(2) <u>Sale for consumption off premises (package sales)</u>. No establishments holding a permit or license from the City of Tullahoma, Tennessee, to sell beer as is defined in this chapter shall sell beer between the hours of 3:00 A.M. and 8:00 A.M., except on Sundays, during which time no beer shall be sold between the hours of 3:00 A.M. and 10:00 A.M. on Sundays. (1988 Code, § 2-322, as replaced by Ord. #1440, Sept. 2013, and Ord. #1455, Feb. 2016)

#### 8-323. Inspection of premises covered by on-premises permits.

- (1) Any person holding a permit under this chapter for sale for consumption on the premises shall keep and maintain the premises in a clean and sanitary condition. The city codes or health officer or any properly authorized person is hereby authorized to enter the premises at all reasonable hours for the making of such inspections as may be necessary. Permittee shall make all changes required by the city codes or health officer within five (5) days of written notice. Failure to comply will result in a citation that may result in a revocation of the beer permit and/or civil penalties.
- (2) For the purpose of assuring compliance with § 8-322, if based on a police officer's observation of traffic or activity within the premises in apparent violation of § 8-322, the police officer shall be provided access to the premises by the permitee or manager. Failure to comply will be reported to the board and may result in a revocation of the beer permit and/or civil penalties. (1988 Code, § 2-323, as replaced by Ord. #1440, Sept. 2013)
- 8-324. Minors; fraudulent evidence of age, etc. It shall be unlawful for any person under twenty-one (21) years of age to purchase, or to have in his or her possession, beer, for any purpose, and it shall be unlawful for any such minor to transport beer for any purpose except the same be in the course of his employment. It shall further be unlawful for any person under twenty-one (21) years of age to present or offer to any permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase such beverages. Any person found guilty of violating the provisions of this subsection shall upon conviction be fined a maximum of fifty dollars (\$50.00) for each offense. Pursuant to Tennessee Code Annotated, § 57-5-301(d)(1)(B)(i), where a person younger than twenty-one (21) years of age but eighteen (18) years of age or older is convicted on the purchase or attempt to purchase or possession of beer, the city court shall prepare and send to the department of safety, driver control

division, within five (5) working days of the conviction an order of denial of driving privileges for the offender. (1988 Code, § 2-324, as replaced by Ord. #1440, Sept. 2013)

8-325. Responsible vendor certification for off-premises sale. Permittees may voluntarily participate in the commission's responsible vendor training program for off-premise sale by complying with the Tennessee Responsible Vendor Act of 2006, set forth in Tennessee Code Annotated, § 57-5-601 et seq. and any rules set forth by the commission. By successfully participating in the program, the permittee shall receive a reduction in penalty for the first offense sale to a minor. The board shall be limited to a civil penalty as specified in § 8-329, and suspension or revocation of the permit shall not be an option. It shall be the permittee's responsibility to provide the beer board staff with a copy of a valid certification within five days of a request by the beer board staff or of a notice of hearing.

Successful completion of the responsible vendor training program includes but is not limited to the following:

- (1) Each clerk must successfully complete a responsible vendor training program within sixty-one (61) days of commencing employment.
- (2) No clerk may sell beer for off-premises consumption unless the clerk successfully completes the responsible vendor training program and has been issued a certificate of completion.
- (3) Each clerk who has successfully completed the responsible vendor training program shall be issued a badge by permittee and worn at all times while on duty.
- (4) Permittee shall provide instruction approved by the commission to all employees including, but not limited to, the laws of the sale of beer for off-premises consumption, methods of recognizing and dealing with underage customers, and procedures for refusing to sell beer to underage customers and for dealing with intoxicated customers.
- (5) Permittees shall require all clerks to attend at least one (1) annual meeting held by the commission regarding responsible vendor policies and procedures as set forth by the commission.
- (6) Permittees shall maintain employment records and all responsible vendor training records of all clerks. (1988 Code, § 2-325, as replaced by Ord. #1353, Aug. 2007, and Ord. #1440, Sept. 2013)

# 8-326. <u>Prohibited conduct or activities by beer permit holders</u>. It shall be unlawful for any beer permit holder to:

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

- (2) Allow any person under twenty-one (21) years of age to have in his or her possession beer for any purpose except in the course of his or her employment.
  - (3) Violate the hours of sale provisions of § 8-322.
- (4) Allow any loud, unusual or obnoxious noises to emanate from his premises.
- (5) Make or allow any sale of beer to a person under twenty-one (21) years of age. The burden of ascertaining the age of customers shall be upon the owner or operator of such place of business.
- (6) Make or allow any sale of beer to any intoxicated person or to any feebleminded, insane, or otherwise mentally incapacitated person.
  - (7) Allow intoxicated persons to remain on his premises.
- (8) Sell on his premises any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight without a permit from the TABC.
- (9) Fail to provide and maintain separate sanitary toilet facilities for men and women.
- (10) Allow the place of business to become a public nuisance or a nuisance to law enforcing agencies of the City of Tullahoma, or create a nuisance or materially contribute to creating or maintaining a public nuisance.
- (11) Allow any sale or delivery of beer for consumption on the premises except as provided in § 8-313(2) and for so long as permittee maintains control of the premises.
- (12) Fail to issue and require employees to wear name badge when certified as a responsible vendor.
- (13) The owner and operator (permittee) shall be held strictly accountable for any actions of his employees which violate any of the above provisions. (as added by Ord. #1353, Aug. 2007, and replaced by Ord. #1440, Sept. 2013 and Ord. #1533, Feb. 2020 *Ch10\_6-22-20*)
- 8-327. <u>Investigation of applicants</u>, <u>agents</u>, <u>and/or employees</u>; <u>health card required</u>. Applicants for a retail permit under this chapter and their agents or employees are subject to be investigated by any municipal, county or state authorities, including members of the beer board, and must submit such information and records as the board may require. In addition, all employees of retail beer permit holders must have a current health card before accepting employment as required by the state public health department for food handlers. (as added by Ord. #1440, Sept. 2013)
- **8-328.** <u>Suspension and revocation of beer permits</u>. (1) All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by the board for the violation of any of the provisions of this chapter or of state law. Complaint, suspension or revocation proceedings may be initiated by the police chief, by any member of the beer board, or by any

citizen. The board is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked. Complaints filed against any permit holder by any citizen for the purpose of suspending or revoking his permit shall be made in writing and filed with the secretary of the beer board.

- (2) When the board shall have reason to believe that any permit holder shall have violated the provisions of the state beer act or any of the provisions of this chapter, the board is authorized to notify the permittee of said violations and to cite said permittee, by written notice, to appear and show cause why the permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee at the address indicated by the permittee either by certified mail, return receipt requested or by a member of the police department of the City of Tullahoma. The notice shall be served upon the permittee at least five (5) days before the date of the hearing.
- (3) The chairman of said board is authorized to compel the attendance of witnesses by subpoena issued by the clerk of the city court. At the hearing the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit.
- (4) The action of the board in all such hearings shall be final. When a permit has been revoked, no new permit shall be issued for the sale of beer at the same location until the expiration of either, one (1) year (three hundred sixty-five (365) days) from the date said revocation becomes final, or, ninety (90) days from the date ownership in the property where the establishment is located changes hands after the date the revocation becomes final. A change in ownership means outside the immediate family of the original individual owners, and further means that no original owner or his immediate family continues to have any interest in a partnership, corporation, or other business entity involved in successor ownership.
- (5) Responsible vendor certification. Should pennittee be certified as a responsible vendor, it is the permittee's responsibility to furnish to the beer board a copy of such certification at least five (5) days prior to the hearing. The beer board staff will check the certification. Upon proof of valid certification, the beer board shall only assess a civil penalty up to one thousand dollars (\$1,000.00), on a first offense sale to a minor. The beer board shall not have the option of suspension or revocation on a first offense sale to a minor.
- (6) Should the beer board determine that a sale to a minor occurred by an off-premises beer permit holder certified under the responsible vendor act, the beer board shall notify the commission within fifteen (15) days of such finding of the name of the permit holder and the clerk. (as added by Ord. #1440, Sept. 2013)

- 8-329. Guidelines for discipline for violation; civil penalty in lieu
- of suspension. (1) Responsible vendors. (a) First offense for sale to a minor: The beer board must offer a permit holder who is qualified as a responsible vendor a civil penalty in an amount not to exceed one thousand dollars (\$1,000.00) per offense, or the maximum penalty allowed by state law for the first offense in a calendar year of making or permitting to be made any sales to minors.
  - (b) Second offense for sale to a minor: The beer board may issue an order of suspension of the beer permit for sixty (60) days for the second offense in a calendar year of making or permitting to be made any sales to minors or for any other second offense. The responsible vendor status will be revoked by the TABC.
  - (c) Third offense for sale to a minor: Upon the third offense in a calendar year of making or permitting to be made any sales to minors, the responsible vendor no longer has responsible vendor status and the beer board may, at its discretion, issue discipline with a permanent revocation and a ban on reapplying for one (1) year.
  - (d) First offense for other violation: The beer board may offer a civil penalty of up to one thousand dollars (\$1,000.00) per any other first time offense.
  - (e) Second offense for other violation: The beer board may issue an order of suspension of the beer permit for sixty (60) days for the second offense for any offense other than a sale to a minor while qualified as a responsible vendor.
  - (f) Third offense: The beer board may issue an order of permanent revocation and a ban on reapplying for a beer permit for one (1) year for the third offense for any offense other than the sale to a minor while qualified as a responsible vendor.
  - (g) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.
- (2) <u>Nonresponsible vendors</u>; all others. The imposition of penalties shall be within the sole discretion of the beer board. The guidelines are meant to insure fairness and consistency among persons charged with the same offense, but the beer board may depart from these guidelines whenever the evidence indicates that particular aggravating or mitigating circumstances exist. The beer board may also add conditions to any penalty including but not limited to probation or additional training of employees.
  - (a) First offense: The beer board may offer a permit holder who is not qualified as a responsible vendor the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for the first offense of making or permitting to be made any sales to minors

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

- (b) Second offense: The beer board may issue an order of suspension of the beer permit for sixty (60) days for the second offense of making or permitting to be made any sales to minors or for any other second offense.
- (c) Third offense: The beer board may issue an order of permanent revocation and a ban on reapplying for a beer permit for one (1) year for the third offense of making or permitting to be made any sales to minors or for any other third offense.
- (d) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (as added by Ord. #1440, Sept. 2013)
- 8-330. Beer wholesalers, etc., to deal only with licensed retailers. It shall be unlawful for any wholesaler, distributor or manufacturer of beer, or any salesman or representative thereof, to sell or deliver beer en route, or from delivery vehicles, to any persons other than the holders of valid retail beer permits. It shall be the duty of such wholesaler, distributor, or manufacturer, or such salesman or representative, to ascertain whether or not such purchaser is a holder of a valid beer permit. (as added by Ord. #1440, Sept. 2013)
- **8-331.** Penalty for violation of chapter. Except as provided specifically elsewhere in this chapter, each day's violation of each or any provision of this chapter by any permit holder, or each sale made in violation of any provision of this chapter shall constitute a separate civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code of fifty dollars (\$50.00) per day per offense. (as added by Ord. #1440, Sept. 2013)
- **8-332.** Employees liable for violations of chapter. Any employee of any permittee who violates the provisions of this chapter or any provision of the State Beer Act while so employed by such permittee shall be guilty of a misdemeanor which shall be punishable by a fine of fifty dollars (\$50.00) per day per offense. (as added by Ord. #1440, Sept. 2013)

### TITLE 9

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

### **CHAPTER**

- 1. MISCELLANEOUS.
- 2. PEDDLERS, ETC.
- 3. CHARITABLE, EDUCATIONAL, AND RELIGIOUS SOLICITORS.
- 4. PRECIOUS METALS AND JEWELRY DEALERS.
- 5. CIRCUSES, CARNIVALS, TENT SHOWS, ETC.
- 6. CABLE TELEVISION.
- 7. ADULT ORIENTED ESTABLISHMENTS.

## **CHAPTER 1**

#### **MISCELLANEOUS**

#### **SECTION**

- 9-101. Casual sale of goods by residents of city.
- 9-102. Closing hours of poolrooms and dance halls.
- **9-101.** <u>Casual sale of goods by residents of city</u>. The permit requirements in this title shall not apply to the casual sale of goods by residents of the city when said sales are conducted on the respective sellers' private residential property, at sales commonly known as "garage sales," "carport sales," "yard sales," etc., if all of the following conditions exist:
- (1) Said casual sales may not be conducted by the same sellers for more than 3 days at any one time, and no more often than one time per month, on the same property.
- (2) Any goods so sold must be the property of the sellers, and which goods have been used by said sellers or were theretofore purchased by said sellers for their personal use.
- (3) Said goods sold shall not have been purchased by said sellers for the purpose of resale. Should one or more of the foregoing conditions not exist, then said casual sales activities shall be subject to permit and other requirements as are herein set forth, and further said sales activities shall be

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

<sup>&</sup>lt;sup>1</sup>Municipal code references

considered as a business and be subject to business tax and other requirements pertaining to businesses in general. (1988 Code, § 5-101)

- **9-102.** Closing hours of poolrooms and dance halls. (1) All poolrooms and dance halls shall be closed not later than 12:00 on Saturday nights. Said poolrooms and dance halls shall remain closed until 8:00 A.M. on the following Monday.
- (2) For the purposes of this section "pool" is defined as follows: A game played on a table with six (6) pockets, using balls and cues. Pool is synonymous with pocket billiards. Further, for the purposes of this section, a "poolroom" is defined as an establishment opened to the public where pool tables are located and where pool is played. This section shall not include establishments where no charges are regularly made to customers or users for playing pool, nor shall it apply to church-related recreation centers where pool tables are located or to publicly owned recreation centers where pool tables are located if in said establishments no charges are made for the playing of pool. (1988 Code, § 5-103)

# **CHAPTER 2**

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

### **SECTION**

- 9-201. Permit required; use by permittee only.
- 9-202. Application for permit; fee.
- 9-203. Issuance or refusal of permit.
- 9-204. Exhibition of permit.
- 9-205. Revocation or suspension of permit.
- 9-206. Reapplication after revocation.
- 9-207. Expiration and renewal of permit.
- 9-208. Exemptions.
- 9-209. Appeal.
- 9-210. Loud noises and speaking devices.
- 9-211. Use of streets.
- 9-212. Regulations and exceptions.
- 9-213. General penalty provisions.
- **9-201.** Permit required; use by permittee only. It shall be unlawful for any peddler, canvasser or solicitor or transient merchant to ply his trade within the city without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. Anyone who should violate the provisions hereof shall be liable under the general penalty provisions of the Code of Ordinances of the City of Tullahoma, Tennessee, and each day that said violation continues shall constitute a separate offense thereunder. (1988 Code, § 5-201)
- **9-202. Application for permit; fee**. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:
  - (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

<sup>1</sup>Municipal code reference

Privilege taxes: title 5.

- (5) The length of time for which the right to do business is desired.
- (6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.
- (7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.
- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.
- (9) The last three (3) municipalities, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.
- (10) At the time of filing the application, a fee as established by ordinance from time to time shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1988 Code, § 5-202, modified)
- **9-203.** <u>Issuance or refusal of permit</u>. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.
- (2) If as a result of such investigation the chief reports the applicant's moral reputation or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.
- (3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-203.
- (4) The city recorder shall keep a permanent record of all permits issued. (1988 Code, § 5-204)
- **9-204.** Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1988 Code, § 5-205)
- **9-205.** Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the governing body after notice and hearing, for any of the following causes:
  - (a) Fraud, misrepresentation, or incorrect statement contained in the application for permit or made in the course of carrying on business by said solicitor, canvasser, peddler, transient merchant, or itinerant vendor.
    - (b) Any violation of this chapter.

- (c) Conviction of any crime or misdemeanor.
- (d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- (2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.
- (3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1988 Code, § 5-206)
- **9-206.** Reapplication after revocation. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1988 Code, § 5-207)
- 9-207. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire thirty (30) days from the date of their issuance and shall be renewed only under the same terms and conditions as an original permit is issued. An application for renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1988 Code, § 5-208)
- 9-208. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, not to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, educational, patriotic, or philanthropic organizations. Further, the terms of this chapter shall not apply to farmers selling produce at a farmer's market conducted upon private property, or to farmers and/or produce growers selling produce on non-residential, public property from vehicles so long as all traffic requirements and other requirements of the City of Tullahoma, Tennessee, are not violated. Nor shall this chapter apply to craftsmen selling homemade goods from vehicles on non-residential, public property so long as all traffic requirements and other requirements of the City of Tullahoma are met, nor shall this chapter apply to the casual sale of Christmas trees by charitable organizations when said sales are conducted on private or public property, by permission, in non-residential areas of the city. (1988 Code, § 5-209)

- 9-209. Appeal. Any person aggrieved by the action of the chief of police or the city recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1988 Code, § 5-210)
- **9-210.** 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 of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (1988 Code, § 5-211)
- 9-211. <u>Use of streets</u>. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1988 Code, § 5-212)
- 9-212. <u>Regulations and exceptions</u>. Except as provided hereinafter, no permittee shall be allowed to conduct any of the activities regulated by this chapter or to distribute any articles or materials or documents to the public at large upon the right-of-way of Jackson Street anywhere within the city limits of the City of Tullahoma, Tennessee, or upon the right-of-way of any street which intersects therewith within twenty (20) feet of the outer right-of-way of the said Jackson Street; provided, however, that this provision shall not apply to activities conducted during the annual Christmas Parade sponsored by the Tullahoma Chamber of Commerce.

Activities regulated by this chapter shall be allowed subject to the following provisions:

- (1) A permit must be obtained, pursuant to rules promulgated by the chief of police;
  - (2) Participants must wear reflective-colored vests;

- (3) Participants must hold their position and not approach vehicles until motioned to do so;
  - (4) Only one organization shall be given a permit on any one day;
- (5) Activities regulated hereby may be conducted only between 7:30 A.M. 3:30 P.M. maximum;
- (6) A maximum of 2 permits per year for any one organization shall be issued:
- (7) Participants must be at least eighteen (18) years of age; if less than 18 years of age, one adult shall be present for each two (2) participants under 18 years of age;
- (8) Each participant must provide visible identification of their organization;
  - (9) Streets must be dry;
- (10) There shall be a limit of eight (8) participants at any one intersection:
  - (11) A listing of corner participants are to work shall be provided;
  - (12) Permits for Jackson Street shall not be issued;
- (13) Participants at intersections of streets at Jackson Street must stand twenty (20) feet from Jackson Street's outer rights of way limits;
  - (14) Additional rules may be adopted by the chief of police.

No permittee may move from a sidewalk into a line of traffic for the purpose of distributing goods or information or conducting any other activities regulated hereby.

No permittee shall offer any information or merchandise from sidewalks to individuals in vehicles on any city street. (1988 Code, § 5-213)

**9-213.** <u>General penalty provisions</u>. Anyone who shall violate the provisions of this title and chapter shall be subject to the general penalty provisions of the code of ordinances of the City of Tullahoma, Tennessee found in § 1-107 of said code. (1988 Code, § 5-214)

# CHARITABLE, EDUCATIONAL, AND RELIGIOUS SOLICITATIONS

## **SECTION**

- 9-301. Solicitation on public streets prohibited.
- 9-302. Definitions.
- 9-303. Regulations and exceptions.
- 9-304. [Deleted.]
- 9-305. [Deleted.]
- 9-306. [Deleted.]
- 9-307. [Deleted.]
- 9-308. [Deleted.]
- 9-309. [Deleted.]
- **9-301.** Solicitation on public streets prohibited. All solicitations and solicitations roadblocks on public streets and right of ways shall be prohibited, except as provided below in § 9-303 and a violation of this section, punishable under the general penalty clause of the municipal code of the City of Tullahoma, Tennessee found in § 1-107 of said code. (1988 Code, § 5-301, as replaced by Ord. #1398, Feb. 2010)
- **9-302. Definitions**. The following terms shall apply in this interpretation application of this section:
- (1) "Solicitation roadblock" shall mean the solicitation of money by any person of money on or in the right-of-way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in or upon motor vehicles.
- (2) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right-of-way extending laterally therefrom, dividers, medians, and butting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic. (1988 Code, § 5-302, as replaced by Ord. #1398, Feb. 2010)
- **9-303.** <u>Regulations and exceptions</u>. Except as provided herein after, no permittee shall be allowed to conduct any of the activities regulated by this chapter or to distribute any articles or materials or documents to the public at large upon the right-of-way of any street except as otherwise provided for herein: provided, however, that this provision shall not apply to the activities conducted during the annual Christmas Parade sponsored by the Tullahoma Chamber of Commerce.

Activities regulated by this chapter shall be allowed subject to the following provisions:

- (1) A permit must be obtained, pursuant to rules promulgated by the chief of police;
- (2) Participants must wear protective colored vests and must be at least eighteen (18) years of age;
- (3) Participants must hold their position and not approach vehicles until motioned to do so;
- (4) Only one (1) organization shall be given a permit on any one (1) day;
- (5) Activities shall be conducted only on the second (2nd) and fourth (4th) Saturday of each month, unless authorized by the chief of police, but no more than two (2) times per month;
- (6) Activities of any such organization shall be limited to the times between dawn and 1:00 P.M.;
- (7) At least two (2), but not more than four (4) adults shall be allowed at each appropriate intersection us provided for herein below;
- (8) All such solicitations shall be limited to any approved all way stops as determined by the chief of police or city administrator;
- (9) Only non-profit charities that directly benefit the Tullahoma community will receive permits for solicitation;
- (10) Proper signage for any charity shall be clearly visible to the public during solicitation activities;
- (11) City employees may participate but must not be in city uniforms or using city property including, but not limited to, city vehicles;
- (12) All participants must show proof of insurance at the time any such permit is issued;
- (13) Police chief, has the responsibility and authority to deny or revoke any solicitation permit if, in his opinion, conditions are unsafe (inclement weather, etc.), there is a violation of this chapter, or for any other reason he deems it in the best interest of the community;
- (14) Rules shall be provided to solicitors. An authorized representative from the nonprofit organization must sign that he/she has received and understands the rules promulgated herein above;
- (15) No more than one (1) permit per year shall be issued to any such organization as described herein above. (1988 Code, § 5-303, as replaced by Ord. #1398, Feb. 2010)
- **9-304.** [Deleted.] (1988 Code, § 5-304, modified, as deleted by Ord. #1398, Feb. 2010)
- **9-305.** [Deleted.] (1988 Code, § 5-305, as deleted by Ord. #1398, Feb. 2010)
- **9-306.** [Deleted.] (1988 Code, § 5-306, as deleted by Ord. #1398, Feb. 2010)

- **9-307.** [Deleted.] (1988 Code, § 5-307, as deleted by Ord. #1398, Feb. 2010)
- **9-308.** [Deleted.] (1988 Code, § 5-308, as deleted by Ord. #1398, Feb. 2010)
- **9-309.** [Deleted.] (1988 Code, § 5-309, as deleted by Ord. #1398, Feb. 2010)

# PRECIOUS METALS AND JEWELRY DEALERS

## **SECTION**

- 9-401. Dealers shall register.
- 9-402. Holding period for items purchased.
- 9-403. Log or register requirements.
- 9-404. Tag requirements.
- 9-405. Penalty.
- 9-406. Business tax, bond, and forfeiture.
- **9-401. Dealers shall register**. (1) Any person, firm, or corporation purchasing or otherwise dealing in antique, used silverware, or scrap jewelry and precious metals, where the said purchase is for resale in its original form or as changed by remounting, melting, reforming, remolding, or recasting or for resale as scrap or in bulk, shall be required to register with the Chief of Police of the City of Tullahoma. The police department shall photograph all registrants; and in the case of corporations, the manager and employees of the business activity in Tullahoma, Tennessee.
- (2) The provisions of this act shall not be applicable to any person, firm or corporation purchasing or otherwise dealing solely in coins. (1988 Code, § 5-401)
- **9-402.** Holding period for items purchased. It shall be unlawful for any person or corporation engaging in the activity described in § 9-401 hereof, to sell, exchange, barter or remove from the place in which said business is conducted, or to hide same from view or inspection by a law enforcement officer, or to change the form of any of said items by remounting, melting, cutting up, or otherwise changing the form of any of said items for a period of one hundred sixty-eight (168) hours from the date and time of said purchase. (1988 Code, § 5-402)
- 9-403. Log or register requirements. Every person or corporation dealing in the items described above shall keep a log in duplicate and shall enter on said log a clear and accurate description of any items of jewelry or precious metals, silverware, purchased and the date and time of purchase and amount of money paid for said items and the name, race, and residence and address of the seller. The seller and the purchaser shall sign the log below the description of each transaction. On each day the purchaser shall transact business of the type described herein, he shall deliver to the chief of the Tullahoma city police a copy of the log concerning that day's business, and said copy of said log shall be delivered by noon of the day following the date of said transaction. The said book shall be carefully preserved without alteration and shall at all times be

open to the inspection of the chief of the Tullahoma city police, any police officer of the city, and sheriff or any deputy sheriff. The dealer shall record the seller's driver's license number on the log and shall verify the identity of the seller through another additional means, listing same in the log. (1988 Code, § 5-403)

- **9-404.** Tag requirements. In addition to the log requirements set forth herein, every person or corporation dealing in the items described herein shall place a tag with identifying number on each article or item purchased, placing the name, race, and residence and address of the seller on said tag, along with the seller's signature on each tag. The number on the tag shall be placed in the log or register mentioned above beside the seller's name. There shall be no duplicate numbers placed on articles purchased. Tags shall remain attached to the article purchased for the same period mentioned above. (1988 Code, § 5-404)
- 9-405. Penalty. Every person, firm, or corporation, their agents, or employees who shall violate any of the provisions of this chapter shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined a sum of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00) for each offense and in the discretion of the court may be imprisoned in the county workhouse for a period of time not exceeding ninety (90) days, if the court has jurisdiction to fine in excess of fifty dollars (\$50.00), or to impose imprisonment. In addition, any guilty person, firm, or corporation shall be barred from engaging, participating, or working in any similar business within the City of Tullahoma for a period of one (1) year, and shall be subject to the bond forfeiture provisions hereof. (1988 Code, § 5-405)
- **9-406.** Business tax, bond, and forfeiture. (1) Business activities regulated by this chapter shall be subject to the business tax act.
- (2) Before a person or corporation may engage in activities described herein the person or corporation must deposit with the city recorder one thousand dollars (\$1,000.00) cash, or a bond of one thousand dollars (\$1,000.00) with security satisfactory to the city recorder. The cash or bond shall remain with the city recorder until any such person or corporation has conformed with the provisions of this chapter for ten (10) business days. After compliance with the ten-business-day period, a lapse of business activity for twenty (20) calendar days shall be treated as a termination of the business. If the dealer fails to conform with the requirements of this chapter, the dealer shall forfeit the one thousand dollars (\$1,000.00) aforementioned. This forfeiture shall be in addition to any penalty provided for herein. If the dealer or sureties on his/her bond desire to contest the forfeiture, the appeal procedure shall be as set forth in subsection (3) below.
- (3) A forfeiture of the one thousand dollars (\$1,000.00) cash or the one thousand dollars (\$1,000.00) bond shall become and be effective twenty-four (24) hours from the time of notice in writing of such forfeiture, together with a

succinct statement of grounds or reasons therefor. Such notice shall be sufficient if delivered to the place which the registrant listed as his place of business and if the place be locked or closed for business, by posting a copy on the door of the main entrance thereto. Provided, however, the registrant may request, in writing, a hearing with the city recorder within said twenty-four-hour period and the forfeiture shall not become effective prior to the hearing. In addition to the request for a hearing, in order to appeal the registrant must deposit with the city recorder a one hundred fifty dollar (\$150.00) court reporter fee within said twenty-four-hour period. The one hundred fifty dollar (\$150.00) fee shall be for the purpose of defraying the expense of a court reporter in attending and transcribing the proceedings before the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee. Said funds shall be applied to the actual expenses of the court reporter. Any portion of said funds not actually used for said purpose shall be refunded to the The board of mayor and aldermen may appoint a judge or commission to hear appeals in lieu of hearings before the board of mayor and aldermen. (1988 Code, § 5-406)

# CIRCUSES, CARNIVALS, TENT SHOWS, ETC.

## **SECTION**

- 9-501. Permit required.
- 9-502. Sponsor required.
- 9-503. Cash bond to be posted.
- 9-504. Compliance with health and sanitary standards.
- 9-505. When board's approval is required.
- **9-501.** Permit required. All circuses, carnivals, tent shows, and other outdoor public entertainment attractions the operators of which wish to set up facilities and to maintain entertainment programs within the city shall obtain a permit therefor. Not less than thirty (30) days prior to conducting such activity, such person shall apply to the city recorder for a permit, making such application upon whatever forms are designed by and approved by the city recorder for said purpose. The sponsoring organization set out in § 9-502 hereof shall join in said application. (1988 Code, § 5-501)
- **9-502.** Sponsor required. Any of said organizations aforementioned seeking to apply for a permit must be sponsored by a local civic organization, church, or other defined group maintaining its offices and membership in the city. (1988 Code, § 5-502)
- 9-503. Cash bond to be posted. Any of said aforementioned organizations wishing to conduct public entertainment programs in the city shall post a cash bond with the city recorder at such time as the application for permit is made, to insure that all the premises occupied by said group or organization shall be placed in a clean and orderly condition after its operation, the amount of said cash bond to be established by the city recorder at the time of said application for permit. This cash bond will be refunded upon certification by the superintendent of public works after said premises are cleaned and cleared that same have been placed in a good condition. If said premises are not cleaned and cleared, the cash bond will be forfeited to pay the expenses of placing said premises in a clean and orderly condition. (1988 Code, § 5-503)
- 9-504. Compliance with health and sanitary standards. Any of said aforementioned organizations when conducting their operations in the city shall comply with all health and sanitary standards and regulations, including installation of portable toilet facilities, and must be inspected and approved by the county health officer prior to assuming operations. In the event that compliance is not had and made, then said permit previously issued will be

temporarily suspended until such time as full compliance with said health and sanitary standards and regulations are fully met. (1988 Code, § 5-504)

**9-505.** When board's approval is required. Approval by the board of mayor and aldermen of an application for a permit to conduct any circus, carnival, tent show or other activity is required in any case where the applicant desires to establish its activities and/or facilities at any location which requires or will result in the obstruction of traffic over and upon any city street or alley. (1988 Code, § 5-505)

# **CABLE TELEVISION**

## **SECTION**

9-601. To be furnished under franchise.

**9-601.** To be furnished under franchise. Cable television service shall be furnished to the City of Tullahoma and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Tullahoma and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #1044 dated January 13, 1992, as amended by Ord. #1091 dated November 8, 1993; Ord. #1216 dated July 26, 1999; and Ord. #1242 dated March 12, 2002 published as Appendix E of this municipal code.

#### ADULT ORIENTED ESTABLISHMENTS

## **SECTION**

- 9-701. Adult-Oriented Establishment Registration Act adopted.
- 9-702. Special provisions relative to the location of adult oriented establishments.
- 9-703. Adult-oriented establishments; supplementary regulations.
- 9-701. Adult-Oriented Establishment Registration Act adopted. All of the provisions set forth in <u>Tennessee Code Annotated</u>, § 7-51-1101, <u>et seq</u>. and all of the definitions found therein, which is entitled "Adult-Oriented Establishment Registration Act of 1998" are incorporated herein by reference as though same were fully set forth herein, and, further that all provisions set forth in <u>Tennessee Code Annotated</u>, § 7-51-1401, <u>et seq</u>. and all definitions found therein are also incorporated herein by reference as though same were fully set forth herein. (Ord. #1223, Feb. 2000)
- 9-702. Special provisions relative to the location of adult oriented establishments. (1) Purpose. The special provisions set forth herein are intended to protect the health, safety, morals and general welfare of the city.
- (2) <u>Location</u>. Adult oriented businesses are permitted only in I-2 Heavy Industrial Districts.
  - (a) No adult-oriented establishment shall be operated or maintained in the city within one thousand (1,000) feet, measured from property line to property line, of a school or educational or school related facility, church or religious or church related or church operated facility, public or other recreation facility, or a not for profit educational or scientific facility, or a cemetery, or a licensed day care facility, or a day-care drop off facility recognized by the State of Tennessee.
  - (b) No adult-oriented establishment shall be operated or maintained in the city within one thousand (1,000) feet, from property line to property line, of a boundary of a residential zone.
  - (c) No adult-oriented business establishment shall be operated or maintained in the city within one thousand (1,000) feet, measured from property line to property line, of another adult-oriented business establishment. (Ord. #1223, Feb. 2000)

<sup>&</sup>lt;sup>1</sup>The provisions of this section were taken from Ord. #1223, Feb. 2000, § 3, which amended Article V Section 3C of the Zoning Ordinance of the City of Tullahoma, Tennessee.

9-703. Adult-oriented establishments; supplementary regulations.

All adult-oriented establishments as same are defined in the provisions of <u>Tennessee Code Annotated</u>, § 7-51-1101, <u>et seq.</u>, shall be subject to the following supplementary regulations in addition to any other regulations appearing in this code of ordinances or any appendices thereto:

- (1) <u>Hours of operation</u>. Such establishments may be open for business between the hours of 10:00 A.M. and 10:00 P.M. Monday through Saturday only, excepting Christmas Day should it fall on a Monday through Saturday, and excepting all Sundays.
- (2) <u>Gratuities</u>. No patron and/or customer of said establishments may pay to:
  - (a) Performers and/or
  - (b) Employees and/or
  - (c) Independent contractors and/or
- (d) Others who are performing in said establishments, any gratuities, nor shall any type of gratuity be accepted by said performers. (as added by Ord. #1225, April 2000)

# **TITLE 10**

# ANIMAL CONTROL

## **CHAPTER**

- 1. IN GENERAL.
- 2. DOGS; RABIES CONTROL.

#### CHAPTER 1

#### IN GENERAL

#### SECTION

- 10-101. Cruelty to animals.
- 10-102. Keeping livestock and farm animals.
- 10-103. Swine prohibited.
- 10-104. Goats prohibited.
- 10-105. Disposition of animal carcasses--time limit.
- 10-106. Burial.
- 10-107. Livestock at large; prohibited; impounding; sale.
- 10-108. Domestic fowl and other exotic game birds.
- 10-109. Fast riding or driving of animals.
- 10-110. Keeping in such a manner as to become a nuisance prohibited.
- 10-111. Number of dogs and/or cats, acreage restrictions.
- 10-112. Wild or dangerous exotic animals.
- 10-113. Traps provided to citizens.
- **10-101.** <u>Cruelty to animals</u>.<sup>1</sup> (1) No person shall intentionally or willfully or knowingly kill, maim, torture, beat, torment, grossly overwork or overload or cause any of the actions stated herein to be committed to or against any animal.
- (2) No person shall fail unreasonably or cause another person to fail unreasonably to provide adequate food, water, care or shelter to any animal in the person's custody or to abandon any animal in the person's custody.
  - (3) No person keeping an animal shall fail to provide for that animal:
    - (a) Clean, sanitary, and humane conditions.
    - (b) Sufficient daily quantities of food and fresh water.
    - (c) Proper air ventilation and circulation.
  - (d) Necessary veterinary care when it is sick, diseased or injured.

<sup>1</sup>Municipal code reference

Protection for dogs: § 10-210.

- (e) Annual inoculations, as recommended by a veterinarian, against disease infectious to humans or animals.
- (4) No person shall fail unreasonably to provide any animal with shelter from the elements, including heat, cold, wind, rain, snow or excessive direct sunlight. If an animal is housed outside, a structure for shelter and protection must be provided that is suitable for the species, age, condition, size, and type of that animal. The structure must be:
  - (a) Enclosed, having a single entrance/exit.
  - (b) Moisture-resistant, wind-resistant, and of suitable size and type to allow the animal to stand, turn about freely, lie in a normal position, and regulate proper body temperature.
  - (c) Made of a durable material with a solid, moisture-proof floor and a floor raised at least two inches (2") from the ground. Suitable drainage shall be provided so that water cannot be reasonably expected to gather and stand within ten feet (10') of the structure, and so the animal has access to a dry area at all times. Proper bedding of straw or similar material, that remains dry, must be utilized inside the structure.
- (5) When pet tethering is employed no person shall allow any animal to remain confined in such a manner as to unreasonably restrict the animal's ability to move. For purposes of this subsection, "tether" means a cable, cord, or similar device used to attach an animal to a stationary device, but does not include chains. No person shall allow any dog to remain tethered unless all of the following conditions are satisfied:
  - (a) The tether is not unreasonably heavy in proportion to the weight of the animal.
  - (b) A swivel is located at both ends of the tether and the tether is free of tangles.
  - (c) The collar or harness on the animal to which the swivel is attached is properly fitted and is a collar or harness that is commonly recognized as a pet collar or harness (choke and pinch collars are not permitted).
    - (d) The tether is not less than fifteen feet (15') in length.
    - (e) Chains shall be prohibited for use as a tethering device.
  - (f) The animal is not outside during a period of extreme weather, including without limitation a heat index of ninety-five degrees Fahrenheit (95° F) or above as determined by the National Weather Service, freezing temperatures, thunderstorms, or tornados.
  - (g) The animal has access to water, shelter, and dry ground at all times, and has access to adequate food.
  - (h) The animal is at least six (6) months of age and has a current rabies vaccination.
    - (i) The animal is not sick, injured, or in heat (estrus).
  - (j) Pulley, running line, or trolley systems are at least fifteen feet (15') in length and are not less than six feet (6') above the ground.

- (k) If there are multiple animals, each animal must be tethered separately.
- (l) The tethering device shall allow the tethered dog to lie down comfortably at all positions of tether.
- (6) No person shall administer any poisonous or noxious substance to any animal or expose any such substance with intent that the same shall be taken by an animal, whether such animal be the property of himself or another, except when the animals exposed or administered such substances are rodents or other animals which pose a significant health hazard to the public.
- (7) <u>Penalty provisions</u>. It shall be unlawful for anyone to violate any of the provisions hereof or be in noncompliance with the provisions hereof and anyone who shall do so shall be subject to the general penalty provisions found in § 1-107 of the code of ordinances of the City of Tullahoma, Tennessee. Provided, however, that this provision does not replace the criminal offense penalties contained in <u>Tennessee Code Annotated</u>, § 39-14-202, pertaining to cruelty to animals, which penalties shall control in the event of any conflicts with § 1-107 of the city code of ordinances.
- (8) <u>Forfeiture of animal</u>. In the event the court finds that a violation of the provisions of this section has occurred, the court may order that said animal be forfeited to the animal control division of the city, acting under the direction of the public works director, to be held and disposed of pursuant to the applicable provisions of the code of ordinances of the City of Tullahoma relative to animals collected by city employees.
- (9) Should any provisions herein shall be deemed to conflict with the provisions of <u>Tennessee Code Annotated</u>, § 39-14-202, then the provisions of <u>Tennessee Code Annotated</u> shall prevail and take precedence. (1988 Code, § 3-101, as replaced by Ord. #1348, Dec. 2006, and Ord. #1452, Oct. 2015)
- **10-102.** <u>Keeping livestock and farm animals</u>. (1) Any barn, pen, corral, yard or other enclosure or appurtenance thereof in which any farm animal and/or livestock shall be kept, or any other place within the city in which manure or other discharges of farm animals and/or livestock shall accumulate, and which is maintained in any unsanitary condition, allowing offensive odor to escape therefrom, or providing an insect or rodent attractant, is hereby deemed a public nuisance and prohibited.
- (2) The keeping of farm animals and/or livestock of any species shall not be permitted on any parcel located within a residential district except those parcels located in an R-1, Low Density Residential District, or R-1A and R-1AA, Single Family Residential District, and have a total land area greater than or equal to four (4) acres for one (1) parcel of land. The keeping of farm animals and/or livestock of any species shall be permitted in all agricultural districts.
- (3) The number of farm animals and livestock of any breed kept on a given lot shall not exceed the ratio of one (1) horse or one (1) cow per two and one-half (2  $\frac{1}{2}$ ) acres on any parcel equal to or in excess of four (4) acres, or four

- (4) sheep, llamas, and alpacas, per acre on any parcel equal to or in excess of four (4) acres. Horses shall include ponies, mules, burros, and donkeys. In determining the number of livestock permitted, only horse six (6) months or older in age and cattle, sheep, llamas, and alpacas one (1) year old shall be counted. In addition, in determining the number of livestock or farm animals permitted not noted above, or when combining animals allowed, the maximum ratio of animals to land of four (4) animals per acre shall be maintained except for cows and horses which shall not exceed one (1) animal per two and one-half (2 ½) acres. (1988 Code, § 3-102, as replaced by Ord. #1348, Dec. 2006)
- 10-103. Swine prohibited. (1) It shall be unlawful for any person to keep, harbor or confine any animal of the swine species or type within the city, except the keeping and harboring of certain species of Vietnamese Pot bellied pigs and like species of swine for the sole purpose of pets shall be allowed. Provided, however that no owner(s) shall have more than four (4) adult pigs (age six (6) months or older) per household at any one time. These pets shall be harbored as household pets, kept primarily in the residence of the owner and not utilized for any agricultural or commercial purpose. They shall be kept on a leash when off the owner's premises.
- (2) The provisions of this section shall not apply to hogs brought into and through the city by farmers, owners or dealers for the purpose of marketing or shipping the same. (1988 Code, § 3-103, as replaced by Ord. #1348, Dec. 2006)
- **10-104.** <u>Goats prohibited</u>. (1) It shall be unlawful for any person to keep, harbor or confine any goat within the city.
- (2) The provisions of this section shall not apply to goats brought into and through the city by farmers, owners, or dealers for the purpose of marketing or shipping the same. (1988 Code, § 3-104, as replaced by Ord. #1348, Dec. 2006)
- **10-105.** <u>Disposition of animal carcasses--time limit</u>. It shall be unlawful for the owners or others having care or custody of any animal which shall die or be found dead, to fail to remove the same or cause the same to be removed and lawfully disposed of within six (6) hours from the time the animal dies or is found dead, except in case it is found dead after 6:00 P.M., when it shall be removed within six (6) hours from 6:00 A.M. next following. (1988 Code, § 3-105, as replaced by Ord. #1348, Dec. 2006)
- **10-106.** <u>Burial</u>. It shall be unlawful for any person to bury any dead animal within the city, or to deposit the same upon the surface of the ground or throw it into any river, creek or other stream, or any well, cistern, cellar or other excavation, or in any sewer, culvert, or other such place, or in any way to unlawfully leave or dispose of such animal within the city; provided, however,

the public works director is empowered to permit the disposal of such animals within the city under such regulations as may be prescribed, that will not be detrimental to the public health or comfort, but only under a permit designating the place and manner of disposal. (1988 Code, § 3-106, as replaced by Ord. #1348, Dec. 2006)

- 10-107. <u>Livestock at large; prohibited; impounding; sale</u>. (1) It shall be unlawful for the owner or others having care or custody of any horses, mules, hogs, goats, sheep, or any cattle or stock to knowingly permit the same to be at large upon the public streets, highways, alleys, parks, and other public places within the city.
- (2) It shall be the duty of the animal control officer or other designated employees of the city to take up any animals found at large within the city in violation of this section, and confine such animals in a pound or other appropriate place for five (5) days, giving notice of the same in writing, if the owner can be identified.
- (3) If within that time, the owners of such animals shall call for same, they shall be delivered to them upon the payment of the fee for each animal so taken up and the cost of keeping and feeding same as prescribed in appendix C in this code.
- (4) If no person claims such animal within five (5) days, such animal shall be sold by the public works director or other designated employee of the city and the proceeds of the sale to be applied to the impounding fee and costs of keep; the remainder, if any, to be paid to the owner of such animal, if known, otherwise, to be paid into the city treasury. (1988 Code, § 3-107, as replaced by Ord. #1348, Dec. 2006)
- **10-108.** Domestic fowl and other exotic game birds. (1) It shall be unlawful for the owners or others having care and custody of any chickens, ducks, geese and other domestic fowl and exotic game birds to permit same to be at large on any private property, including that of the owners or those having the care and custody of same, or on any public street, highway, alley, park, and other public places and ways within the city.
- (2) Such domestic fowl and exotic game birds shall be confined in a coop or fowl house not less than eighteen (18) inches in height. The fowl must be kept within the coop or fowl house at all times. The coop or fowl house must be used for fowl only, and must be well ventilated. The coop or fowl house shall have a minimum of four (4) square feet of floor area for each fowl. The run must be well drained so there is no accumulation of moisture. The coop or fowl house shall be kept clean, sanitary, and free from accumulation of animal excretion and objectionable odors. The coop or fowl house shall be cleaned daily and all droppings and body excretion shall be placed in a flyproof container (such refuse shall not be placed in containers for city solid waste collection). The coop or fowl house shall be a minimum of twenty-five (25) feet from any property line. All

portable coops or fowl houses including, but not limited to, pens, cages, crates, etc., shall not be located closer than twenty-five (25) feet from the side or rear property line.

- (3) No more than twenty (20) such fowl or exotic game bird(s) shall be kept or maintained per acre with the number of fowl proportionate to the acreage. In determining the number of domestic fowl permitted, only fowl six (6) months or older in age shall be counted. No domestic fowl or other exotic game birds shall be kept or maintained on a parcel of land less than five (5) acres in total area for one parcel of property.
- (4) The raising of domestic fowl and other exotic game birds shall not be permitted within any residential district as defined by the **Zoning Ordinance for the City of Tullahoma and the Official Zoning Map for the City of Tullahoma** except those parcels located in an R-1, Low Density Residential District, or R-1A and R-1AA Single Family Residential Districts, greater than or equal to five (5) acres in total land area for one parcel of property. The raising of domestic fowl and other exotic game birds shall be permitted in all agricultural districts as defined in the **Zoning Ordinance for the City of Tullahoma and the Official Zoning Map for the City of Tullahoma**. (1988 Code, § 3-108, as replaced by Ord. #1348, Dec. 2006)
- **10-109.** <u>Fast riding or driving of animals</u>. It shall be unlawful for any person to ride or drive any beast of burden in any highway, thoroughfare or other public place, more rapidly than or beyond a moderate gait, unless in case of urgent necessity, or to ride or drive any such animal so as to cause such animal, or any vehicle thereto attached, to come in collision with or strike any other object or any person. (1988 Code, § 3-109, as replaced by Ord. #1348, Dec. 2006)
- **10-110.** <u>Keeping in such a manner as to become a nuisance</u> <u>prohibited</u>. It shall be unlawful for any person to allow any animal or fowl to be kept in such a place or condition or allow same to do or commit any acts which shall become a nuisance either because of noise, odor, contagious disease, damage to the property of others, or for any reason constituting a nuisance and annoyance to persons other than the owners of said animal or fowl as defined in § 10-201(7). Anyone who shall violate the provisions hereof shall be subject to the general penalty provisions in the code of ordinances of the City of Tullahoma, Tennessee. (as added by Ord. #1238, March 2001, and replaced by Ord. #1348, Dec. 2006)
- 10-111. <u>Number of dogs and/or cats, acreage restrictions</u>. The following prescribes the total number of dogs and/or cats or combination thereof allowed per specified acreage restrictions:

Less than one and one-half (1.5) acres - Up to six dogs (6) dogs and/or cats or combination thereof.

Greater than one and one-half (1.5) acres - Up to ten (10) dogs and/or cats or combination thereof.

- (2) Reference to dogs and cats only refer to adult dogs and cats older than four (4) months. There are no restrictions on the number of dogs and cats younger than four (4) months old that can be on the property.
- (3) This section shall not apply to veterinarian clinics, kennels, boarding facilities, pet shops or pet dealers licensed to do business in the city.
- (4) If all dogs and/or cats have been vaccinated and inoculated against disease as recommended by a veterinarian and such veterinarian will attest that such dogs and/or cats are properly cared for, and the animal control officer or other designated employee of the city verifies that the dogs and cats are being maintained in humane and sanitary conditions, the public works director may exempt any restriction as specified in this section; however, violations of any part of the animal control ordinances may result in revoking of the exemption. (as added by Ord. #1348, Dec. 2006)
- 10-112. Wild or dangerous exotic animals. No person shall have, sell, keep or maintain any wild, dangerous exotic, dangerous, or non-domesticated animal within the city. "Wild, dangerous exotic, dangerous, or non-domesticated animal" shall be defined to include all animals classified as class I animals under <u>Tennessee Code Annotated</u>, § 7-4-403, as amended, and shall also include any wolf hybrid. (as added by Ord. #1348, Dec. 2006)
- **10-113.** <u>Traps provided to citizens</u>. From time to time the animal control division will provide to a citizen a trap to assist in catching an animal. The citizen shall accept responsibility for the trap and will be responsible for the replacement cost if damaged or not returned. (as added by Ord. #1348, Dec. 2006)

# **DOGS; RABIES CONTROL**

## **SECTION**

- 10-201. Definitions.
- 10-202. Rabies control officer; authority.
- 10-203. Bond.
- 10-204. To keep records.
- 10-205. Dog shelter.
- 10-206. City responsibility while dog confined.
- 10-207. Confinement of rabies suspect, etc., dogs.
- 10-208. Confinement of female dogs in season.
- 10-209. Impounding and disposition of dogs in violation of this chapter.
- 10-210. Protection for dogs.
- 10-211. Abatement of nuisance.
- 10-212. Vicious dogs.
- 10-213. Concealing dogs.
- 10-214. Stealing tags.
- 10-215. Dogs and cats to be vaccinated.
- 10-216. Location of dog kennel and dog run.
- 10-217. [Deleted.]
- **10-201.** <u>**Definitions**</u>. The following definitions shall apply in the interpretation and the enforcement of this chapter:
- (1) "At large." Any dog, except a dog that has been classified as vicious, that is off the premises of the owner, as defined herein, and not under the control of the owner or a member of the owner's immediate family over ten (10) years of age, by leash, but a dog not classified as vicious, upon the running board or in the bed of a truck or within an automobile shall be deemed upon the owner's premises.
- (2) "Commercial kennel or animal boarding facility." Any lot or premises which boards, grooms, or provides other on-site services to dogs owned by the public or operates a K-9 breeding facility on a for-profit basis.
  - (3) "Dog." Any member of the species Canis Familiaris, male or female.
- (4) "In season; in heat." That periodic manifestation of the natural reproductive function during which an unspayed female dog becomes extraordinarily attractive to males.
- (5) "Inoculation or vaccination." The subcutaneous injection at onetime, but in several sites if necessary, of a standard vaccine for dogs and cats which vaccine meets the standards prescribed by the United States Department of Agriculture or the United States Health Service for interstate sale.
- (6) "Leash." A cord, thong, or chain, not more than ten (10) feet in length, by which a dog is controlled by the person accompanying it.

- (7) "Nuisance." Any animal which exhibits the following shall be considered a nuisance animal:
  - (a) The actions of an animal constitute a nuisance when an animal disturbs the rights of, threatens the safety of, or damages property of a member of the general public, or interferes with the ordinary use and enjoyment of their property.
  - (b) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner so as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or possessor of an animal are hereby declared to be a public nuisance and are therefore unlawful:
    - (i) Failure to exercise sufficient restraint necessary to control the animal.
    - (ii) Allowing or permitting an animal to damage private or public property, other than its owner's property including streets, alleys, sidewalks, parks, and other public property.
      - (iii) Maintaining a vicious animal.
    - (iv) Maintaining animals in an environment of unsanitary conditions which results in offensive odors or is dangerous to the animal or to the public health, welfare and safety.
    - (v) Allowing or permitting an animal to bark, whine, howl, crow or cackle in an excessive, continuous or untimely manner, or make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.
    - (vi) Maintaining an animal that is diseased or dangerous to the public health.
    - (vii) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicycles or vehicles.
    - (viii) Allowing an animal to desecrate or soil public or private property without removing the waste generated by the animal.
      - (ix) Failure to confine a female dog or cat in season.
    - (x) Maintaining an animal that has not been properly vaccinated.
- (8) "Officer." Any official with the power and authority of an officer of the peace, including deputy sheriffs, policemen of the city, and the rabies control officer.
- (9) "Owner." Any person owning, harboring, or keeping a dog, and the occupant of any premises on which a dog remains or to which it customarily returns is presumed to be the owner of the dog within the meaning of this chapter.

- (10) "Rabies control officer." That officer of the city acting under the direction and control of the board of mayor and aldermen, through their designee and under his authority, who is charged with the responsibility of enforcing the terms of this chapter, assists in maintaining the operation of an animal shelter, and is responsible for all other provisions contained herein.
- (11) "Spayed female." A female dog which has been rendered sexually sterile by surgical means so that her power of reproduction is completely destroyed, thereby rendering her unattractive to and unreceptive of male dogs.
- (12) "Stray dog." Any dog which has no apparent owner or one that has migrated from outside the city, and is at large, as is defined herein.
  - (13) "Vicious dog." A dog that meets the definition in § 10-212(1).
- (14) "Vicious dog declaration." A dog that has been found to meet the definition of a vicious dog and has been declared so by the owner, through a signed waiver of admission, or the declaration by a judge through the judicial process. (1988 Code, § 3-201, modified, as replaced by Ord. #1348, Dec. 2006)
- 10-202. Rabies control officer; authority. The rabies control officer of the city is hereby granted authority to swear out warrants for violations of this chapter and is hereby authorized to carry firearms for use to protect himself, if necessary, from a rabid, wild, or vicious dog as is herein defined, or as to any which he is unable to catch. The firearms which the rabies control officer is authorized to carry shall not be hand guns. They shall be used only to control animals that are vicious, wild and rabid, or unable to be caught and anyone utilizing said firearms must be trained to use same to the satisfaction of the chief of police of the City of Tullahoma. The rabies control officer is also authorized to enter private premises in connection with alleged violations of this chapter and to capture dogs in violation of same. Further, said rabies control officer is authorized to serve warrants for the arrest of owners of dogs in violation of the provisions of this chapter, which right is concurrent with the powers of the police officers of the city, upon issuance by the appropriate officer of the city court. The rabies control officer of the city, as well as police officers of the city, are hereby empowered to issue citations for violations of this chapter in addition to the provisions hereinabove set forth relating to the swearing out and serving of warrants for violations of this chapter. It shall be unlawful for any person to knowingly hinder, resist, or oppose any officer or employee of the animal control division in the performance of his duties. (1988 Code, § 3-202, as replaced by Ord. #1348, Dec. 2006)
- **10-203.** <u>Bond</u>. The rabies control officer, before he enters upon his duties as provided herein, shall post with the city recorder an indemnity bond in the amount of five thousand dollars (\$5,000.00), payable to the city. (1988 Code, § 3-203, as replaced by Ord. #1348, Dec. 2006)

- 10-204. <u>To keep records</u>. The rabies control officers are required to keep a record of each dog impounded under the provisions hereof, which record shall contain all the information found on the identification tag of said dog, if tagged, and, if not, a description of the dog and any other information regarding its owner as is learned or acquired by said rabies control officer; and the name and address of the informant whose report or warrant caused the confinement, which report shall be furnished to the owner upon request. (1988 Code, § 3-204, as replaced by Ord. #1348, Dec. 2006)
- **10-205. Dog shelter**. (1) The city has established and does maintain a dog shelter on city owned property.
- (2) All dogs kept in the dog shelter shall be separated as follows: male; female; puppies under three (3) months of age; and dogs suspected of having rabies, having bitten any person, or is suspected of being vicious, and being confined to said shelter for observation. (1988 Code, § 3-205, as replaced by Ord. #1348, Dec. 2006)
- **10-206.** City responsibility while dog confined. The city, and its officials, shall not be responsible for any illness, disease, death, or other unintentional misfortune occurring to any dog confined in the dog shelter or under the control of the rabies control officer. (1988 Code, § 3-206, as replaced by Ord. #1348, Dec. 2006)
- 10-207. Confinement of rabies suspect, etc., dogs. (1) It shall be required that any dog that has bitten a human being or has shown symptoms of rabies, or is for any reason suspected of having rabies, shall be reported by any citizen with knowledge of same to the rabies control officer and said dog shall be immediately impounded, isolated and confined under the supervision and observation of the rabies control officer at the city shelter for such time as the rabies control officer deems it necessary to protect the safety of the people and/or property. The animal may be quarantined at the facility of a licensed veterinarian if the animal control division so chooses. In addition to the pick-up fee and boarding fees provided for in this chapter, the owner of said impounded dog shall pay, any additional expenses that result from the confinement of the dog including court cost and veterinarian bills. All of said fees must be paid before the dog is relinquished to the owner at the end of the confinement. If the owner of the dog cannot be found, then the City of Tullahoma shall be liable for any additional fees.
- (2) If the owner of any dog confined under subsection (1) of this section shall contest the validity or basis of said confinement, he shall file a petition contesting same before the judge within five (5) days from the date of notice of confinement sent to him as is hereinafter provided, or within five (5) days of confinement, and the burden of proof shall be upon said owner to establish that said dog was not validly confined under the provisions of subsection (1) of this

section. The decision of the judge in such cases shall be binding and final except that the owner shall have a right to appeal such decision to a court of competent jurisdiction. (1988 Code, § 3-207, as replaced by Ord. #1348, Dec. 2006)

- 10-208. Confinement of female dogs in season. All female dogs and cats within the city shall, upon coming in season, be kept in a securely closed building, or under the complete control of the owner by the use of a leash, for a minimum period of twenty-four (24) days, beginning the first day that evidence of attraction is noticeable. Any dog or cat not so kept shall constitute a nuisance and a violation of this chapter. (1988 Code, § 3-208, as replaced by Ord. #1348, Dec. 2006)
- 10-209. Impounding and disposition of dogs in violation of this chapter. (1) It shall be the duty of the rabies control officer, and/or other authorized persons to seize and impound when found or come upon, or upon the complaint of any person by swearing out a warrant, any stray dog; vicious dog; dog reported or suspected of having rabies; dog which is found to be a nuisance, all as defined herein; female dog in heat and unconfined; any dog found at large; and any dog in violation of this chapter. Any dog which has bitten a human being or is suspected of having rabies will be confined as is herein set out. Any stray dog, female dog in heat and not confined, "nuisance dog," or any dog at large shall be in violation of the provisions of this chapter and the owner thereof liable for the penal sanctions contained herein.
- (2) If said dog is wearing an identification tag, the owner shall be notified by telephone, or if not reachable by phone, by mail to appear before the person designated in said notice (rabies control officer or animal control designee) within five (5) days from the date of said notice, or to make other arrangements should such owner be unable to appear within five (5) days, and, except as hereinafter provided, to redeem his dog by accomplishing the following:
  - (a) Paying a pick-up fee as prescribed in title 20, chapter 10.
  - (b) Paying the sum prescribed in title 20, chapter 10 for boarding fee or pound fee;
  - (c) Paying a fine as prescribed in title 20, chapter 10 if said dog is in violation of the provisions of this chapter; if said owner waives his right to have said matter heard in the court as is hereinafter set out; and
  - (d) Producing proof of current rabies inoculation or having same accomplished.
- (3) If the dog is not wearing an identification tag, the dog so seized and impounded shall be confined for a period of five (5) days, after which time it may be disposed of, as is hereinafter set out; provided that at any time after such seizure and impoundment and prior to disposition of said dog, the owner of a dog so seized and impounded may redeem said dog by a payment of the charges and

fees set out in subsection (2) of this section, and complying with the other provisions hereof.

- It shall be the duty of the rabies control officer, and/or other authorized persons, upon the issuing of a citation or swearing out of a warrant before the court by any person against any owner of any dog alleged to be in violation of any of the provisions of this chapter and, after service of same has been accomplished, if seizing and impoundment is necessary in the sole judgment of the officer involved, to seize and impound any dog in violation hereof. At the discretion of the public works director or his assignee, the dog owner against whom said citation or warrant has been issued may redeem the dog as is hereinabove set out, and, as well, pay a fine at the time of redemption of said dog as is hereby called out in title 20, chapter 10 upon said owner signing a waiver of his rights to have a citation or warrant heard and disposed of in the court, unless said citation or warrant constitutes the third or subsequent violation of this chapter, in which event no waiver shall be granted and the owner shall, in addition to the provisions contained herein, appear before the court at the time set forth in said citation or warrant, at which time the judge shall dispose of the case.
- (5) Any owner who does not desire to waive a hearing before the court shall at the time he redeems his dog as is set out in subsection (2) of this section, accept service of a citation or warrant against him if a citation or warrant has not previously been served upon him, which shall set forth the charges brought against him in violation hereof, at which time his case will be scheduled within five (5) days to appear before the court, at which time he may appear and present evidence in his own behalf.
- (6) Any persons aggrieved by the decision of the court shall have the right to appeal said decision as in other cases held in the court.
- (7) All fees and fines shall be paid by the owner who shall be given a receipt therefore, which shall be presented to the rabies control officer before said dog is relinquished to the owner or redeemer.
- (8) No dog shall be released, in any event, from the shelter unless and until it has been inoculated, and satisfactory proof thereof furnished to the officer or designee in charge of the dog shelter at that time.
- (9) If the dog owner to whom notice is sent does not redeem said dog or make arrangements for an extension of time within the five (5) day period provided, or if an untagged dog, then, at the end of the five (5) day period, said dog may be disposed of in the most humane way at the discretion of the rabies control officer under the direction and supervision of the director of public works. The owner of the dog, if known, shall still be responsible for all costs associated with the impoundment of the dog. The rabies control officer is to maintain records regarding the time and method of disposal of all dogs. (1988 Code, § 3-209, as replaced by Ord. #1348, Dec. 2006)

- 10-210. <u>Protection for dogs</u>. (1) All dogs within the city are hereby declared to be personal property and subjects of larceny, and it shall be unlawful for any person except an officer or authorized agent of the city or other peace officer, deliberately or by any means, to kill or injure or detain or to attempt deliberately to kill, or injure, or detain any dog; provided, any citizen of the city may summarily destroy any dog, whether or not tagged, which gives unmistakable evidence of being rabid or mad. The burden of proof that a dog did give such evidence shall be upon the person destroying the dog.
- (2) In case of accidental destruction or injury to a dog, the person causing such destruction or injury shall immediately report the same to the owner of the dog, or to the animal control division, giving his name and address.
- (3) It shall be unlawful for any person to place any poison of any description in any place, on his own premises or elsewhere, where it may be easily found or taken by dogs.
- (4) It shall be unlawful for any person to subject any dog, either his own or belonging to another, to any treatment which may reasonably be considered inhumane. (1988 Code, § 3-210, as replaced by Ord. #1348, Dec. 2006)
- **10-211.** Abatement of nuisance. (1) Upon the issuance of any citation or warrant signed by any person that the owner of any dog within the city is in violation of the provisions hereof, in addition to the impoundment procedures hereinabove set out, said owner shall be required to appear before the court at the time designated in said citation or warrant, to answer the charges brought against him, at which time the prosecutor shall be present and shall present evidence for consideration by said court. If any owner shall be found in violation of the provisions hereof, he shall be fined fifty dollars (\$50.00) and/or assessed a civil penalty of not more than one hundred fifty dollars (\$150.00) on first offense or not more than five hundred dollars (\$500.00) on second or subsequent offense, plus the costs of the cause, and shall be subject to whatever rules or stipulations as the judge shall impose and shall be subject to all other provisions of this chapter.
- (2) In addition to the penal provisions hereinabove set out, any citizen shall have the right to seek whatever legal redress such citizen desires in a court of competent jurisdiction to abate any nuisance created by the owner of any dog within the city. (1988 Code, § 3-211, as replaced by Ord. #1348, Dec. 2006)

# **10-212.** <u>Vicious dogs</u>. (1) <u>Definitions</u>. (a) "Vicious dog" is:

- (i) Any dog with a known propensity, tendency or disposition or whose conduct indicates same, to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
- (ii) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or

- (iii) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
- (b) No dog may be declared vicious as a result of injury or damage if, at the time of injury or damage, the victim of the injury or damage
  - (i) Was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog;
  - (ii) Was teasing, tormenting, abusing or assaulting the dog; or
    - (iii) Was committing or attempting to commit a crime.

No dog may be declared vicious if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack. No dog may be declared vicious if an injury or damage was sustained by a domestic animal, which, at the time of the injury damage, was teasing, tormenting, abusing or assaulting the dog.

- (c) "Vicious dog at large" is: Any dog which has been classified as vicious and/or is unattended, unrestrained by leash and muzzle, and/or unconfined as per the restrictions outlined in this section either on its own property or on the property of someone other than its owner.
- (2) <u>Responsibilities of the owner of a vicious dog</u>. (a) The owner of a vicious dog shall not permit the dog to go unconfined.
  - (b) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog.

The pen or structure must have secure sides and a secure top attached to the sides which shall be made of nine (9) gauge wire, or stronger, and inspected and approved by the animal control officer. The pen must be a minimum of five (5) feet by ten (10) feet or a minimum of fifty (50) square feet. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition. This structure must be at last ten (10) feet from an adjoining property owner's property; this structure shall leave an outer fence three (3) feet from the interior fence constructed of at least the same gauge material.

- (c) Leash and muzzle. The owner of a vicious dog shall not allow or permit the dog to go unconfined unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of an adult. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.
- (d) Signs. The owner of a vicious dog shall display at all entry points on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to

be posted on the pen or kennel of the animal. The sign shall be made with reflective letters not less than one and one-half (1.5) inches in width and one and one-half (1.5) inches in height and reading "Beware of Vicious Dog."

- (e) Insurance. Owners of vicious dogs must provide proof to the city recorder of liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) insuring the owner for any personal injuries inflicted by his or her vicious dog.
- (f) The owner must register the dog with the animal control division, must allow inspection of the dog and its enclosure by animal control, and must produce, upon demand, proof of compliance with such restrictions.
- (g) The owner of a dangerous dog shall not permit such a dog to be chained, tethered, or otherwise tied to any inanimate object such as a tree, post, or building, inside or outside of its own separate enclosure.
- (h) A dog declared to be vicious shall be photographed by animal control for future identification purposes.
  - (i) Neutering or spaying of the dog.
- (j) Implantation of an identification microchip in such dog: the serial number of the identification chip must be supplied to animal control.
- (k) Notification in writing to the animal control department of the location of the dog's residence, temporary or permanent, including prior notice of plans to move the dog to another residence within the city or outside of the city and/or notification of transfer of ownership of the dog. The city shall be notified within forty-eight (48) hours of the death of the dog.
- (l) Any other reasonable requirement specified by the court. The owner must pay the cost of all such restrictions and requirements.
- (3) Observation, seizure, impoundment and disposition of vicious dogs.
- (a) In the event that a vicious dog is found to be in violation of this chapter, thereby creating a hazard to person or property, such animal may, in the discretion of the animal control officer or police officer, be destroyed if it cannot be confined or captured.
  - (b) (i) Upon the complaint of an individual that a person is keeping a vicious dog on premises in the City of Tullahoma, the animal control officer shall investigate, and if after investigation the facts indicate that the person named in the complaint is keeping a vicious dog in the city and that the dog is not in compliance with all requirements for possessing a vicious dog, the animal control officer may enter upon private premises in order to seize any such vicious dog, whether running at large or not. An animal so seized shall be impounded or quarantined at the animal shelter and shall not be released to the owner, but shall continue

to be held at the expense of the owner, pending the outcome of the hearing. A written notice of the impoundment shall be given by the animal control officer to the person keeping the dog suspected to be vicious, and shall be served personally or by certified mail. If the dog has not attacked or bitten a person or other animal, the owner may waive a hearing by registering the dog as vicious and complying with all requirements within this chapter. The dog will not be released until those requirements have been satisfied and the animal control officer has verified it, and all fees have been paid.

- (ii) If the owner does not declare the dog to be vicious, a citation or warrant shall also be served upon the keeper of said suspected vicious dog pursuant to the provisions found in this code.
- (c) Hearing on impoundment. The keeper of an impounded dog shall have the right to appear at a hearing to contest the impoundment, and/or defend the charges set forth in the citation issued to him
  - (i) The hearing shall be before a judge through the judicial process, and shall be conducted as are other matters in the court. The owner may be represented by counsel, present oral and written evidence and cross-examine witnesses.
  - (ii) After considering all of the relevant evidence, the judge shall issue a decision and may order the destruction of the impounded dog, or may release the dog to its owner, conditioned upon the owner having complied with the requirements set forth in this section or with any other requirements necessary to protect the public health, or safety. The judge shall also determine if the keeper of said vicious dog has violated the provisions hereof and issue an order accordingly. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the city.
  - (iii) If the owner of an impounded dog fails to appear at a hearing, the dog shall be destroyed.
- (d) The animal control officer of the City of Tullahoma shall have the authority to enforce this chapter without a warrant or citation if he observes a violation occurring in his presence.
- (4) <u>Vicious dog exemptions</u>. (a) The prohibitions contained in this section shall not apply to the keeping of vicious dogs in the following circumstances:
  - (i) The keeping of guard dogs, at both commercial establishments and residences, under the following provisions: Guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious dog pursuant to this section. Any premises guarded by a guard dog shall be prominently posted with a sign containing the

- wording "guard dog," or "vicious dog," and the signage shall comply with § 10-212(2)(d). The owner of such premises shall inform the chief of police and the animal control department in writing that a guard dog is on duty at said premises. Any gate to any fence enclosing guard dogs shall be kept closed and locked when persons are located upon the property housing them.
- (ii) Animals under the control of a law enforcement or military agency.
- (5) Penalty provisions. It shall be unlawful for anyone to harbor or maintain or own a vicious dog as defined herein in violation of or in noncompliance with the provisions hereof and anyone who shall do so shall be subject to the general penalty provisions found in § 1-107 of the code of ordinances of the City of Tullahoma, Tennessee. (1988 Code, § 3-212, as replaced by Ord. #1348, Dec. 2006)
- **10-213.** <u>Concealing dogs</u>. Any person who shall hide or conceal or aid or assist in hiding or concealing any dog owned, kept or harbored in violation of any provisions of this chapter, shall be guilty of a misdemeanor and subject to fine as provided in § 1-107. (1988 Code, § 3-213, as replaced by Ord. #1348, Dec. 2006)
- **10-214.** <u>Stealing tags</u>. Anyone who shall steal or otherwise acquire and use a dog identification or rabies inoculation tag for which it was not issued shall be guilty of a violation of the provisions of this chapter and shall be fined under § 1-107. (1988 Code, § 3-214, as replaced by Ord. #1348, Dec. 2006)
- **10-215.** <u>Dogs and cats to be vaccinated</u>. Dogs and cats shall be vaccinated as required by <u>Tennessee Code Annotated</u>, § 68-8-104, as amended. (1988 Code, § 3-215, as replaced by Ord. #1348, Dec. 2006)
- 10-216. <u>Location of dog kennel and dog run</u>. A dog kennel and/or dog run and/or associated appurtenances to same, whether permanent or portable, shall be located only within the rear yard of a property and shall be located a minimum of five (5) feet from all property lines. The dog kennel and/or dog run shall be well drained to prevent the accumulation of standing water and other conditions deemed a public nuisance. (1988 Code, § 3-216, as replaced by Ord. #1348, Dec. 2006)
- **10-217.** [Deleted.] (1988 Code, § 3-217, as deleted by Ord. #1348, Dec. 2006)

# **TITLE 11**

# MUNICIPAL OFFENSES<sup>1</sup>

## **CHAPTER**

- 1. ALCOHOL.
- 2. OFFENSES AGAINST THE PERSON.
- 3. OFFENSES AGAINST THE PEACE AND QUIET.
- 4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
- 5. FIREARMS, WEAPONS AND MISSILES.
- 6. MISCELLANEOUS.

#### CHAPTER 1

# ALCOHOL<sup>2</sup>

#### **SECTION**

11-101. Public consumption, etc., of alcoholic beverages.

11-101. <u>Public consumption, etc., of alcoholic beverages</u>. It shall be unlawful for any person to drink or consume, or to have an open can or bottle of beer or other intoxicating beverages in an automobile or otherwise in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, parking lot, or any other public place, or private property open to the public generally, unless the place has a beer permit and license for on-premises consumption. (1988 Code, § 10-215)

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.

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See <u>Tennessee Code Annotated</u>, § 33-8-203 (<u>Arrest for Public Intoxication</u>, cities may not pass separate legislation).

<sup>&</sup>lt;sup>1</sup>Municipal code references

# OFFENSES AGAINST THE PERSON

# **SECTION**

11-201. Assault and battery; disturbing the peace.

11-201. Assault and battery; disturbing the peace. It shall be unlawful for any person, within the city, to disturb the peace and quiet of others by tumultuous or loud noises, profane, obscene, or offensive language, or by assault and battery upon another, or by striking at, using, exhibiting, or attempting to use a pistol, knife, or any other unlawful weapon upon the person of another. (1988 Code, § 10-211)

# OFFENSES AGAINST THE PEACE AND QUIET

## **SECTION**

- 11-301. Disturbing congregations.
- 11-302. Drunkenness; disorderly conduct; indecent exposure.
- 11-303. Noise control, generally.
- 11-301. <u>Disturbing congregations</u>. It shall be unlawful for any person to disturb any congregation or lawful assemblage by rude, noisy, or indecent conduct, or by unseemly words or gestures. (1988 Code, § 10-213)

# 11-302. Drunkenness; disorderly conduct; indecent exposure.

- (1) It shall be unlawful for any person, within the city, to appear in public in an intoxicated condition, or to use riotous language, or make any indecent exhibition of his person in view of any person, business house, or dwelling, or by act, word or gesture insult any person.
- (2) It shall further be unlawful for any person, within the city, to create any disturbance or to engage in any unbecoming or disorderly conduct in any manner which would be offensive to the public or would violate the peace and dignity of the community. (1988 Code, § 10-214)

#### 11-303. Noise control, generally. 1. General prohibition.

- a. Any unreasonably loud, raucous, disturbing, unnecessary noise created, broadcast, or generated by persons by whatever means which causes material distress, discomfort or injury to persons of ordinary sensitivity in the immediate vicinity thereof is hereby declared to be unlawful and is hereby prohibited.
- b. Any noise created, broadcast, or generated by persons by whatever means of such character, intensity and continued duration which substantially interferes with the comfort and enjoyment of private homes by persons of ordinary sensitivity is hereby declared to be unlawful and is hereby prohibited.
- c. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the town, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle unless such use is necessary to avoid imminent danger. The prohibition shall apply to all public streets and highways. Emergency vehicles shall be exempt from the application of this section.
- d. Any noise prohibited by this section and plainly audible at a distance of fifty (50) feet or more from its source by a person of normal

hearing is hereby presumed to violate the provisions of subsections (a), (b), and (c) above and same is prohibited and declared to be unlawful.

- e. The penalty for violation of this section shall be as follows:
- i. Be it further provided that a first offense violation of § 11-303 shall subject the violator to a fine of not more than fifty dollars (\$50.00) and/or a civil penalty of not less than one hundred dollars (\$100.00);
- ii. Be it further provided that a second offense violation of § 11-303 shall subject the violator to a fine of not more than fifty dollars (\$50.00) and/or a civil penalty of not less than two hundred dollars (\$200.00);
- iii. Be it further provided that a that a third or subsequent offense violation of § 11-303 shall subject the violator to a fine of not more than fifty dollars (\$50.00) and/or a civil penalty of not less than five hundred dollars (\$500.00).
- 2. <u>Penalties</u>. Anyone who violates the provisions of this section shall be subject to the general penalty provisions of § 1-107 of this code.
- 3. <u>Exemptions</u>. The following activities are exempt from the provisions of this section:
  - a. Any equipment generating noise related to emergency vehicles, emergency work, or emergency warning alarms or bells.
    - b. Noise associated with aircraft activities.
    - c. Sounds created by the operation of railroad equipment.
  - d. The city administrator, upon proper application and for good cause shown, may grant additional exemptions from the provisions of this section. (1988 Code, § 10-222, as amended by Ord. #1308, May 2005, Ord. #1336, July 2006, and Ord. #1573, March 2022 *Ch11\_08-08-22*)

# INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

# SECTION

11-401. Resisting an officer.

11-401. <u>Resisting an officer</u>. It shall be unlawful for any person to resist an officer of the law. (1988 Code, § 10-210)

# FIREARMS, WEAPONS AND MISSILES

## **SECTION**

- 11-501. Throwing missiles.
- 11-502. Weapons--discharging firearms.
- 11-503. Carrying concealed; sale, etc.
- 11-504. Use of bows and arrows--target practice restrictions.
- 11-505. Weapons--public places.
- **11-501.** Throwing missiles. It shall be unlawful for any person to throw stones, sticks, clubs, brick-bats, or any other missiles from slings, by hand or otherwise, within the city, so as to endanger life, limb, or property of any citizen. (1988 Code, § 10-206)
- 11-502. <u>Weapons--discharging firearms</u>. It shall be unlawful for any person to fire or discharge any firearm within the corporate limits of the city except:
  - (1) While in the lawful performance of duty as an officer of the law; or
- (2) Within a legally established shooting range or shooting gallery in a non-residential area where precautions have been taken to insure protection of human life and property; or
  - (3) Lawfully engaged in hunting, as permitted by the state; or
- (4) Legally defending person or property. (1988 Code, § 10-207, as replaced by Ord. #1437, July 2013)
- 11-503. Carrying concealed; sale, etc. It shall be unlawful for any person, within the city, to carry under his clothes or concealed about his person, a bowie knife, Arkansas toothpick, or knife, or weapon of like form, shape or size; or to sell or offer to sell or bring into the city for the purpose of selling, or giving away, or otherwise disposing of such weapon; or to either publicly or privately carry a dirk, sword cane, Spanish stiletto, or any slingshot, brass knucks, belt or pocket pistol, toy pistol or cartridges, except such as are permitted by the laws of the state, or to sell, or offer to sell, or give away any such weapon. (1988 Code, § 10-208)
- 11-504. <u>Use of bows and arrows--target practice restrictions</u>. Except as stipulated in § 11-502 of the Code of Ordinances of the City of Tullahoma and as stipulated below, it shall be unlawful to shoot an arrow, a bolt, or other similar projectile inside the city limits of Tullahoma, Tennessee using a compound bow, long bow, recurved bow, and cross bow.

However, for the purpose of target practice only it shall be lawful to shoot such devices provided a safety zone as defined in (1) through (6) below exists between the archer and the nearest resident's property line.

- (1) For a person shooting from the ground, the length of the safety zone in the direction of the arrow's path must be at least 100 yards beyond the target.
- (2) For a person shooting from an elevated platform, the required 100 yard length of the safety zone in the direction of the arrow's path can be reduced by 4 yards for each foot of elevation, but not to be shorter than 20 yards.
- (3) The width of the safety zone shall be greater than 1/2 the distance from the archer to the target but not less than 20 yards.
- (4) In lieu of the required length and width of the safety zone, a safety backstop as effective as a house or garage shall be directly behind the target.
- (5) All persons born after January 1, 1969, practicing archery must have passed an approved TWRA Hunter Safety Course.
- (6) With dated, written permission from property owner safety zone may extend onto adjoining property. (1988 Code, § 10-221)
- 11-505. <u>Weapons--public places</u>. (1) <u>Tennessee Code Annotated provisions incorporated by reference</u>. All the applicable provisions of <u>Tennessee Code Annotated</u>, § 30-17-1301, <u>et sequitur</u>, throughout <u>Tennessee Code Annotated</u>, Part 13, "Weapons," are incorporated herein by reference as though same were fully set forth herein.
- (2) <u>Prohibited weapons</u>. A person commits an offense who intentionally or knowingly possesses, manufactures, transports, repairs or sells upon public recreational property any weapons as are defined in said code sections aforementioned and shall be guilty of a violation of the provisions hereof.
- (3) <u>Carrying weapons in or on public parks, playgrounds, civic centers and other public recreational buildings and grounds.</u>
  - (a) It is an offense for any person to possess or carry whether openly or concealed, with the intent to go armed, any weapon prohibited by this section, not used solely for instructional, display or sanctioned ceremonial purposes, in or on the grounds of any public park, playground, civic center or other building, facility, area or property owned, used or operated by any municipal, county or state government, or instrumentality thereof, for recreational purposes.
  - (b) The provisions of subsection (a) shall not apply to the following persons:
    - (i) Persons employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee National Guard when in discharge of their official duties and acting under orders requiring them to carry arms or weapons;

- (ii) Civil officers of the United States in the discharge of their official duties;
- (iii) Officers and soldiers of the militia and the national guard when called into actual service;
- (iv) Officers of the state, or of any county, city or town, charged with the enforcement of the laws of the state, in the discharge of their official duties;
- (v) Any pupils who are members of the Reserve Officers Training Corps or pupils enrolled in a course of instruction or members of a club or team, and who are required to carry arms or weapons in the discharge of their official class or team duties;
- (vi) Any private police employed by the municipality, county, state or instrumentality thereof in the discharge of their duties; and
- (vii) Also, only to the extent a person strictly conforms, such person's behavior to the requirements of one (1) of the following classifications;
  - (A) A person hunting during the lawful hunting season on lands owned by any municipality, county, state or instrumentality thereof or upon any private property which has been designated as available for hunting pursuant to other provisions in the Code of Ordinances of the City of Tullahoma, Tennessee, and designated as open to hunting by law or by the appropriate official;
  - (B) A person possessing unloaded hunting weapons while transversing the grounds of any such public recreational building or property for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands unless the public recreational building or property is posted prohibiting such entry;
  - (C) A person possessing guns or knives when conducting or attending "gun and knife show" when such program has been approved by the administrator of the recreational building or property;
  - (D) A person entering the property for the sole purpose of delivering or picking up passengers and who does not remove any weapon from the vehicle or utilize it in any manner; or
  - (E) A person who possesses or carries a firearm for the purpose of sport or target shooting and sport or target shooting is permitted in such park or recreational area.

At such time as such person's behavior no longer strictly conforms to one (1) of such classifications, such person shall be subject to the provisions of subsection (3)(a), above.

(3) (i) Each municipal employee in charge of a public recreational property shall display in prominent locations about such place a sign, at least six inches (6") high and fourteen inches (14") wide, stating:

MISDEMEANOR. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF ELEVEN MONTHS AND TWENTY-NINE DAYS AND A FINE NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) FOR CARRYING WEAPONS ON OR IN PUBLIC RECREATIONAL PROPERTY.

- (ii) As used in this subsection, "prominent locations" about public recreational property includes, but is not limited to, all entrances to such property, any such building or structure located on such property, such as rest rooms, picnic areas, sports facilities, welcome centers, gift shops, playgrounds, swimming pools, restaurants and parking lots.
- (4) Persons carrying any such weapons in violation of this section shall have privileges revoked to utilize or be present at or upon all recreational facilities owned by the City of Tullahoma, Tennessee, for a minimum of two (2) years, as determined by the city administrator on a case-by-case basis.
- (5) During the period of time for which privileges are revoked as are provided for in subsection (4) above, if any such person is convicted of a felony, then such person may not regain privileges to utilize said facilities, until his application for permission to be entitled to utilize said facilities has been approved by the city administrator, but in no case no earlier than two (2) years after he has been convicted of violating this section or the provisions of <u>Tennessee Code Annotated</u>, § 39-17-1301, <u>et sequitur</u>, or said felony, whichever is later.
- (6) If any person whose privileges to utilize or be present at or upon any recreational facilities owned by the city have been revoked for violations of the provisions of this section, shall exercise said privileges without the permission of the city administrator as provided for and required hereby, then said person shall be guilty of a violation hereof and subject to the penalties hereinafter set forth.
- (7) It is an offense of the provisions hereof if the parent or other legal guardian of a minor knows that such minor is in illegal possession of a firearm or other weapon in or upon the premises of a public or private school, in or on such school's athletic stadium or other facility or building where school-sponsored athletic events are conducted, or a public park, playground, or civic center, or other public recreational facility, and such parent or guardian fails to prevent such possession or fails to report it to the appropriate school or law enforcement officials.

(8) A civil penalty of five hundred dollars (\$500.00) shall be imposed for each offense of the provisions hereof, which are violations of this section, but are not violations of the provisions of <u>Tennessee Code Annotated</u>, § 39-17-1301, <u>et sequitur</u>, the penalties for which are fully set forth in <u>Tennessee Code Annotated</u>. Revenues derived from penalties prescribed for violation of the provisions hereof which are municipal violations shall be earmarked for the D.A.R.E. program of the City of Tullahoma, Tennessee. (1988 Code, § 10-223)

# **MISCELLANEOUS**

## **SECTION**

- 11-601. State misdemeanors adopted.
- 11-602. Curfew for minors--established.
- 11-603. Responsibility of parents.
- 11-604. Penalties.
- 11-605. Climbing city water towers and radio towers.
- 11-606. Posting bills on public property or obscene matter on private property.
- 11-607. Burglar tools.
- 11-608. Damage to property.
- 11-609. Larceny.
- 11-610. Pornographic material harmful to minors.
- 11-611. Prostitution, lewdness, etc.
- 11-612. Gambling; keeping disorderly house.
- 11-613. Loitering.
- 11-614. Smoking, etc., prohibited in city owned/leased facilities and vehicles.
- **11-601.** <u>State misdemeanors adopted</u>. All offenses declared misdemeanors by the laws of the state are hereby declared to be offenses against the peace and dignity of the city and punishable as prescribed in § 1-107. (1988 Code, § 10-101)
- 11-602. Curfew for minors—established. It shall be unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 10:30 P.M. and 4:00 A.M. the following day, on Sunday, Monday, Tuesday, Wednesday, Thursday and between the hours of 12:00 midnight and 4:00 A.M. the following day on Friday and Saturday; provided, however, that the provisions of this section do not apply to a minor accompanied by his parent or guardian, or where the minor is upon an emergency errand or legitimate business directed by his parent or guardian. (1988 Code, § 10-201)
- 11-603. <u>Responsibility of parents</u>. It shall be unlawful for the parent or guardian of a minor under the age of eighteen (18) years to knowingly permit such minor to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 10:30 P.M. and 4:00 A.M. the following day, on Sunday, Monday, Tuesday, Wednesday, and Thursday, and

between the hours of 12:00 midnight and 4:00 A.M. the following day, on Friday and Saturday; provided, however, that the provisions of this section do not apply when the minor is accompanied by his parents or guardian, or where the minor is upon an emergency errand or legitimate business directed by his parent or guardian. (1988 Code, § 10-202)

- **11-604. Penalties**. Any minor violating the provisions of § 11-601 shall be dealt with in accordance with county juvenile court law and procedure. Any parent or guardian of a minor violating § 11-602 shall be punished as prescribed in § 1-107. (1988 Code, § 10-203)
- 11-605. <u>Climbing city water towers and radio towers</u>. It shall be unlawful for any unauthorized person to climb upon or in any way attempt to ascend on the iron framework upon which the city water tanks are placed or upon any radio towers. (1988 Code, § 10-204)
- 11-606. Posting bills on public property or obscene matter on private property. (1) It shall be unlawful for any person to deface, injure, write, or print or paint letters or characters upon or otherwise injure by tacking, gluing, tieing, stapling or affixing in any manner any item on any utility pole or public property or traffic control sign or public building or wall or structure. This section shall include all types of advertisements, political campaign posters, or signs not authorized by the city.
- (2) It shall be unlawful for a property owner to consent to or allow any obscene, vulgar, or offensive drawing or words to be painted, printed, written, or otherwise placed in public view upon his premises. (1988 Code, § 10-205)
- 11-607. <u>Burglar tools</u>. It shall be unlawful for any person, within the city, to possess any kind of burglars' tools, false or skeleton keys, or any other implement intended or used for effecting secret entrances into buildings for the purpose of committing theft or other violations of the law. (1988 Code, § 10-212)
- **11-608.** <u>Damage to property</u>. It shall be unlawful for any person, within the city, to interfere with, damage, deface or destroy any public property, or any private property without the consent of the owner thereof. (1988 Code, § 10-217)

Pornographic material harmful to minors: § 11-609.

Proximity of "adult-type" establishments to schools and churches: § 9-102.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

- **11-609.** Larceny. It shall be unlawful for any person, within the city to take and carry away the personal goods of another, without the consent of the owner, or to in any way aid and abet therein, or be an accessory thereto. (1988 Code, § 10-218)
- **11-610.** <u>Pornographic material harmful to minors</u>. (1) All those provisions of <u>Tennessee Code Annotated</u>, §§ 39-6-1131 through 39-6-1138, are hereby incorporated herein and adopted hereby by reference as though same were fully set forth herein.
- (2) It shall be unlawful for anyone to violate any of the provisions of the aforementioned statutes of the State of Tennessee, and, in addition to the penalties set forth in said statutes, said violation shall be subject to the general penalty provisions in this code.
- (3) It shall further be unlawful to display, cause, or permit to be displayed for sale in any grocery store, drug store, or similar place, except an adult book store where persons under 18 years of age are not admitted, any magazine, book or newspaper containing stories, articles, or pictures, or other material of a predominately sexual nature unless said material is contained behind a counter to which only employees of said establishment have access, or said material is securely wrapped in cellophane or similar wrappings and displayed only in compliance with state law.
- (4) If the Board of Mayor and Aldermen of the City of Tullahoma are of the opinion that this section is being violated, they may request the District Attorney General in the district in which said alleged violation occurs to take that action set forth in <u>Tennessee Code Annotated</u>, § 39-6-1134(b). (1988 Code, § 10-220)
- **11-611.** <u>Prostitution, lewdness, etc.</u> (1) As used in this section, unless the context clearly requires otherwise:
  - (a) The term "prostitution" shall be construed to include the giving or receiving of the body for sexual intercourse for hire, and shall also be construed to include the giving or receiving of the body for licentious sexual intercourse without hire.
  - (b) The term "lewdness" shall be construed to include any indecent or obscene act.
  - (c) The term "assignation" shall be construed to include the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement.
  - (d) The term "prostitution" shall be construed so as to exclude sexual intercourse between spouses.
  - (2) It shall be unlawful for any person, within the city:
  - (a) To keep, set up, maintain or operate any place, structure, building or conveyance for the purpose of lewdness, assignation or prostitution.

- (b) To offer, or to offer or agree to secure, another for the purpose of prostitution, or for any other lewd or indecent act.
- (c) Park, stop or idle three (3) or more motor vehicles, occupied or unoccupied, for the purposes defined in § 11-613(1)(a) in a parking lot generally open to the public whereby the motor vehicle operators are present, unless the owner of the said parking lot has granted permission in writing and provided a copy of same to the chief of the police department.
- (d) To direct, take or transport, or to offer or agree to take or transport, any person to any place, structure or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation.
- (3) It shall be unlawful for any person, within the city:
- (a) To offer to commit, or to commit, or to engage in, prostitution, lewdness or assignation.
- (b) To solicit, induce, entice or procure another to commit prostitution, lewdness or assignation with such person.
- (c) To reside in, enter or remain in, any place, structure or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness or assignation.
- (d) To aid, abet or participate in the doing of any of the acts or things enumerated in subsections (2) and (3) in this section. (1988 Code, § 10-219, as amended by Ord. #1431, Sept. 2012)
- 11-612. <u>Gambling; keeping disorderly house</u>. It shall be unlawful for any person, within the city, to set up or introduce any gambling table or device at which any game of chance may be played for money or property, or to bet anything at any game of chance or hazard, or to permit gaming or betting on his premises, or keep a disorderly house of any kind to the annoyance of the citizens of the city. (1988 Code, § 10-216)
- **11-613.** <u>Loitering</u>. (1) <u>Definitions</u>: As used in this section, the following terms shall have the respective meanings ascribed to them:
  - (a) "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."
  - (b) "Public place" shall mean any place to which the general public has access and a right to 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 immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas, parks, or parking lots.

- (2) <u>Scope of prohibition</u>: It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone 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 or 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. (1988 Code, § 10-209)
- 11-614. Smoking, etc., prohibited in city owned/leased facilities and vehicles. (1) In addition to those areas designated in Tennessee Code Annotated, § 39-17-1604 where smoking is prohibited in an effort to reduce the extent to which children are exposed to environmental tobacco smoke, and except in those designated areas as described in subsection (3) below, no person shall, at any time, smoke any tobacco, or use any product of tobacco in any form in any of the following places owned, leased or operated by the City of Tullahoma, Tennessee:
  - (a) Inside any building owned or leased by the City of Tullahoma, Tennessee, or within twenty-five (25) feet of any entrance thereto:
    - (b) Inside any city owned vehicle;
  - (c) In any outdoor stadium, park or playground owned or leased by the City of Tullahoma, Tennessee.
- (2) No smoking signs or the international "No Smoking" symbol which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it shall be prominently posted and properly maintained at the main entrance of each building and entrance to any outdoor stadium, park or playground where smoking is prohibited under this section.
- (3) Notwithstanding any provision of this section herein above provided, a designated outdoor smoking area may be established by the chief building official or his designee as circumstances may require provided that said designated smoking area(s) is of such sufficient distance or location so as not to subject other city employees or members of the general public to the risks of second hand smoke.
- (4) Any person, firm or corporation convicted of violating any provision of this section shall be guilty of a misdemeanor and fined not less than ten

dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. (as added by Ord. #1349A, Nov. 2006)

## **TITLE 12**

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

## **CHAPTER**

- 1. IN GENERAL.
- 2. BUILDING CODE.
- 3. ELECTRICAL CODE.
- 4. GAS CODE.
- 5. HOUSING CODE.
- 6. MOVING BUILDINGS.
- 7. PLUMBING CODE.
- 8. MECHANICAL CODE.
- 9. RESIDENTIAL CODE.
- 10. INTERNATIONAL PROPERTY MAINTENANCE CODE.
- 11. ENERGY CONSERVATION CODE.
- 12. [DELETED.]
- 13. EXISTING BUILDINGS CODE.
- 14. LIFE SAFETY CODE.
- 15. [DELETED.]
- 16. ADMINISTRATIVE HEARING OFFICER.

#### CHAPTER 1

#### IN GENERAL

#### **SECTION**

- 12-101. Definitions.
- 12-102. Permit fees.
- 12-103. Adoption of amendments to building code, electrical code, gas code, etc.
- 12-104. Development advisory committee.
- 12-105. Certificate of occupancy requirements.
- 12-106. Flood damage prevention.
- **12-101.** <u>Definitions</u>. (1) "Municipality." Wherever the word "municipality" is used, it shall be held to mean the City of Tullahoma.
- (2) "Board of appeals" or "board of adjustment and appeals." Wherever the words "board of appeals" or "board of adjustment and appeals" are used, they shall mean the board provided for in the "administration and enforcement section" of the currently adopted ICC codes. The members thereof shall be appointed by the board of mayor and aldermen of the City of Tullahoma, Tennessee, and shall be residents of the City of Tullahoma.

- (3) "Department of law, corporation counsel." Wherever the words "department of law" or "corporation counsel" are used, they shall mean the city attorney.
- (4) "Chief administrator, chairman of the board of appeals." Wherever the words "chief administrator" or "chairman of the board of appeals" are used, they shall mean the mayor of the city.
- (5) "Building official, chief inspector, code official, etc." Wherever the words "building official," "chief inspector," "code official," or other official are used, they shall mean that designated official in the city who has duties corresponding to those of the named official in such code and shall be deemed to be the responsible official insofar as enforcing the provisions of such code are concerned. (1988 Code, § 4-101, as amended by Ord. #1333, June 2006, and Ord. #1364, Feb. 2008, and replaced by Ord. #1479, May 2017)
- **12-102.** <u>Permit fees</u>. The charges for building permits, house moving permits, demolition permits, electrical permits, gas service permits and inspections, and plumbing opening permits as set forth in title 20, chapter 10 will be charged by the city, which fees shall be in lieu of any permit fees set out in technical codes on such subjects, adopted by reference in this title.

Where work for which a permit is required by this title is started or proceeded with prior to obtaining said permit, the fees here unspecified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this chapter in the execution of the work, nor from any other penalties prescribed in this code. (1988 Code, § 4-102)

- 12-103. Adoption of amendments to the building code, electrical code, gas code, etc. As revisions to any of the codes adopted in this title or applying to the City of Tullahoma, Tennessee, under the general law of the State of Tennessee, are enacted, said revisions are hereby adopted as published, from time to time, and incorporated herein by reference, as though same were fully set forth herein. (1988 Code, § 4-103)
- **12-104.** <u>Development advisory committee</u>. (1) <u>Purpose</u>. The development advisory committee is established to provide a pre-application technical review of proposed plats and plans for code and regulation compliance.
- (2) Organization. The development advisory committee is composed of the city building inspector, the director of public works, the city deputy fire marshal, and two (2) representatives from the Tullahoma Utilities Authority representing respectively the electric system and water and sewer system. The director of planning and codes shall act as chairman of the development committee. The committee shall meet regularly on a day and place, as established by the committee. In the absence of the director of planning and codes the city administrator may designate another person to chair the committee.

- (3) <u>Function</u>. The development advisory committee shall have the function to provide technical assistance to the planning commission in the review of plats and plans prior to their submission to the planning commission.
- (4) <u>Procedures</u>. The director of planning may adopt review procedures and requirements for the development advisory committee. (1988 Code, § 4-104, modified, as amended by Ord. #1333, June 2006, and replaced by Ord. #1350, May 2007, and Ord. #1479, May 2017)
- **12-105.** Certificate of occupancy requirements. No new building shall be occupied or given a permanent utility connection e.g., water, sewer, electrical, gas, until after the city building inspector has issued a certificate of occupancy as specified in the city's zoning ordinance and the currently adopted ICC codes. (1988 Code, § 4-105, modified, as amended by Ord. #1333, June 2006, and Ord. #1364, Feb. 2008, and replaced by Ord. #1479, May 2017)
- **12-106.** Flood damage prevention. There is hereby adopted by the City of Tullahoma, Tennessee, those provisions of the National Flood Insurance Program as are fully set forth in Section 44 CFR 60.3 (c), as now enacted and as amended hereafter. (1988 Code, § 4-106)

# BUILDING CODE<sup>1</sup>

## **SECTION**

12-201. Code adopted.

12-202. Amendments to ICC International Building Code.

12-203. Deleted.

**12-201.** <u>Code adopted</u>. There is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition, of every building or structure or any appurtenances connected or attached to such buildings or structures, that certain code known as the <u>International Building Code</u>, published by the International, Code Council, 2015 edition, and all appendices thereto, with subsequent revisions thereof, save and except such portions as are herein deleted, modified, or amended, or are in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provision thereof shall be controlling in the construction of all buildings and other structures covered thereby, contained within the city. (Ord. #1170, Oct. 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, Ord. #1458, April 2016, and Ord. #1493, Dec. 2017)

**12-202.** <u>Amendments to ICC International Building Code</u>. That sections 103.1 and 103.2 of the <u>International Building Code</u> are stricken and new Sections 103.1 and 103.2 be created as follows:

- Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Building Code shall be known as Building Inspectors.
- Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in

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>&</sup>lt;sup>1</sup>Municipal code references

<sup>&</sup>lt;sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

compliance with state law. When the title "Building Official" is used in any adopted ICC code it shall mean "building inspector" (Ord. #1170, Oct. 1996, as amended by Ord. #1333, June 2006, deleted by Ord. #1364, Feb. 2008, and added by Ord. #1493, Dec. 2017)

**12-203. Deleted.** (as added by Ord. #1458, April 2016, and deleted by Ord. #1493, Dec. 2017)

# ELECTRICAL CODE<sup>1</sup>

## **SECTION**

- 12-301. National electrical code adopted.
- 12-302. State regulations adopted.
- 12-303. Penalty for violation of code or regulations.
- 12-304. Inspections; fees.
- 12-305. Permit--required; contents; fee.
- 12-306. Failure to obtain; service, etc., to be discontinued.
- 12-307. Discontinuance of services for failure to comply with chapter.
- 12-308. Compliance with privilege tax and licensing laws required.

12-301. National electrical code adopted. All installations of wiring, equipment and devices for the transmission, control, or use of electric energy at a potential of greater than thirty (30) volts, within the city, and in all buildings and premises, served or to be served by the Tullahoma Power System, a subsidiary of the city, shall conform to the 2006 edition of the National Electrical Code<sup>2</sup> as recommended by the National Fire Protection Association and approved by the American Standards Association, except the provisions thereof modified, amended or deleted by, or in conflict with, this code of ordinances, a copy of which is on file in the city recorder's office and three (3) copies at the office of the Tullahoma Power System, which code is hereby adopted and incorporated as fully as if set out at length herein. (1988 Code, § 4-301, as amended by Ord. #1364, Feb. 2008)

12-302. <u>State regulations adopted</u>. All installations of wiring, equipment and devices for the transmission, control, or use of electric energy at a potential of greater than thirty (30) volts, within the city, and in all buildings and premises, served or to be served by the Tullahoma Power System, a subsidiary of the city, shall conform to the current edition of the "Regulations Relating to Electrical Installations in the State of Tennessee, Regulation No. 15, 1965," as issued by the Division of Fire Prevention, Department of Insurance of the State, a copy of which is on file in the city recorder's office and three (3)

Electricity and gas: title 19.

Fire protection: title 7.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

<sup>&</sup>lt;sup>2</sup>Copies of this code (and any amendments) may be purchased from the National Fire Protection Association, 1 Batterymarch park, Quincy, Massachusetts 02269-9101.

copies at the office of the Tullahoma Power System, and which such further rules and regulations as may be prescribed hereafter by the board of mayor and aldermen or the board of public regulations, which regulations are hereby adopted and incorporated as fully as if set out at length herein. (1988 Code, § 4-302, as amended by Ord. #1364, Feb. 2008)

- 12-303. Penalty for violation of code or regulations. Any person who shall violate any provision of the electrical code or the regulations herein adopted, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any building or structure or appliance, fixture, equipment or installation therein or appurtenant thereto in violation of a detailed statement or drawing submitted and approved thereunder, shall be punished as provided in § 1-107 of this code of ordinances. Each such person shall be deemed guilty of a separate offense for each day or portion thereof during which any violation of any of the provisions of this code is committed or continued. (1988 Code, § 4-303)
- **12-304.** <u>Inspections; fees</u>. (1) The city hereby elects to have all such electrical installations as set forth in this chapter, inspected by inspectors or deputy inspectors appointed by the state or the state fire marshal. Such inspectors are hereby authorized to charge for and receive a fee for each such inspection in accordance with <u>Tennessee Code Annotated</u>, § 68-102-143.
- (2) Where electrical inspections are made by inspectors provided by the state, as provided herein, no other electrical inspection fee or charge for electrical inspection will be made by the city. (1988 Code, § 4-304)
- 12-305. Permit—required; contents; fee. No installations of electrical wiring, equipment or devices, major repair, major rewiring or major additions thereto, other than portable plug-in type equipment rated at one thousand seven hundred (1700) watts or less shall be made on any premises within or without the corporate city, which premises are served or to be served by the Tullahoma Power System, unless and until a written permit therefor is obtained from the city recorder. Said permit shall set forth the name of the owner of the property, the name of the person proposing to do the work, the location where said work is to be done, and the character of the proposed work. The fee for said permit shall be as prescribed in § 12-102 which shall be collected by the recorder before said permit shall be issued. (1988 Code, § 4-305)
- 12-306. Failure to obtain; service, etc., to be discontinued. No metering device shall be issued and no electric service connection shall be made by the Tullahoma Power System unless and until said permit as set forth in § 12-304 is paid for and obtained from the city recorder. The manager of the Tullahoma Power System or his authorized representative is hereby authorized to discontinue any existing electric service connection inside or outside the

corporate limits of the city, upon the failure to obtain said permit. (1988 Code, § 4-306)

- 12-307. <u>Discontinuance of services for failure to comply with chapter</u>. The Tullahoma Power System is hereby authorized to refuse to connect or to discontinue electric service to any premises for failure to comply with this chapter, or upon the certification by the electrical inspector that said installation does not conform to the herein mentioned code and regulations, or for failure to pay the inspection fees as set forth in the <u>Tennessee Code Annotated</u>. (1988 Code, § 4-307)
- 12-308. Compliance with privilege tax and licensing laws required. It shall be unlawful for any person to make or contract to make any electrical installation as set forth in this chapter in any building or premises served or to be served by the Tullahoma Power System without first complying with all privilege tax or license laws, if any, and/or in the county wherein such work is to be done. (1988 Code, § 4-308)

# GAS CODE<sup>1</sup>

## **SECTION**

12-401. Code adopted.

12-402. Amendments to ICC <u>International Fuel Gas Code</u>.

12-403. Deleted.

12-401. <u>Code adopted</u>. There is hereby adopted for the purpose of establishing rules and regulations for the installation of natural gas appliances, gas vents and gas pipes, and demolition, or any appurtenances connected thereto, that certain gas code known as the <u>International Fuel Gas Code</u>, published by the International Code Council, 2015 edition with revisions thereof hereafter enacted thereof, save and except such portions as are hereinafter deleted, modified, or amended, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling as to any connection made to the gas system owned by the Elk River Public Utilities District, Tullahoma, Tennessee, both inside and outside of the corporate limits on either distribution or transmission mains. (Ord. #1168, Oct. 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, Ord. #1458, April 2016, and Ord. #1493, Dec. 2017)

**12-402.** <u>Amendments to ICC International Fuel Gas Code</u>. That Sections 103.1 and 103.2 of the <u>International Fuel Gas Code</u> are stricken and new Sections 103.1 and 103.2 be created as follows:

- Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Fuel Gas Code shall be known as Building Inspectors.
- Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC code it shall mean "building inspector". (Ord. #1168, Oct.

Electricity and gas: title 19.

Streets and sidewalks: title 16.

<sup>&</sup>lt;sup>1</sup>Municipal Code references

<sup>&</sup>lt;sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

1996, as deleted by Ord. #1333, June 2006, and added by Ord. #1493, Dec. 2017)

**12-403.** <u>Deleted.</u> (as added by Ord. #1458, April 2016, and deleted by Ord. #1493, Dec. 2017)

#### **HOUSING CODE**

## **SECTION**

12-501. Code adopted.

12-502. Amendments to ICC <u>International Performance Code for Buildings and Facilities</u> (housing code).

12-503. Deleted.

12-501. <u>Code adopted</u>. There is hereby adopted for the purpose of establishing rules and regulations for the repair, equipment, use and occupancy for dwelling purposes, of every building or structure or any appurtenances connected or attached to such buildings or structures, that certain housing code known as the International Performance Code for Buildings and Facilities, 2015 edition<sup>1</sup> thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the city. (Ord. #1167, 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, Ord. #1458, April 2016, and Ord. #1493, Dec. 2017)

12-502. Amendments to ICC International Performance Code for Buildings and Facilities (housing code). That when the title "Code Official" is used in any adopted ICC code it shall mean "building inspector". (1988 Code, § 4-502, as deleted by Ord. #1364, Feb. 2008, and added by Ord. #1493, Dec. 2017)

**12-503.** <u>Deleted.</u> (as added by Ord. #1458, April 2016, and deleted by Ord. #1493, Dec. 2107)

<sup>&</sup>lt;sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

# **MOVING BUILDINGS**

# **SECTION**

- 12-601. Definition.
- 12-602. Permit--required.
- 12-603. Application; form; contents; accompanying papers; fee.
- 12-604. Bond; insurance.
- 12-605. Deposit for expense to city required.
- 12-606. Duties of superintendent of public works.
- 12-607. Duties of person holding permit.
- 12-608. Moving.
- 12-609. Enforcement.
- **12-601.** <u>Definition</u>. For the purposes of this chapter the term "building" is defined as a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. A structure or object, the dimensions of which are, or exceed, the following, when loaded for moving, shall be deemed a "building" and subject to the provisions of this chapter: height, thirteen (13) feet; width, ten (10) feet; length, sixty (60) feet; weight, as per <u>Tennessee Code Annotated</u>, § 55-11-203. (1988 Code, § 4-601)
- **12-602.** <u>Permit--required</u>. No person shall move any building or object, the dimensions of which are as specified in § 12-601, along or across any highway, street or alley in the city without first obtaining a permit from the planning and codes director. (1988 Code, § 4-602, as amended by Ord. #1364, Feb. 2008)

## 12-603. Application; form; contents; accompanying papers; fee.

- (1) A person seeking issuance of a permit under this chapter shall file an application for such permit with the superintendent of public works. The application shall be made in writing, upon forms provided by the planning and codes director, and shall be filed in the office of the planning and codes director.
  - (2) The application shall set forth:
  - (a) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior or description of the object proposed to be moved.
  - (b) A legal description of the lots from which the building is to be moved, giving the lot, block and tract number, if located in the city.

- (c) A legal description of the lot to which it is proposed such building be removed, giving lot, block and tract number, if located in the city.
- (d) The portion of the lot to be occupied by the building when moved, if in the city.
- (e) The highways, streets and alleys over, along or across which the building is proposed to be moved.
  - (f) Proposed moving date and hours.
- (g) Any additional information which the superintendent of public works shall find necessary to a fair determination of whether a permit should issue.
- (3) The following papers shall accompany the application for a permit under this chapter:
  - (a) <u>Tax certificate</u>. The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes and any city charges against the same are paid in full.
  - (b) <u>Certificate of ownership or entitlement</u>. The applicant, if other than the owner, shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence, that he is entitled to move the building.
- (4) The application shall be accompanied by the permit fee as specified in § 12-102. (1988 Code, § 4-603, as amended by Ord. #1364, Feb. 2008)
- 12-604. Bond; insurance. An application under this chapter as an indemnity for any damage which the city may sustain by reason of damage or injury to any highway, street, alley, sidewalk, fire hydrant or other property of the city, which may be caused by or be incidental to the removal of any building over, along or across any street, etc., in the city and to indemnify the city against any claims of damages to persons or private property and to satisfy any claims by private individuals arising out of, caused by, or incidental to the moving of any building over, along or across any street, etc., in the city, shall be accompanied by one of the following items:
- (1) <u>Bond</u>. Any person filing an application under this chapter shall file with the superintendent of public works a bond, approved as to form by the city attorney, executed by a bonding or surety company authorized to do business in the state, in the amount of fifty thousand dollars (\$50,000) conditioned upon the assurance that this chapter and other applicable ordinances and laws will be complied with. Such bond shall run to the city for the use and benefit of any person intended to be protected thereby and shall be conditioned on the payment of any damage to person or to public or private property and the payment for any damages or losses resulting from any malfeasance, misfeasance, or nonfeasance or negligence in connection with any of the activities or conditions upon which the permit applied for is granted.

- (2) <u>Insurance policy</u>. Any persons filing an application under this chapter shall file with the superintendent of public works a public liability and property damage insurance policy in the amount of not less than twenty-five thousand dollars (\$25,000.00) for one person and fifty thousand dollars (\$50,000.00) for any one accident, and ten thousand dollars (\$10,000.00) for property damage, issued by an insurance company authorized to do business in the state. (1988 Code, § 4-604)
- 12-605. Deposit for expense to city required. Upon receipt of an application under this chapter, it shall be the duty of the owner to procure from the department of public works, the electric, water, and sewer departments, the telephone company, the police department or any other utility or agency involved, an estimate of the expense that will be incurred in removing and replacing any electric wires, street lamps or poles or lines or any other property of any of said bodies, the removal and replacement of which will be required by reason of the moving of the building through the city, together with the cost of materials necessary to be used in making such removals and replacements. Prior to issuance of the permit the planning and codes director shall require of the applicant a deposit of a sum of money in cash equal to twice the amount of the estimated expense. (1988 Code, § 4-605, as amended by Ord. #1364, Feb. 2008)
- **12-606.** <u>Duties of superintendent of public works</u>. (1) <u>Inspection</u>. The planning and codes director shall inspect the building and the applicant's equipment to determine whether the standards for issuance of a permit as provided for in this chapter are met.
- (2) <u>Standards for issuance</u>. The planning and codes director shall refuse to issue a permit under the provisions of this chapter if he finds:
  - (a) That any application requirement or any fee or deposit requirement has not been complied with;
  - (b) That the building is too large to move without endangering persons or property in the city;
  - (c) That the building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the city;
  - (d) That the building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the city;
  - (e) That the applicant's equipment is unsafe and that persons and property would be endangered by its use;
  - (f) That zoning or other ordinances would be violated by the building in its new location;
  - (g) That for any other reason persons or property in the city would be endangered by the moving of the building.

- (3) <u>Deposit of fees and securities</u>. The planning and codes director shall deposit all fees and securities with the city recorder.
- (4) Return upon non-issuance. Upon his refusal to issue a permit the superintendent of public works shall return to the applicant all deposits and instruments of security. Permit fees filed with the application shall not be returned.
- (5) Return upon allowance for expense. After the building has been removed or moved the planning and codes director shall furnish the city recorder with a written statement of all expenses incurred in removing and replacing all property belonging to the city, and of all material used in the making of the removal or replacement together with a statement of all damage caused to or inflicted upon property belonging to the city. The city recorder shall authorize the planning and codes director to return to the applicant all deposits after the city recorder deducts the sum sufficient to pay for all the costs and expenses and for all damage done to property of the city by reason of the removal of the building. Permit fees deposited with the application shall not be returned.
- (6) <u>Designated streets for removal or moving</u>. The planning and codes director shall designate the streets over which the building may be moved. The planning and codes director shall have the route approved by the chief of police and the manager of the electric, water and sewer departments. In making their determination, such should be based on maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets. (1988 Code, § 4-606, as amended by Ord. #1364, Feb. 2008)

# **12-607. Duties of person holding permit**. Every permittee under this chapter shall:

- (1) File his application at least forty-eight (48) hours in advance of the time requested for the moving of the building, Saturdays and Sundays excluded in the calculation of time.
- (2) Notify the planning and codes director in writing of a desired change in moving date and hours as proposed in the application.
- (3) Notify the planning and codes director in writing of all damage done to property belonging to the city within twenty-four (24) hours after the damage has occurred.
- (4) Comply with the building chapter of this code, the zoning ordinance, and all other applicable ordinances and laws upon relocating the building or object in the city.
- (5) Remove all rubbish and materials and fill all excavations to existing grade at the original building site so that the premises are left in a safe and sanitary condition. (1988 Code, § 4-607, as amended by Ord. #1364, Feb. 2008)
- **12-608.** <u>Moving</u>. Under this chapter no building or object can be moved unless:

- (1) It is moved on a day other than Saturday and Sunday.
- (2) It is moved between sunup and sundown.
- (3) It can be moved to its destination or outside of the city during the time aforesaid; for no building or object can be left on any right-of-way, street, alley, or highway within the city over night.
- (4) All buildings being moved shall comply with <u>Tennessee Code Annotated</u>, title 13, chapter 3, sections 2 through 4. (1988 Code, § 4-608, as amended by Ord. #1364, Feb. 2008)
- **12-609.** Enforcement. (1) In the event permittee fails to comply with the requirements of this chapter, the city may proceed as necessary in accordance with law to ensure the premises are restored to a sanitary and safe condition.
- (2) The permittee shall be liable for any expenses, damages or costs in excess of deposited amounts or securities and the city attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excess amounts or damages. (1988 Code, § 4-609, as replaced by Ord. #1364, Feb. 2008)

# PLUMBING CODE<sup>1</sup>

## **SECTION**

12-701. Code adopted.

12-702. Amendments to ICC International Plumbing Code.

12-703. Deleted.

**12-701.** <u>Code adopted</u>. There is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, repair, equipment, location, maintenance, and removal of plumbing equipment, installation, fixture and appliance that certain plumbing code known as the <u>Plumbing Code</u>, published by the International Code Council, 2015 edition and subsequent revisions thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the city, and outside of the city as to plumbing connected or to be connected to the city sewer or water system. (Ord. #1167, Oct. 1996, modified, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, Ord. #1458, April 2016, and Ord. #1493, Dec. 2017)

**12-702.** <u>Amendments to ICC International Plumbing Code</u>. That Sections 103.1 and 103.2 of the <u>International Plumbing Code</u> are stricken and new Sections 103.1 and 103.2 be created as follows:

- Section 103.l General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Plumbing Code shall be known as Building Inspectors;
- Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC code it shall mean "building inspector". (Ord. #1167, Oct.

<sup>1</sup>Municipal code references

Cross-connections: title 18. Street excavations: title 16. Utilities: titles 18 and 19.

<sup>&</sup>lt;sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

1996, as deleted by Ord. #1333, June 2006, and added by Ord. #1493, Dec. 2017)

**12-703.** <u>Deleted</u>. (as added by Ord. #1458, April 2016, and deleted by Ord. #1493, Dec. 2017)

# MECHANICAL CODE

## **SECTION**

12-801. Code adopted.

12-802. Amendments to ICC International Mechanical Code.

12-803. Deleted.

12-801. <u>Code adopted</u>. There is hereby adopted for the purpose of establishing rules and regulations for the installation of natural gas appliances, gas vents and gas pipes, and demolition, or any appurtenances connected thereto, that certain gas code known as the <u>International Mechanical Code</u>, published by the International Code Council, 2015 edition, with revisions thereof hereafter enacted thereof, save and except such portions as are hereinafter deleted, modified, or amended, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein. (Ord. #1171, Oct. 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, Ord. #1458, April 2016, and Ord. #1493, Dec. 2017)

12-802. <u>Amendments to ICC International Mechanical Code</u>. That Sections 103.1 and 103.2 of the <u>International Mechanical Code</u> are stricken and new Sections 103.1 and 103.2 be created as follows:

- Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Mechanical Code shall be known as Building Inspectors.
- Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC code it shall mean "building inspector". (Ord. #1167, Oct. 1996, as deleted by Ord. #1333, June 2006, and added by Ord. #1493, Dec. 2017)

**12-803.** <u>Deleted</u>. (as added by Ord. #1458, April 2016, and deleted by Ord. #1493, Dec. 2017)

<sup>&</sup>lt;sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

## RESIDENTIAL CODE

## **SECTION**

12-901. Code adopted.

12-902. Amendments to ICC International Residential Code.

12-901. <u>Code adopted</u>. There is hereby adopted the 2015 <u>International Residential Code</u> with revisions thereof deleted, modified, or amended as further set forth in § 12-902, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set forth at length herein, and the provisions thereof shall be controlling in relationship to all matters relative to one- and two-family dwellings, in so far as they apply. (Ord. #1162, Oct. 1996, as amended by Ord. #1333, June 2006, and Ord. #1364, Feb. 2008, replaced by Ord. #1458, April 2016, and Ord. #1493, Dec. 2017)

**12-902.** <u>Amendments to ICC International Residential Code</u>. The ICC residential code for one and two family dwellings is amended as follows:

- (1) That §§ R103.1 and R103.2 of the <u>International Residential Code</u> are stricken and new §§ R103.1 and R103.2 be created as follows:
- Section R103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Residential Code shall be known as Building Inspectors.
- Section R103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Building Official" is used in any adopted ICC code it shall mean "building inspector."
- (2) That Section R309.5 Fire Sprinklers, Section R313.1 Townhouse automatic fire sprinkler systems, and Section R313.2 One- and Two-Family dwellings automatic fire sprinkler systems, shall be deleted, which however may be constructed and installed at the discretion of the owner. (as added by Ord. #1458, April 2016, and replaced by 1479, May 2017, and Ord. #1493, Dec. 2017)

# INTERNATIONAL PROPERTY MAINTENANCE CODE

#### **SECTION**

12-1001. Code adopted.

12-1002. Amendments to ICC International Property Maintenance Code.

**12-1001.** Code adopted. There is hereby adopted for the purpose of establishing rules and regulations relative to amusement devices the International Property Maintenance Code, both the current edition thereof and any amendments thereto, now in effect or hereafter enacted, said code having been copyrighted by the International Code Council, 2015 edition, all of the provisions thereof being incorporated herein by reference as though fully set forth herein, as amended from time to time. (1988 Code, § 4-1001, as replaced by Ord. #1333, June 2006, and amended by Ord. #1364, Feb. 2008, Ord. #1458, April 2016, and Ord. #1493, Dec. 2017)

**12-1002.** Amendments to ICC International Property Maintenance Code. That Sections 103.1 and 103.2 of the International Property Maintenance Code are stricken and new Sections 103.1 and 103.2 be created as follows:

- Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Property Maintenance Code shall be known as Building Inspectors.
- Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC code it shall mean "building inspector". (as added by Ord. #1458, April 2016, and replaced by Ord. #1493, Dec. 2017)

<sup>&</sup>lt;sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

#### CHAPTER 11<sup>1</sup>

#### **ENERGY CONSERVATION CODE**

## **SECTION**

12-1101. Code adopted.

12-1102. Amendments to the <u>International Energy Conservation Code</u>.

12-1101. <u>Code adopted</u>. There is hereby adopted for the purpose of establishing rules and regulations for the design of energy efficient building envelopes and installation of energy efficient mechanical, lighting, and power systems through requirements emphasizing performance found in the <u>International Energy Conservation Code</u>, published by the International Code Council, 2015 edition with revisions thereof hereafter enacted thereof, save and except such portions as are here in after deleted, modified, or amended, or further set forth in § 12-1102 or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provision thereof shall be controlling in the construction of all buildings and other structures covered thereby, contained within the city. (as added by Ord. #1459, April 2016, and amended by Ord. #1493, Dec. 2017)

12-1102. <u>Amendments to the International Energy Conservation</u> (IECC) Code. That Sections 103.1 and 103.2 of the <u>International Energy Conservation Code</u> are stricken and new Sections 103.1 and 103.2 be created as follows:

- Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Energy Conservation Code shall be known as Building Inspectors.
- Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC code it shall mean "building inspector". (as added by Ord. #1459, April 2016, and replaced by Ord. #1493, Dec. 2017)

<sup>&</sup>lt;sup>1</sup>The original chapter 11 was deleted by Ord. #1364, Feb. 2008.

# [DELETED.]

(Ord. #1166, Oct. 1996, modified, as deleted by Ord. #1364, Feb. 2008)

# EXISTING BUILDINGS CODE

## **SECTION**

12-1301. Code adopted.

12-1302. Amendments to ICC International Existing Building Code.

12-1301. Code adopted. There is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition, of every existing building or structure or any appurtenances connected or attached to such buildings or structures, that certain code known as the International Existing Buildings Code, published by the International Code Council, 2015 edition, and amendments thereto, save and except such portions as are herein deleted, modified, or amended, or are in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the renovation of all buildings and other structures covered thereby, located within the City of Tullahoma, Tennessee. (Ord. #1164, Oct. 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, Ord. #1458, April 2016, and Ord. #1493, Dec. 2017)

12-1302. <u>Amendments to ICC International Existing Building Code</u>. That Sections 103.1 and 103.2 of the <u>International Existing Building Code</u> are stricken and new Sections 103.1 and 103.2 be created as follows:

- Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Existing Building Code shall be known as Building Inspectors.
- Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC code it shall mean "building inspector". (as added by Ord. #1458, April 2016, and replaced by Ord. #1493, Dec. 2017)

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

# LIFE SAFETY CODE

# **SECTION**

12-1401. Code adopted.

12-1401. <u>Code adopted</u>. There is hereby adopted all the provisions of the National Fire Prevention Association (NFPA) <u>Life Safety Code</u>, enacted, and the 2003 Life Safety Code and all revisions hereafter enacted, save and except for such portions thereof as are hereinafter deleted, modified, amended, or are in conflict with this code of ordinances, of which not less than three (3) copies have been and now are filed in the office of the city recorder and the same are hereby adopted and incorporated as fully as if set forth in full and at length herein, and the provisions thereof shall be controlling those matters to which said code deals. (Ord #1163, Oct. 1996, as amended by Ord. #1333, June 2006)

<sup>&</sup>lt;sup>1</sup>Copies of this code (and any amendments) may be purchased from the National Fire Protection Association, 1 Batterymarch park, Quincy, Massachusetts 02269-9101.

# [DELETED]

# **SECTION**

12-1501. [Deleted.]

**12-1501.** [Deleted]. (Ord. #1185, Aug. 1997, as deleted by Ord. #1333, June 2006)

# ADMINISTRATIVE HEARING OFFICE

# **SECTION**

- 12-1601. Municipal administrative hearing officer.
- 12-1602. Communication by administrative hearing officer and parties.
- 12-1603. Appearance by parties and/or counsel.
- 12-1604. Pre-hearing conference and orders.
- 12-1605. Appointment of administrative hearing officer/administrative law judge.
- 12-1606. Training and continuing education.
- 12-1607. Jurisdiction not exclusive.
- 12-1608. Citations for violations-written notice.
- 12-1609. Review of citation-levy of fines.
- 12-1610. Party in default.
- 12-1611. Petitions for intervention.
- 12-1612. Regulating course of proceedings—hearing open to public.
- 12-1613. Evidence and affidavits; notice.
- 12-1614. Final orders.
- 12-1615. Final orders effective date.
- 12-1616. Collection of fines, judgments and debts.
- 12-1617. Judicial review of final order.
- 12-1618. Appeal to court of appeals.
- **12-1601.** <u>Municipal administrative hearing officer</u>. (1) In accordance with <u>Tennessee Code Annotated</u>, title 6, chapter 54, part 10, there is hereby created the office of administrative hearing officer to hear violations of any of the provisions codified in the Tullahoma Municipal Code relating to building and property maintenance including:
  - (a) Building codes found at § 12-201, et seq.
  - (b) Residential codes found at § 12-901, et seq.
  - (c) Plumbing codes found at § 12-701, et seq.
  - (d) Electrical codes § 12-301, et seq.
  - (e) Gas codes § 12-401, et seq.
  - (f) Mechanical codes § 12-801, et seq.
  - (g) Energy codes § 12-901, et seq.
  - (h) Property maintenance codes § 12-1001, et seg.; and
  - (i) All ordinances regulating any subject matter commonly found in the above-described codes.
    - (j) Zoning ordinance found in Appendix A-1

The administrative hearing officer is not authorized to hear violation of codes adopted by the state fire marshal pursuant to <u>Tennessee Code Annotated</u>,

- § 68-120-101(a) enforced by deputy building inspector pursuant to <u>Tennessee</u> <u>Code Annotated</u>, § 68-120-101(f).
- (2) The utilization of the administrative hearing officer shall be at the discretion of the director of planning and codes and shall be an alternative to the enforcement in the City of Tullahoma Municipal Court.
- (3) There is hereby created one (1) administrative hearing officer(s) position to be appointed pursuant to § 12-1605 below.
- (4) The amount of compensation for the administrative hearing officer shall be approved by the board of mayor and aldermen.
- (5) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city administrator.
- (6) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in <u>Tennessee Code Annotated</u>, title 6, chapter 54, section 1001, <u>et seq</u>. (as added by Ord. #1425, April 2012, and replaced by Ord. #1511, Sept. 2018)
- **12-1602.** Communication by administrative hearing officer and parties. (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.
- (2) Notwithstanding subsection (1), an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the city attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.
- (3) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.
- (4) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5).
- (5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral

communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (as added by Ord. #1425, April 2012)

- **12-1603.** Appearance by parties and/or counsel. (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.
- (2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by any provision of law, other representative. (as added by Ord. #1425, April 2012)
  - **12-1604.** Pre-hearing conference and orders. (1) (a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representative hearing officer for a conference to consider:
    - (i) The simplification of issues;
    - (ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
      - (iii) The limitation of the number of witnesses; and
    - (iv) Such other matters as may aid in the disposition of the action.
  - (b) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.
- (2) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, on any question of law.
- (3) In the discretion of the administrative hearing officer, all or part of the pre-hearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.
- (4) If a pre-hearing conference is not held, the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (as added by Ord. #1425, April 2012)

- 12-1605. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall be appointed by board of mayor and aldermen and serve at the pleasure of the board of mayor and aldermen. Such administrative hearing officer may be hired on a part-time or full-time basis, by contract, or by interlocal agreement with one (1) or more eligible municipalities.
  - (2) An administrative hearing officer shall be one (1) of the following:
    - (a) Licensed building inspector;
    - (b) Licensed plumbing inspector;
    - (c) Licensed electrical inspector;
    - (d) Licensed attorney;
    - (e) Licensed architect;
    - (f) Licensed engineer; or
- (3) The city may also contract with the administrative procedures division office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the training or continuing education requirements of <u>Tennessee Code Annotated</u>, § 6-54-1007(a) and (b). (as added by Ord. #1425, April 2012)
- 12-1606. <u>Training and continuing education</u>. (1) Each person appointed to serve as an administrative hearing officer shall, within the sixmonth period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Services (MTAS), or its designee(s). MTAS shall issue a certificate of participation to each person whose attendance is satisfactory.
- (2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the administrative hearing officer(s). No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year. (as added by Ord. #1425, April 2012)
- **12-1607.** <u>Jurisdiction not exclusive</u>. The power and authority of vested in the office of administrative hearing is not exclusive and does not terminate or diminish any other existing municipal power or authority. The board of mayor and aldermen may direct a municipal officer or employee to develop criteria for determining when to exercise administrative enforcement. (as added by Ord. #1425, April 2012)
- **12-1608.** <u>Citations for violations—written notice</u>. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the

city's administrative hearing ordinance, the issuing officer shall provide written notice of:

- (a) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, upon timely, written application a more definite and detailed statement shall be furnished ten (10) business days prior to the time set for the hearing;
- (b) A short and plain description of the city's administrative hearing process including references to state and local statutory authority;
- (c) Contact information for the city's administrative hearing office; and
- (d) Time frame in which the hearing officer will review the citation and determine the fine and remedial period, if any.
- (2) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not admission of guilt.
- (3) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.
- (4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (as added by Ord. #1425, April 2012)
- 12-1609. Review of citation--levy of fines. (1) Upon receipt of a citation issued pursuant to § 12-1608, the administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.
  - (a) For violations occurring upon residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For purposes of the administrative hearing officer program, "residential property" means a single family dwelling principally used as the property owner's primary residence and the real property upon which it sits.
  - (b) For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. For purposes

- of the administrative hearing officer program, "non-residential property" means all real property, structures, buildings and dwellings that are not residential property.
- (2) If a fine is levied pursuant to subsection (1), the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) or greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.
- (3) Upon the levy of a fine pursuant to subsection (1), the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:
  - (a) The fine and remedial period established pursuant to subsections (1) and (2);
  - (b) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and
  - (c) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.
- (4) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the hearing officer within seven (7) business days of receipt of the notice required in subsection (3).
- (5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled. (as added by Ord. #1425, April 2012)
- **12-1610.** Party in default. (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.
- (2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default. (as added by Ord. #1425, April 2012)
- **12-1611. Petitions for intervention**. (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

- (a) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;
- (b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervener under any provision of law; and
- (c) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.
- (2) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:
  - (a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
  - (b) Limiting the intervenor's participation so as to promote the orderly and prompt conduct of the proceedings; and
  - (c) Requiring two (2) or more intervenors to combine their participation in the proceedings.
- (3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (as added by Ord. #1425, April 2012)
- **12-1612.** Regulating course of proceedings—hearing open to public. (1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.
- (2) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the pre-hearing order.
- (3) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.

(4) The hearing shall be open to public observation pursuant to <u>Tennessee Code Annotated</u>, title 8, chapter 44, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (as added by Ord. #1425, April 2012)

# **12-1613.** Evidence and affidavits; notice. (1) In an administrative hearing:

- (a) While the administrative hearing officer is not bound by the Tennessee Rules of Civil Procedure nor bound by the Tennessee Rules of Evidence, the administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious;
- (b) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in subsection (2). Unless the opposing party, within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affiant, the opposing party's right to cross-examination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as provided in this subsection (2), the affidavit shall not be admitted into evidence. "Delivery," for purposes of this section, means actual receipt;
- (c) The administrative hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice;
- (d) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the municipality. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available; and
  - (e) (i) Official notice may be taken of:
    - (A) Any fact that could be judicially noticed in the courts of this state;

- (B) The record of other proceedings before the agency; or
- (C) Technical or scientific matters within the administrative hearing officer's specialized knowledge; and (ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material notice, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts
- (2) The notice referred to in subsection (b) shall contain the following information and be substantially in the following form:

or material so noticed.

The accompanying affidavit of	There insert name of
affiant) will be introduced as evidence	at the hearing in
(here insert title of proceeding	) (here
insert name of affiant) will not be called to t	testify orally and you
will not be entitled to question such affia:	nt unless you notify
(here insert name of the propone	ent or the proponent's
attorney) at (here insert addre	ess) that you wish to
cross-examine such affiant. To be effective, y	your request must be
mailed or delivered to (here inse	ert name of proponent
or the proponent's attorney) on or before	(here insert
a date seven (7) business days after the	date of mailing or
delivering the affidavit to the opposing pa	arty). (as added by
Ord. #1425, April 2012)	

- **12-1614. Final orders**. (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.
- (2) A final order shall include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.
- (3) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.
- (4) If an individual serving or designed to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any

existing record and may conduct any further proceedings as is appropriate in the interest of justice.

- (5) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.
- (6) A final order rendered pursuant to subsection (1) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.
- (7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party. (as added by Ord. #1425, April 2012)
- **12-1615.** <u>Final order effective date</u>. (1) All final orders shall state when the order is entered and effective.
- (2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (as added by Ord. #1425, April 2012)
- **12-1616.** <u>Collection of fines, judgments and debts</u>. The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (as added by Ord. #1425, April 2012)
- **12-1617.** <u>Judicial review of final order</u>. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to <u>Tennessee Code Annotated</u>, title 6, chapter 54, part 10, which shall be the only available method of judicial review.
- (2) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court in the county where the municipality lies. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.
- (3) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.
- (4) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall

transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.

- (5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.
- (6) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this chapter. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.
- (7) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.
- (8) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:
  - (a) In violation of constitutional or statutory provisions;
  - (b) In excess of the statutory authority of the administrative hearing officer;
    - (c) Made upon unlawful procedure;
  - (d) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
  - (e) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.
- (9) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

- (10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (as added by Ord. #1425, April 2012)
- **12-1618.** Appeal to court of appeals. (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the court of appeals of Tennessee.
- (2) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to title 24 shall become a part of the record.
- (3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (as added by Ord. #1425, April 2012)

#### TITLE 13

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

#### **CHAPTER**

- 1. MISCELLANEOUS.
- 2. JUNKED VEHICLES.
- 3. SLUM CLEARANCE.

#### **CHAPTER 1**

#### **MISCELLANEOUS**

# **SECTION**

- 13-101. County and state regulations adopted.
- 13-102. Expectorating.
- 13-103. Littering-generally.
- 13-104. Accumulation of rubbish.
- 13-105. Weeds and other vegetation.
- 13-106. Debris not to result in obstructing view of vehicle drivers.
- 13-107. Brush, tree and limb collection and removal policy.
- 13-108. [Deleted.]
- 13-109. [Deleted.]
- 13-110. [Deleted.]
- 13-111. [Deleted.]
- **13-101.** <u>County and state regulations adopted</u>. The regulations of the county and the regulations of the state relative to health and sanitation, food, food establishments and food inspections are hereby adopted by reference the same as if set out at length herein. (1988 Code, § 8-101, as replaced by Ord. #1368, June 2008)
- **13-102. Expectorating**. It shall be unlawful for any person to expectorate upon the floor of any public room or building or expectorate upon any street or sidewalk within the city. (1988 Code, § 8-102, as replaced by Ord. #1368, June 2008)
  - **13-103.** Littering—generally. (1) It shall be unlawful for any person to:

<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-211(10).

- (a) Knowingly place, drop or throw litter on any public or private property without permission and does not immediately remove it;
- (b) Negligently place or throw glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or within fifty feet (50') of a public highway;
- (c) Negligently discharge sewage, minerals, oil products or litter into any public waters or lakes within this state.
- (2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.
- (3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering. (1988 Code, § 8-103, as replaced by Ord. #1368, June 2008, and Ord. #1416, July 2011)
- **13-104.** Accumulation of rubbish. It shall be unlawful for any person owning, leasing, occupying, or having control of property, regardless of whether the property is a vacant lot or contains any form of structure, in the city, to permit the accumulation upon such property of garbage, trash, rubbish or other refuse in any form or nature, other than as authorized for city pick-up and disposal. All such accumulations are hereby declared to be a public nuisance. The failure to clean up and remove such rubbish shall constitute a violation of this section. (1988 Code, § 8-104, as replaced by Ord. #1368, June 2008)
- 13-105. Weeds and other vegetation. (1) It shall be unlawful for any person or other entity owning, leasing, occupying or having control of property in the city, regardless of whether the property is vacant or contains any form of structure, to permit the growth upon such property of weeds, grass, brush and all other rank or noxious vegetation to a height greater than twelve (12) inches when such growth is within two hundred (200) feet of other improved and/or occupied property or is within two hundred (200) feet of the right of way of any street, thoroughfare, or highway, within the city.
- (2) Excluded from the provisions hereof shall be tracts of land of five (5) acres or larger in unplatted, undeveloped areas (i.e., not in a subdivision approved by the city planning commission, and the plat of which is recorded with the register of deeds, or in a subdivision developed prior to the creation of the planning commission, a plat of which is of record with the register of deeds) or tracts that are being used for current agricultural purposes. Property not exempt due to its size or the active practice of agriculture which is contiguous

- to parcel(s) of land which front on public streets or roadways, or contain any improvements shall be cleared of all weeds, tall grass and other noxious vegetation to within two hundred (200) feet of the property line of the developed property adjoining the subject tract and/or front property line adjoining the right of way of any street or roadway. Also excluded herefrom are natural wooded areas containing trees. As to said naturally wooded areas, the clearing requirements of this section shall extend only to the line of woods or trees in said areas, adjoining developed (improved) property or public thoroughfares.
- (3) The failure to cut and destroy such weeds, grass, brush and all other rank or noxious vegetation not subject to the exclusions above, shall constitute a violation of this section.
- (4) It shall also be unlawful for any such person and/or other entity to permit poison vines or plants injurious because of pollination or a menace to health, to grow where they may cause injury or discomfort to any person within the city, regardless of height, which plants are hereby declared to be a public nuisance. The failure to destroy such poison vines or other such plants shall constitute a violation of this section.
- (5) It shall be unlawful to plant, maintain or allow to remain any vegetation, shrubbery, hedge rows, etc., so near or upon public road rights of way as to constitute a hazard to vehicular and/or pedestrian traffic. Failure of owners of property adjoining said rights of way or owners of property upon which said vegetation exists to trim or remove same shall be guilty of a violation of this section. A violation hereof shall render the violator subject to the general penalty provisions of this code. (1988 Code, § 8-105, as replaced by Ord. #1368, June 2008)
- **13-106.** Debris not to result in obstructing view of vehicle drivers. It shall be unlawful for any person to place debris on the property that might obstruct the vision of the operators of vehicles or of pedestrians. (1988 Code, § 8-106, as replaced by Ord. #1368, June 2008)
- 13-107. Brush, tree and limb collection and removal policy. The board of mayor and aldermen may adopt by resolution a policy, which may be amended from time to time, for the collection and removal of brush, trees and limbs (1988 Code, § 8-107, as replaced by Ord. #1368, June 2008)
- **13-108.** [Deleted.] (1988 Code, § 8-108, as deleted by Ord. #1368, June 2008)
- **13-109.** [Deleted.] (1988 Code,  $\S$  8-109, as deleted by Ord. #1368, June 2008)
- **13-110.** [Deleted.] (1988 Code, § 8-110, as deleted by Ord. #1368, June 2008)

**13-111.** [Deleted.]. (1988 Code, § 8-111, as deleted by Ord. #1368, June 2008)

# JUNKED VEHICLES

- 13-201. Definitions.
- 13-202. Prohibition, declaration of nuisance; exceptions; screening of junkyards.
- 13-203. Service of notice to remove.
- 13-204. Responsibility for removal.
- 13-205. Notice procedure.
- 13-206. Content of notice.
- 13-207. Request for hearings.
- 13-208. Procedure for hearing.
- 13-209. Removal by city.
- 13-210. Notice that removal accomplished.
- 13-211. Disposition of removed vehicles.
- 13-212. Contents of public sale notice.
- 13-213. Conduct of public sale.
- 13-214. Redemption of impounded vehicles.
- 13-215. Liability of owner or occupant.
- **13-201.** <u>Definitions</u>. For the purposes of this chapter, the following terms shall have the respective meanings ascribed to them:
- (1) "Automobile graveyard" or "vehicle junkyard." Any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.
  - (2) "Director of traffic." The chief of police.
- (3) "Improperly registered vehicle." Any motor vehicle which does not have lawfully affixed thereto an unexpired license plate shall be considered a junked vehicle for the purposes of this chapter.
- (4) "Junked motor vehicles." Any motor vehicle the condition of which is significantly damaged, wrecked, dismantled totally or partially, inoperative, or a motor vehicle which is a damaged, wrecked, totally or partially dismantled or inoperative condition which has been abandoned, or discarded.
- (5) "Motor vehicle." Any vehicle which is self-propelled and designed to travel along the ground, in the air and in the water and shall include, but not be limited to, automobiles, recreational vehicles, buses, motor-bikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf carts, campers and trailers, boats, airplanes and helicopters.
- (6) "Private property." Any real property within the city which is privately owned and which is not public property as defined in this section.

- (7) "Public property." Any street or highway, which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility. (1988 Code, § 8-301, modified)
- 13-202. <u>Prohibition, declaration of nuisance; exceptions; screening of junkyards</u>. (1) It shall be unlawful to and no person shall park, store, leave, or permit the parking, storing, or leaving of any motor vehicle of any kind which is in a wrecked, dismantled, inoperative, heavily rusted, junked, or partially dismantled condition, whether or not attended, upon any public or private property within the city, for a period of time in excess of thirty (30) days on private property, or forty-eight (48) hours on public property. Subject vehicle shall be considered as abandoned or discarded.
- (2) The presence of an abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled vehicle or parts thereof, on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter.
- (3) This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city, or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, or any vehicle retained by the owner for antique collection purposes. (An antique is an automobile at least twenty-five (25) years old).
- (4) However, any vehicles so parked, stored, left or permitted to be parked, stored or left as is hereinabove defined, upon private property either licensed as or being used as "an automobile graveyard" or "a vehicle junkyard" as is hereinabove defined, shall be screened by natural objects, plantings, fences or other appropriate means so as not to be visible in any manner whatsoever from any street or highway upon which same are located, or otherwise removed from sight. Further, any "automobile graveyard" or "vehicle junkyard" as is hereinabove defined, shall be subject to those provisions of <u>Tennessee Code Annotated</u>, § 54-20-104, as amended, and the city shall have the power to enforce said regulations. Those "automobile graveyards" or "vehicle junkyards" in existence prior to the effective date of this section shall likewise erect screening as is hereinabove provided.
- (5) Junked motor vehicles, as are defined in § 13-201 hereof, or any parts or accessories thereof, or thereto held in conjunction with a business enterprise other than an automobile graveyard or a vehicle junkyard, such as a body repair shop, used car sales facility, paint shop, vehicle detention facility, or storage facility, etc., shall not exceed the number of ten of any such vehicles, upon said property. Such vehicles must be placed on subject property no closer to any abutting streets or roads than the setback line of the major building situate upon the property occupied by said business; provided, however, that

this provision may be waived in the event that proper screening is erected by the business owner in the form of fencing or landscaping so as to hide from view from the abutting streets, said vehicles. If there is no building upon subject property upon which said stored vehicles are located then those screening requirements as set forth in sub-paragraph (4) of this section shall apply. Further provided, that the provisions hereof shall not apply to a lawfully licensed new or used car sales facility exhibiting for sale fully operable automobiles. Further, no business as is defined in this paragraph shall allow to accumulate or shall place, within sight of abutting streets and roads, any vehicle parts such as tires, engine blocks, wheels, bumpers, etc., the provisions hereof requiring that said vehicle parts be kept fully out of sight if stored outside, or be properly screened from sight, or be stored within the buildings situate upon said property. The superintendent of public works may prescribe and must approve any screening required by this section.

- (6) No notice to anyone violating the provisions of this section shall be necessary for the city to enforce its remedies under the general penalties section of this code. (1988 Code, § 8-302)
- 13-203. Service of notice to remove. Whenever it comes to the attention of the chief of police that any nuisance as defined in this chapter exists in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this chapter. (1988 Code, § 8-303)
- 13-204. Responsibility for removal. Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled, or inoperative vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the city, the owner, or occupant of the private property where same is located, shall be liable for the expenses incurred. (1988 Code, § 8-304)
- 13-205. <u>Notice procedure</u>. The director of traffic shall give notice of removal to the owner or occupant of the private property where it is located, at least ten (10) days before the time of compliance. It shall constitute sufficient notice, when a copy of same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by registered mail to the owner or occupant of the private property at his last known address. (1988 Code, § 8-305)
- 13-206. <u>Content of notice</u>. The notice shall contain the request for removal within the time specified in this chapter, and the notice shall advise

that upon failure to comply with the notice to remove, the city or its designee shall undertake such removal with the cost of removal to be levied against the owner of the vehicle and the owner or occupant of the private real property. (1988 Code, § 8-306)

- 13-207. Request for hearings. The persons to whom the notices are directed, or their duly authorized agents, may file a written request for hearing before the board of mayor and aldermen or its designee within the ten (10) day period of compliance prescribed, for the purpose of defending the charges by the city. (1988 Code, § 8-307)
- 13-208. <u>Procedure for hearing</u>. The hearing shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof. At any such hearing the city and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary. (1988 Code, § 8-308)
- 13-209. Removal by city. If the violation described in the notice has not been remedied within the ten (10) day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the violation is affirmed by the board of mayor and aldermen, or its designee, the chief of police or his designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such persons to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter. (1988 Code, § 8-309)
- 13-210. Notice that removal accomplished. Within forty-eight (48) hours of the removal of such vehicle, the chief of police shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that said vehicle has been impounded and stored for violation of this chapter. The notice shall give the location where the vehicle is stored, and the costs incurred by the city for removal. (1988 Code, § 8-310)
- 13-211. <u>Disposition of removed vehicles</u>. Upon removing a vehicle under the provisions of § 13-209 the city shall after ten (10) days cause it to be appraised. If the vehicle is appraised at seventy-five dollars (\$75.00) or less, the chief of police shall execute an affidavit so attesting and describing the vehicle, including the license plates, if any, and stating the location and appraised value of the vehicle. The chief of police, after complying with the above, may summarily dispose of the vehicle and execute a certificate of sale. If the vehicle is appraised at over seventy-five dollars (\$75.00), the chief of police shall give

notice of public sale not less than ten (10) days before the date of the proposed sale. (1988 Code, § 8-311)

- **13-212.** Contents of public sale notice. The notice of sale shall state:
- (1) The sale is of abandoned property in the possession of the city;
- (2) A description of the vehicle, including make, model, license number and any other information which will accurately identify the vehicle;
  - (3) The terms of the sale; and
  - (4) The date, time and place of the sale. (1988 Code, § 8-312)
- 13-213. <u>Conduct of public sale</u>. The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the chief of police shall execute a certificate of sale in duplicate, the original of which is to be given to the purchaser, and the copy thereof to be filed with the city recorder. Should the sale for any reason be invalid, the city's liability shall be limited to the return of the purchase price. (1988 Code, § 8-313)
- 13-214. Redemption of impounded vehicles. The owner of any vehicle seized under the provisions of this chapter may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the city recorder of such sum as the recorder may determine and fix for the actual and reasonable expense of removal, and any preliminary sale advertising expenses, not to exceed one hundred dollars (\$100.00) plus two dollars (\$2.00) per day for storage for each vehicle redeemed. (1988 Code, § 8-314)
- **13-215.** <u>Liability of owner or occupant</u>. Upon the failure of the owner or occupant of property on which abandoned vehicles have been removed by the city to pay the unrecovered expenses incurred by the city in such removal, a lien shall be placed upon the property for the amount of such expenses. (1988 Code, § 8-315)

# SLUM CLEARANCE<sup>1</sup>

# **SECTION**

- 13-301. Findings of board.
- 13-302. Definitions.
- 13-303. "Public officer" designated; powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Additional powers of public officer.
- 13-312. Powers conferred are supplemental.
- 13-313. Structures unfit for human habitation deemed unlawful.
- 13-314. Means of appeal.
- 13-315. Enjoining enforcement of orders.
- 13-301. <u>Findings of board</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 13-21-101, <u>et seq.</u>, the board of mayor and aldermen finds that there exists, in the city, structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (as added by Ord. #1399, Feb. 2010)
- **13-302.** <u>**Definitions**</u>. (1) "Board of appeals" shall mean the Board of Adjustments and Appeals of the City of Tullahoma, Tennessee.
- (2) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.
- (3) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.
- (4) "Municipality" shall mean the City of Tullahoma, Tennessee and the areas encompassed within existing city limits or as hereafter annexed.

Tennessee Code Annotated, title 13, chapter 21.

<sup>&</sup>lt;sup>1</sup>State law reference

- (5) "Owner" shall mean the holder of the title in fee simple and every mortgagee of record.
- (6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.
- (7) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.
- (8) "Public authority" shall mean any officer who is in charge of any department or branch of government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.
- (9) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq., as may be amended.
- (10) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.
- (11) "Value of the structure" means the value as established by the county tax assessor's office. (as added by Ord. #1399, Feb. 2010, amended by Ord. #1426, May 2012, and replaced by Ord. #1494, Dec. 2017)
- **13-303.** "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the director of planning and codes of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the director of planning and codes. (as added by Ord. #1399, Feb. 2010)
- 13-304. <u>Initiation of proceedings; hearings</u>. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #1399, Feb. 2010)

- 13-305. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:
- (1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value as established by the county tax assessor's office), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or
- (2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #1399, Feb. 2010)
- 13-306. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #1399, Feb. 2010)
- 13-307. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #1399, Feb. 2010)
- 13-308. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments and any valid lien, right or interest in such property duly recorded or collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same

time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in Tennessee Code Annotated, §§ 67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds or such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of appropriate jurisdiction by the public officer, shall be secured in such a manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Tullahoma, Tennessee to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #1399, Feb. 2010)

13-309. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health and safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Tullahoma, Tennessee. Such conditions may include the following (without limiting the generality of the forgoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (as added by Ord. #1399, Feb. 2010)

13-310. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Coffee County, Tennessee or Franklin County, Tennessee, as applicable and such filing shall have the same

force and effect as other lis pendens notices provided by law. (as added by Ord. #1399, Feb. 2010)

- **13-311.** Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:
- (1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #1399, Feb. 2010)
- 13-312. <u>Powers conferred are supplemental</u>. This chapter shall not be construed to abrogate or impair the powers of the municipality with regard to the enforcement of the provisions of its chapter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #1399, Feb. 2010)
- 13-313. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain, or permit to be maintained, in the municipality, structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the municipality.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #1399, Feb. 2010)

#### **13-314. Means of appeal**. The appeal process shall be as follows:

(1) <u>Application for appeal</u>. Any person directly affected by a decision of the public officer or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice or order

was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

- (2) <u>Membership of board</u>. The board of appeals shall consist of a minimum of three (3) members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The public officer shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.
- (3) <u>Chairman</u>. The board shall annually select one (1) of its members to serve as chairman.
- (4) <u>Disqualification of member</u>. A member shall not hear an appeal in which that member has a personal, professional or financial interest.
- (5) <u>Notice of meeting</u>. The board shall meet upon notice from the chairman, within twenty (20) days of the filing of an appeal, or at stated periodic meetings.
- (6) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the public officer and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds (2/3) of the board membership.
- (7) <u>Procedure</u>. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
- (8) <u>Postponed hearing</u>. When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- (9) <u>Board decision</u>. The board shall modify or reverse the decision of the public officer only by a concurring vote of a majority of the total number of appointed board members.
- (10) <u>Records and copies</u>. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the public officer.
- (11) <u>Administration</u>. The public officer shall take immediate action in accordance with the decision of the board.
- (12) <u>Court review</u>. Any person, whether or not a previous party of the appeal, shall have the right to apply to chancery court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.
- (13) <u>Stays of enforcement</u>. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order

until the appeal is heard by the appeals board. (as added by Ord. #1399, Feb. 2010, and amended by Ord. #1494, Dec. 2017)

13-315. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #1399, Feb. 2010)

#### TITLE 14

#### ZONING AND LAND USE CONTROL

#### **CHAPTER**

- 1. MUNICIPAL PLANNING COMMISSION.
- 2. ZONING ORDINANCE.
- 3. MOBILE HOMES AND TRAVEL TRAILERS.
- 4. COMPREHENSIVE DEVELOPMENT PLAN.
- 5. TELECOMMUNICATION TOWERS.

#### CHAPTER 1

# MUNICIPAL PLANNING COMMISSION

- 14-101. Created and established.
- 14-102. Membership.
- 14-103. Organization; rules; staff; finances.
- 14-104. Powers and duties.
- **14-101.** <u>Created and established</u>. The municipal-regional planning commission is hereby created and established as authorized by <u>Tennessee Code Annotated</u>, chapters 3 and 4 of title 13. (1988 Code, § 11-101)
- 14-102. Membership. The municipal regional planning commission shall consist of seven (7) members. One of the members shall be the mayor or a person designated by the mayor, who is a member of the board of mayor and aldermen, and shall serve for a one-year term but at the will and pleasure of the mayor; one shall be an alderman, elected by the board of mayor and aldermen, and his/or her term of office shall be for one year. The five (5) remaining members shall be appointed by the mayor from qualified voters of the city. The term of office of those five (5) members shall be for five (5) years each. All of such appointed members shall be appointed at the will and pleasure of the mayor, and may be removed from office for lack of diligent effort in the execution of the duties of the office, or for other causes deemed advisable by the mayor. Any vacancies in office shall be filled by the mayor, except for the alderman elected by the board of mayor and aldermen, who shall be replaced by election by the board. All members shall serve without compensation. The terms of the five (5) appointed members shall be set up so that the term of one (1) member will expire each year. (1988 Code, § 11-102, as amended by Ord. #1303, Nov. 2004)

- 14-103. Organization; rules; staff; finances. The planning commission shall elect its chairman from its members. The term of chairman shall be for one year, with eligibility for re-election. The commission shall adopt rules for the transaction of its business, except that an official meeting may not be held with less than a majority of its members present. The commission may appoint such employees and staff as it may deem necessary, and may contract with consultants, or city planners, provided such expense has been submitted to and approved by the board of mayor and aldermen. All expenses of the commission shall be paid in accordance with the regular procedure as prescribed by this code. (1988 Code, § 11-103)
- 14-104. <u>Powers and duties</u>. The planning commission shall have all the duties, powers and responsibilities, in accordance with <u>Tennessee Code Annotated</u>, chapters 3 and 4 of title 13, and in addition thereto shall work in cooperation with the state and national planning commission, may contact and attempt to induce industry and business to locate in or adjacent to the city, and may promote or assist in the promotion of any project relative to the welfare of the community. (1988 Code, § 11-104)

# ZONING ORDINANCE

- 14-201. Land use to be governed by zoning ordinance.
- 14-202. Board of zoning appeals.
- 14-201. <u>Land use to be governed by zoning ordinance</u>. Land use within the City of Tullahoma shall be governed by Ordinance #1392, titled "Zoning Ordinance of the City of Tullahoma, Tennessee," and any amendments thereto.<sup>1</sup>
- **14-202.** <u>Board of zoning appeals</u>. (1) The board of zoning appeals is hereby created and established as authorized in <u>Tennessee Code Annotated</u> chapter 7 of title 13.
- (2) The board of zoning appeals shall consist of five (5) members, appointed by the mayor, for three (3) year terms, which terms shall be staggered.
- (3) The board of zoning appeals shall also serve as the storm water board of appeals. (as added by Ord. #1446, Dec. 2014)

<sup>&</sup>lt;sup>1</sup>Ordinance#1392 (Appendix A), and any amendments thereto, is maintained by the Planning and Codes Department of the City of Tullahoma, and is available on the city's website. The zoning map is adopted in this code by reference and is available in the office of the city recorder.

#### MOBILE HOMES AND TRAVEL TRAILERS

- 14-301. Definitions.
- 14-302. Enforcing officers.
- 14-303. Conflicts with other regulations.
- 14-304. Appeals--from building official's decision.
- 14-305. Appeals--from decisions of board of appeals.
- 14-306. Violations and penalty.
- 14-307. Inspections--mobile home parks.
- 14-308. Inspections--travel trailer parks.
- 14-309. Length of occupancy mobile home space; mechanical, etc., standards.
- 14-310. Travel trailer space.
- 14-311. Mobile homes outside of parks.
- 14-312. Existing mobile homes.
- 14-313. Travel trailers outside of parks.
- 14-314. State license required.
- 14-315. Mobile home occupied as a conventional dwelling.
- 14-316. Flood damage reduction--mobile homes; permit, location, placement, anchoring.
- 14-317. Mobile home parks; permit, utilities systems.
- 14-318. Location and planning--mobile home parks.
- 14-319. Travel trailer parks.
- 14-320. Plan requirements.
- 14-321. Minimum size of mobile home park.
- 14-322. Minimum number of mobile home spaces.
- 14-323. Minimum mobile home space and spacing of mobile homes.
- 14-324. Minimum size of travel trailer space.
- 14-325. Water supply.
- 14-326. Sewage disposal.
- 14-327. Refuse.
- 14-328. Electricity.
- 14-329. Streets.
- 14-330. Parking spaces.
- 14-331. Buffer strip.
- 14-332. Park permits--required generally.
- 14-333. Pre-existing mobile home parks.
- 14-334. Application.
- **14-301.** <u>**Definitions**</u>. For the purposes of this chapter, the following terms shall have the respective meanings ascribed to them:

- (1) "Buffer strip." An evergreen buffer, which shall consist of a greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedge, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one full growing season and which shrubs will eventually grow to not less than ten (10) feet.
- (2) "Health officer." The director of the health department having jurisdiction over the community health in the area, or his duly authorized representative.
- (3) "Land subject to flood." In applying the provisions of this chapter, land (or area) subject to flood shall be as defined in article III, section 32, subsection 32.14 of the zoning ordinance of the city, as amended.
- (4) "Mobile home (trailer)." A structure, transportable in one or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length, which is built on a permanent chassis, designed to be used with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems contained therein. Recreational vehicles and travel trailers are not included in this definition of mobile home. Double wide mobile homes which are at least twenty-four (24) feet wide and are sold as a package, and as a single unit provided they are given a solid underpinning are defined not as a mobile home in this chapter; neither are factory built modular homes which meet all applicable codes, local ordinances, and regulations.
- (5) "Mobile home park." Any plot of ground within the city on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located.
- (6) "Mobile home space." A plot of ground within a mobile home park designated for the accommodation of one mobile home.
- (7) "Permit." A permit as required by this chapter for mobile home parks and travel trailer parks. Fees charged under the permit requirement are for inspection and the administration of this chapter.
- (8) "Travel trailer." A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing or a unit which:
  - (a) Can operate independent of connections to external sewer, water and electrical systems;
  - (b) Contains water storage facilities and may contain a lavatory, kitchen sink and/or bath facilities; and/or
    - (c) Is identified by the manufacturer as a travel trailer.
- (9) "Travel trailer park." Any plot of ground within the city on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located. (1988 Code, § 8-401)

- **14-302.** Enforcing officers. It shall be the duty of the county health officer and city building official to enforce provisions of this chapter. Where septic tanks are to be used, the planning commission shall require certificates of approval from the county health officer. (1988 Code, § 8-402)
- 14-303. <u>Conflicts with other regulations</u>. In any case where a provision of this chapter is found to be in conflict with a provision of any private or public act or local ordinance or code, the provision which establishes the higher standard for promotion and protection of the health and safety of the people shall prevail. (1988 Code, § 8-403)
- **14-304.** Appeals—from building official's decision. (1) The municipal-regional planning commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.
- (2) Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building official in the enforcement of this chapter may appeal for and receive a hearing by the board of appeals, advised by the city attorney, for an interpretation of pertinent provisions of this chapter. In exercising this power of interpretation, the board of appeals, with advice from the city attorney, may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building official. (1988 Code, § 8-404)
- 14-305. <u>Appeals--from decisions of board of appeals</u>. Any person, or any board, taxpayer, department, or bureau of the city, aggrieved by any decision of the board of appeals and the city attorney may seek review by a court of record of such decision in the manner provided by the laws of the state. (1988 Code, § 8-405)
- 14-306. <u>Violation and penalty</u>. Any person who violates any of the provisions of this chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the building official or county health officer after receipt of thirty (30) days written notice of such requirements, shall be punished as provided in § 1-107 for each offense, and each day of continued violation shall constitute a separate offense, subsequent to receipt of said five (5) day notice. (1988 Code, § 8-406)
- 14-307. <u>Inspections--mobile home parks</u>. The building official or county health officer is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The building official shall have the power to enter at reasonable times upon any private or public property for the purpose of

inspecting and investigating conditions relating to the enforcement of this chapter. (1988 Code, § 8-407)

- 14-308. <u>Inspections--travel trailer parks</u>. The building official or county health officer is hereby authorized and directed to make inspections to determine the condition of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and of the general public. The building official or county health officer shall have power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter. (1988 Code, § 8-408)
- 14-309. Length of occupancy mobile home space; mechanical, etc., standards. No mobile home space shall be rented in any mobile home park except for periods of sixty (60) days or more, and no mobile home shall be admitted to any park, or occupied outside of a mobile home park, where permitted, unless it can be demonstrated that it meets the requirements of the American National Standards Institute, A-119.1, as amended, applicable to factory manufactured mobile homes, in their plumbing, heating and electrical systems or any state administered code insuring equal or better plumbing, heating or electrical installations. (1988 Code, § 8-409)
- **14-310.** <u>Travel trailer space</u>. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than fourteen (14) days. (1988 Code, § 8-410)
- **14-311.** Mobile homes outside of parks. It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the city where said mobile home is outside of any designated and licensed mobile home park, except mobile homes located on a licensed mobile home sales lot, and except as provided in § 14-312. (1988 Code, § 8-411)
- 14-312. Existing mobile homes. Any mobile home already placed on a lot on or before the date of passage of the ordinance from which this chapter is derived will be permitted to remain at its present location. Any mobile home site at any location with utility connections and other facilities constructed specifically for utilization as a permanent mobile home parking site, in existence prior to said date, shall be permitted to be utilized for parking and servicing mobile homes hereafter. If said present mobile home shall remain vacant for a period of one year, said mobile home owner shall be given, at the end of that year, a period not to exceed sixty (60) days in which to remove said mobile home and to comply with all provisions of this chapter. (1988 Code, § 8-412)

- 14-313. <u>Travel trailers outside of parks</u>. It shall be unlawful for any travel trailer to be occupied or serviced outside of any properly designated travel trailer park. This provision shall not apply to the storage of travel trailers provided said trailer unit is neither temporarily nor permanently occupied as a dwelling unit while within the city. (1988 Code, § 8-413)
- 14-314. <u>State license required</u>. No mobile home or travel trailer shall be used, placed, stored or serviced by utilities within the city or within any mobile home park or travel trailer park in the city unless there is posted near the door of said mobile home a valid Tennessee state license, or affixed to said travel trailer a valid state license of the state of permanent residence of the travel trailer occupant. (1988 Code, § 8-414)
- 14-315. Mobile home occupied as a conventional dwelling. A mobile home may be placed at a mobile home site at any location with utility connections and other facilities constructed specifically for utilization as a permanent mobile home parking site in any area as defined as R-3 by the zoning ordinance of the city; provided, however, said mobile home so placed shall be installed as a permanent regular dwelling with wheels removed and with solid underpinning and with the usual utility connections common to a conventional dwelling place, and further provided that said mobile home so located shall be treated in all respects as a conventional dwelling place and shall comply with all requirements of this chapter and the zoning ordinance of the city, relative to location on lot, setback lines, etc. (1988 Code, § 8-415)
- 14-316. <u>Flood damage reduction--mobile homes; permit, location, placement, anchoring</u>. Due to their high vulnerability to flood damages, any mobile home proposed to be located in an area subject to flood, existing mobile home parks included, shall be subject to all pertinent flood damage reduction requirements specified in the zoning ordinance of the city, which includes the following requirements:
- (1) The placement of a mobile home on a lot or mobile home space shall require a building permit.
- (2) Mobile homes shall be located on compacted fill to achieve required minimum floor elevations. Mobile homes shall not be permitted to be located on piling to secure the required floor elevation.
- (3) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top ties and frame ties to ground anchors. Specifically:
  - (a) Over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations on mobile homes fifty (50) feet or greater in length (a total of eight (8) ties are required), and one additional tie per side on

mobile homes less than fifty (50) feet in length (a total of six (6) ties are required).

- (b) Frame ties shall be provided at each of the four (4) corners of the mobile home, with five (5) additional ties per side at intermediate locations on mobile homes fifty (50) feet or greater in length (a total of fourteen (14) ties are required) and four (4) additional ties per side on mobile homes less than fifty (50) feet in length (a total of twelve (12) ties are required).
- (c) All components of the anchoring system shall be capable to carrying a force of four thousand eight hundred (4,800) pounds.
- (d) Any additions to the mobile home shall be similarly anchored.
- (4) No mobile home shall be placed within any designated floodway. (1988 Code, § 8-416)
- 14-317. <u>Mobile home parks; permit, utilities systems</u>. Any mobile home park proposed to be located either wholly or partially in an area subject to flood shall be subject to all pertinent flood damage reduction requirements specified in the zoning ordinance of the city, which includes the following requirements:
- (1) The establishment of a mobile home park shall require a building permit.
- (2) All new or replacement water supply systems and/or sanitary sewerage systems, together with attendant facilities, proposed to be located within areas subject to flooding shall be designed and constructed so as to minimize or eliminate flood damage, infiltration or inflow of floodwater into the system, and discharges or overflows from the system into floodwaters. On-site waste disposal systems, such as septic tanks and drainfields, shall be designed and constructed so as to avoid impairment of their operation or contamination from them in time of floods.
- (3) All new or replacement gas or electrical distribution systems, together with attendant facilities, shall be designed and constructed so as to minimize or eliminate flood damages. (1988 Code, § 8-417)
- 14-318. <u>Location and planning--mobile home parks</u>. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the planing commission and shall be located in districts as specified in the zoning ordinance. (1988 Code, § 8-418)
- **14-319.** <u>Travel trailer parks</u>. (1) <u>Location</u>. Travel trailer parks shall be located in districts as specified in the zoning ordinance.
- (2) <u>Improvements</u>. Site planning improvements shall conform to the standards established in regulations of the state governing the construction,

operation and maintenance of trailer courts, as provided in <u>Tennessee Code Annotated</u>, title 68, chapter 24. (1988 Code, § 8-419)

- **14-320.** <u>Plan requirements</u>. (1) The mobile home park or travel trailer park plan shall contain the following information and conform to the following requirements:
  - (a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
    - (b) Name and address of owner of record;
    - (c) Proposed name of park;
    - (d) North point and graphic scale and date;
  - (e) Vicinity map showing location and acreage of mobile home park or travel trailer park;
    - (f) Exact boundary lines of the tract by bearing and distance;
    - (g) Names of owners of record of adjoining land;
  - (h) Existing streets, utilities, easements, and watercourses on and adjacent to the tract;
  - (i) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile homes spaces;
    - (j) Provisions for water supply, sewerage and drainage; and
  - (k) Such information as may be required by the city to enable it to determine if the proposed park will comply with legal requirements.
  - (2) Certificates that shall be required are:
    - (a) Owner's certification;
    - (b) Planning commission's approval signed by the secretary; and
  - (c) Any other certificates deemed necessary by the planning commission. (1988 Code, § 8-420)
- **14-321.** <u>Minimum size of mobile home park</u>. The tract of land for the mobile home park shall comprise an area of not less than five (5) acres. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management. (1988 Code, § 8-421)
- 14-322. <u>Minimum number of mobile home spaces</u>. The minimum number of mobile home spaces completed and ready for occupancy before first occupancy is twelve (12). (1988 Code, § 8-422)
- 14-323. <u>Minimum mobile home space and spacing of mobile homes</u>. (1) Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen (15) feet of open space between mobile homes or any attachment such as a garage or porch, and at least fifteen (15) feet end to end

spacing between mobile homes and any building or structure, twenty (20) feet between any mobile home and property line and thirty-five (35) feet from the right-of-way of any public street or highway. If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile home spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space.

- (2) In addition, each mobile home space shall contain:
  - (a) A minimum lot area of three thousand (3,000) square feet;
- (b) A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet;
- (c) A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet; and
- (d) A minimum width of at least forty (40) feet and a minimum depth of at least seventy-five (75) feet. (1988 Code, § 8-423)
- 14-324. <u>Minimum size of travel trailer space</u>. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet. (1988 Code, § 8-424)
- 14-325. Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after written approval of plans and specifications has been granted by the health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the mobile home park operator to provide such treatment as is deemed necessary by the health officer to maintain a safe, potable water supply. Water shall be furnished at the minimum capacity of two hundred and fifty (250) gallons per day per mobile home space. An individual water service connection shall be provided for each mobile home space. (1988 Code, § 8-425)
- 14-326. <u>Sewage disposal</u>. (1) An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Each mobile home space shall be equipped with at least a four (4) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.
- (2) Every effort shall be made to dispose of the sewage through a public sewer system. In lieu of this, a septic tank and subsurface soil absorption system may be used provided the soil characteristics are suitable and an

adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home on such a single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity. The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate shall be determined as outlined in Appendix A of the Tennessee Department of Health Bulletin, entitled "Recommended Construction of Large Septic Tank Disposal Systems for Schools, Factories and Institutions." This bulletin is available on request from the department. No mobile home shall be placed over a soil absorption field.

- (3) In lieu of a public sewer or septic tank system, an officially approved package treatment plant may be used. (1988 Code, § 8-426)
- 14-327. <u>Refuse</u>. The storage, collection and disposal of refuse in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, watertight and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least twice per week. (1988 Code, § 8-427)
- 14-328. Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weatherproof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code and Tennessee Department of Insurance Regulation No. 15, entitled "Regulation Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization. (1988 Code, § 8-428)
- **14-329.** <u>Streets</u>. (1) Minimum widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	12 ft.
One-way, with parallel parking on one side only	18 ft.
One-way, with parallel parking on both sides	26 ft.
Two-way, with no on-street parking	20 ft.

- (2) Streets shall have a gravel base consisting of side twenty-five (25) (Grade D) stone compacted to six (6) inches and a paved surface of asphaltic concrete (hot mix), as specified in the Tennessee Department of Transportation "Standard Specifications for Road and Bridge Construction, 1968" section 411, compacted to one inch with not less than an average weight of one hundred (100) pounds per square yard. (1988 Code, § 8-429)
- 14-330. Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two-car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home spaces. Where practical, one car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park. (1988 Code, § 8-430)
- **14-331.** <u>Buffer strip</u>. An evergreen buffer strip as defined in § 14-301 shall be planted along all boundaries of the mobile home park. (1988 Code, § 8-431)
- 14-332. <u>Park permits--required generally</u>. No place or site within the city shall be established or maintained as a mobile home park or travel trailer park without a valid permit issued by the building official in the name of the applicant for the specific mobile home park or travel trailer park. The building official is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter. (1988 Code, § 8-432)
- 14-333. Pre-existing mobile home parks. Mobile home parks in existence as of the effective date of the ordinance from which this chapter is derived shall be required to obtain a park permit. Pre-existing parks which cannot comply with the requirements regarding mobile home parks shall be considered as a nonconforming use; provided, however, if at any time the ownership of said park shall change, said new owner shall be given a period not to exceed thirty (30) days in which to comply with current park regulations in all respects and his failure to do so shall render him ineligible for a park permit at his then present location.

Said pre-existing parks shall comply with all state regulations applicable thereto which were in force prior to the establishment of said park. (1988 Code, § 8-433)

14-334. <u>Application</u>. Applications for a mobile home park or travel trailer park permit shall be filed with and issued by the building official, subject to the planning commission's approval of the park plan. Applications shall be in writing and signed by the applicant and shall be accompanied with an approved plan of the proposed park, containing the information required by § 14-320. The application and all accompanying plans and specifications shall be filed in triplicate. (1988 Code, § 8-434)

## **CHAPTER 4**

# COMPREHENSIVE DEVELOPMENT PLAN

# **SECTION**

14-401. Development plan adopted.

14-401. <u>Development plan adopted</u>. A Comprehensive Development Plan for the City of Tullahoma is hereby adopted by Ordinance #1417, and any amendments thereto.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup>Ordinance #1417, and any amendments thereto, is on file in the office of the recorder.

# **CHAPTER 5**

# **TELECOMMUNICATION TOWERS**

## **SECTION**

- 14-501. Wireless telecommunication towers and antennas.
- 14-502. Definitions.
- 14-503. Applicability
- 14-504. General requirements.
- 14-505. Exceptions.
- 14-506. Tower permits
- 14-507. Buildings or other equipment storage.
- 14-508. Removal of abandoned antennas and towers.
- 14-509. Nonconforming uses.

#### 14-501. Wireless telecommunication towers and antennas.

- (1) <u>Purpose</u>. The purpose of this section is to establish general guidelines for the siting of wireless communication towers and antennas. The purposes of this section are to:
  - (a) Protect residential areas and land uses from potential adverse impacts of towers and antennas.
    - (b) Encourage the location of towers in non-residential areas.
  - (c) Minimize the total number of towers throughout the community.
  - (d) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
  - (e) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
  - (f) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
  - (g) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
  - (h) Consider the public health and safety of communication towers.
  - (i) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
  - (j) Protection of the airport and the prevention of the creation or establishment of hazards to air navigation. (as added by Ord. #1461, June 2016)

- **14-502.** <u>**Definitions**</u>. As used in this section, the following terms shall have the meanings set forth below:
- (1) "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- (2) "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- (3) "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
  - (4) "FAA" means the Federal Aviation Administration.
  - (5) "FCC" means the Federal Communications Commission.
- (6) "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
- (7) "Planning commission" means Tullahoma Regional Municipal Planning Commission.
- (8) "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more (antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto. (as added by Ord. #1461, June 2016)
- **14-503.** <u>Applicability</u>. (1) <u>New towers and antennas</u>. All new towers or antennas in the City of Tullahoma shall be subject to these regulations, except as provided in § 14-503(2) through (4), inclusive.
- (2) Amateur radio station operator/receive only antennas. Home occupation section 601 of the zoning ordinance shall not govern any tower, or the installation of any antenna, that is under forty feet (40') in height and is owned and operated by an amateur radio station operator or is used exclusively for receive only antennas. All other applicable regulations to towers forty feet (40') and found within this section shall continue to apply.
- (3) <u>Preexisting towers or antennas</u>. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of §§ 14-504(6) and (7).
- (4) AM array. For purposes of implementing this section, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as an AM broadcasting antenna, shall be considered one (1)

tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right. (as added by Ord. #1461, June 2016)

- 14-504. General requirements. (1) Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (2) <u>Lot size</u>. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- (3) <u>Inventory of existing sites</u>. Each applicant for an antenna and/or tower shall provide to the planning commission an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City of Tullahoma or within Tullahoma's planning region thereof, including specific information about the location, height, and design of each tower. The planning commission may share such information with other applicants applying for tower permits under this title or other organizations seeking to locate antennas within the jurisdiction of the City of Tullahoma, provided, however that the planning commission is not, by sharing such information, in any way representing or warranting that such sites are available or suitable for tower construction.
- (4) <u>Aesthetics</u>. Towers and antennas shall meet the following requirements:
  - (a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - (d) The use of stealth type hidden/disguise antennas are to be encouraged by any applicant and given preference for a tower building permit in any area near a residential zone.
- (5) <u>Lighting</u>. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting

alternatives and design chosen must cause the least disturbance to the surrounding views. Where lighting is required by FAA such lighting shall be of the "dual lighting" provisions as defined by the FAA (white during the day and red during the evening hours) or in the alternative, the structure may be red lighted and marked (painted) as prescribed by the FAA regulations. White flashing lighting at night is strictly prohibited under this section.

- (6) State or federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (7) <u>Building codes: safety standards</u>. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the electronic industries association, as amended from time to time. If, upon inspection, the City of Tullahoma determines that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (8) <u>Measurement</u>. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Tullahoma irrespective of municipal and county jurisdictional boundaries.
  - (a) Franchises. Owners and/or operators of towers or antennas shall certify that all franchises, authorizations, licenses, and/or permits required by law for the construction and/or operation of a wireless communication system in the City of Tullahoma have been obtained and shall file a copy of all required franchises with the town.
  - (b) Public notice. For purposes of this section, for any tower request the planning commission shall first give a ten (10) day notice of such hearing by one publication in a newspaper of general circulation and shall post a real estate type sign on the subject property. The sign shall indicate the date, time, and location of the public hearing and the nature of the request. The sign shall be posted at least five (5) days prior to the public hearing.

- (9) <u>Signs</u>. No signs shall be allowed on an antenna or tower except for any structure identification sign as may be required by the FCC or the FAA. Such sign is not to exceed ten inches (10") by fifteen inches (15") and is to be mounted at the base of the structure no higher than twenty feet (20') from the ground.
- (10) <u>Buildings and support equipment</u>. Buildings and support equipment associated with antennas or towers shall comply with the requirements of § 14-506.
- (11) <u>Multiple antenna/tower plans</u>. The City of Tullahoma requires the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
  - (12) The tower shall meet the following height and usage criteria:
    - (a) For a single user, up to ninety feet (90') in height;
  - (b) For two (2) users, up to one hundred twenty feet (120') in height; and
  - (c) For three (3) or more users, up to one hundred fifty feet (150') in height. (as added by Ord. #1461, June 2016)
- **14-505.** Exceptions. The provisions of this part shall not apply to antennas or towers located on property owned, leased, or otherwise controlled by the city and under forty feet (40') in height. (as added by Ord. #1461, June 2016)
- **14-506.** <u>Tower permits</u>. (1) <u>General</u>. The following provisions shall govern the issuance of tower permits for towers or antennas by the planning commission:
  - (a) A tower permit shall be required for the construction of a tower or the placement of an antenna in all zoning district classifications.
  - (b) Applications for tower permits under this section shall be subject to the procedures and requirements of this chapter.
  - (c) In granting a tower permit, the planning commission may impose conditions to the extent the planning commission concludes such conditions are necessary to minimize adverse effects of the proposed tower on adjoining properties.
  - (d) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer under the guidelines of the State of Tennessee for such certifications.
  - (e) An applicant for a tower permit shall submit the information described in this section and a fee for the costs of reviewing the application.
  - (2) <u>Towers</u>. (a) Information required. The following information shall be required for tower permit applications:

- (i) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in Table 1, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the planning commission to be necessary to assess compliance with this section.
- (ii) Legal description of the parent tract and leased parcel (if applicable). The separation distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- (iii) The separation distance from other towers described in the inventory of existing sites submitted pursuant to § 14-504(3) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- (iv) A landscape plan showing specific landscape materials.
- (v) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
- (vi) A description of compliance with § 14-504(3) to (8), and (12) and (13), § 14-507(2)(d) and (e) and all applicable federal, state or local laws.
- (vii) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- (viii) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- (ix) A description of the feasible location(s) of future towers or antennas within the City of Tullahoma based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (x) A copy of the stress analysis of the proposed structure including reasonably anticipated loads of additional users, and certified by a State of Tennessee licensed professional engineer.
- (b) Factors considered in granting tower permits. In addition to any standards for consideration of tower permit applications pursuant to title 14, chapter 5, the planning commission shall consider the following factors in determining whether to issue a tower permit:

- (i) Height of the proposed tower;
- (ii) Proximity of the tower to residential structures and residential district boundaries;
  - (iii) Nature of uses on adjacent and nearby properties;
  - (iv) Surrounding topography;
  - (v) Surrounding tree coverage and foliage;
- (vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (vii) Proposed ingress and egress; and
- (viii) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in § 14-507(2) of this section.
- (c) Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the planning commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
  - (i) No existing towers or structures are located within the geographic area which meets applicant's engineering requirements.
  - (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- (vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (viii) Self supporting structures are to be encouraged over guyed towers. Applicant must demonstrate that a self-supported structure is not feasible before any guyed tower will be approved.
- (d) Setbacks. The following setback requirements shall apply to all towers for which a tower permit is required; provided, however, that the planning commission may reduce the standard setback requirements if the goals of this section would be better served thereby:
  - (i) Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
  - (ii) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (e) Separation. The following separation requirements shall apply to all towers and antennas for which a tower permit is required; provided, however, that the planning commission may reduce the standard separation requirements if the goals of this section would be better served thereby.
  - (i) Separation from off-site uses/designated areas.
  - (A) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
  - (B) Separation requirements for towers shall comply with the minimum standards established in Table 1.

#### TABLE 1:

Off-site Use/Designated Area	Separation Distance
Single-family or duplex residential units	200 feet or 300% height of tower whichever is greater

Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower whichever is greater	
Vacant unplatted residentially zoned lands	200 feet or 200% height of tower whichever is greater	
Existing multi-family residential units greater than duplex units	200 feet or 100% height of tower whichever is greater	
Non-residentially zoned lands or non-residential uses	None; only setbacks apply	

# (C) Separation distances between towers.

(1) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2: Existing Towers - Types

	Lattice	Guyed	Monopole 75 ft. in Height or Greater	Monopole Less than 75 ft. in Height
Lattice	5,000	5,000	5,000	750
Guyed	5,000	5,000	5,000	750
Monopole 75 ft. in Height or Greater	1,500	1,500	1,500	750
Monopole Less than 75 ft. in Height	750	750	750	750

- (f) Security fencing. Towers shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the planning commission may waive such requirements, as it deems appropriate.
- (g) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a tower permit is required; provided, however, that the planning commission may waive such requirements if the goals of this section would be better served thereby.
  - (i) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.
  - (ii) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - (iii) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer. (as added by Ord. #1461, June 2016)
- 14-507. <u>Buildings or other equipment storage</u>. (1) <u>Antennas mounted on structures or rooftops</u>. The equipment cabinet or structure used in association with antennas shall comply with the following:
  - (a) The cabinet or structure shall not contain more than one hundred (100) square feet of gross floor area or be more than twelve feet (12') in height. In addition, for buildings and structures which are less than sixty-five feet (65') in height, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or twelve feet (12') in height, shall be located on the ground and shall not be located on the roof of the structure.
  - (b) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten percent (10%) of the roof area.
  - (c) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- (2) <u>Antennas mounted on utility poles or light poles</u>. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
  - (a) In residential districts, the equipment cabinet or structure may be located:
    - (i) In a front or side yard provided the cabinet or structure is no greater than twelve feet (12') in height or one

- hundred (100) square feet of gross floor area and the cabinet/structure is located a minimum of twenty-five feet (25') from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-two to forty-eight inches (42" to 48") and a planted height of at least thirty-six inches (36").
- (ii) In a rear yard provided the cabinet or structure is no greater than twelve feet (12') in height or one hundred (100) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet (8') and a planted height of at least thirty-six inches (36").
- (b) In commercial/industrial districts the equipment cabinet or structure shall be no greater than twenty feet (20') in height or two hundred (200) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet (8') and a planted height of at least thirty-six inches (36"). In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six feet (6') in height or an evergreen hedge with ultimate height of twelve feet (12') and a planted height of at least thirty-six inches (36").
- (3) <u>Equipment structures to be located on towers</u>. The related unmanned equipment structure shall not contain more than one hundred (100) square feet of gross floor area or be more than twelve feet (12') in height, and shall be located no closer than forty feet (40') from all lot lines.
- (4) <u>Modification of building size requirements</u>. The requirements of § 14-508(1) through (3) may be modified by the planning commission in case of administratively approved uses or by the planning commission in case of uses permitted by tower to encourage collocation. (as added by Ord. #1461, June 2016)
- 14-508. Removal of abandoned antennas and towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City of Tullahoma notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users abandon the tower. (as added by Ord. #1461, June 2016)
- **14-509.** <u>Nonconforming uses</u>. (1) <u>Preexisting towers</u>. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and

height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section. Any expansion of an existing use shall be reviewed and permitted according to the terms of this section.

(2) Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding § 14-508, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt upon the planning commission's approval of a tower permit and without having to meet the separation requirements specified in §§ 14-506(2)(d) and (e). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in § 14-508. (as added by Ord. #1451, June 2016)

## **TITLE 15**

# MOTOR VEHICLES, TRAFFIC AND PARKING1

## **CHAPTER**

- 1. IN GENERAL.
- 2. OPERATION OF VEHICLES.
- 3. STOPPING, STANDING, PARKING.
- 4. VEHICLES TRANSPORTING SCHOOL CHILDREN.
- 5. TRUCK ROUTES.

#### CHAPTER 1

### IN GENERAL

#### **SECTION**

- 15-101. Adoption of state law by reference.
- 15-102. Definitions.
- 15-103. Directing placement of nonmechanical signs and devices.
- 15-104. Enforcement on school property of city.
- 15-105. Pedestrians to walk to the right on streets and sidewalks.
- 15-106. Pedestrians loitering on, or obstructing sidewalks, crossings, etc.
- 15-107. Pedestrians obstructing streets.
- 15-108. Traffic violation; citation issued; appearance required.
- 15-109. Adoption of Manual on Uniform Traffic Control Devices.
- 15-110. Speed control devices policy.
- 15-111. Designation of public streets and alleyways for pedestrian use.

**15-101.** Adoption of state law by reference. Pursuant to authority contained in <u>Tennessee Code Annotated</u>, § 55-10-307, the following provisions of title 55 thereof are hereby adopted and incorporated herein by reference: Portions of § 55-7-104 requiring drivers' licenses; §§ 55-8-101 through 55-8-180; and §§ 55-10-101 through 55-10-310, excepting, however, portions of § 55-10-101 et seq., pertaining to failing to stop after traffic accident.

All such provisions and regulations provided by the statutes of the state relating to traffic on the highways are hereby declared to be in full force and effect, and are to be followed by the operators of all vehicles and by pedestrians, upon the streets of the city. (1988 Code, § 9-101)

**15-102.** <u>**Definitions**</u>. Whenever in this chapter the following terms are used, they shall have the meanings ascribed to them respectively:

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

<sup>&</sup>lt;sup>1</sup>Municipal code reference

- (1) "Curb." Lateral boundaries of that portion of a street designed for the use of vehicles, whether marked by curbstones or not so marked.
- (2) "Driver." The rider and driver of, and one who leads a draft or riding animal; the rider of a bicycle; one who propels a vehicle; and the operator of a motor vehicle.
- (3) "Roadway." That portion of any street which is included between the curbs or curblines thereof, and is designed for the use of vehicles.
- (4) "Street." Any avenue, boulevard, highway, lane, alley, strip, path, square or place used by or laid out for the use of vehicles by the public.
- (5) "Vehicle." Any conveyance except toy wagons and baby carriages, in whatever manner or by whatever force or power the same is driven, ridden or propelled, which is used or may be used for or adapted to the transportation of passengers, baggage or merchandise upon the street; and every draft animal and riding animal, whether driven, ridden or led, except that an animal attached to any vehicle, shall, with such vehicle, constitute one vehicle. (1988 Code, § 9-102)
- 15-103. <u>Directing placement of nonmechanical signs and devices</u>. The safety committee shall be empowered to direct the erection and maintenance of nonmechanical traffic control signs and devices wherever same are necessary in its discretion to regulate turning, stopping, standing and other vehicular and pedestrian activities on the city streets, roads, alleys and in other public places such as parking lots, public grounds, parks, cemeteries and recreation areas within the city. (1988 Code, § 9-103)
- **15-104.** Enforcement on school property of city. The police department shall have full authority to enforce all traffic regulations regarding motor vehicles or pedestrians upon any property owned by the city and used for school purposes, including any and all municipal ordinances and state laws regulating vehicular and pedestrian traffic. (1988 Code, § 9-104)
- 15-105. <u>Pedestrians to walk to the right on streets and sidewalks</u>. Persons walking upon the sidewalk or street crossings of the city shall keep to the right, and on meeting other persons shall give sufficient room to prevent jostling and collisions. (1988 Code, § 9-105)
- 15-106. Pedestrians loitering on, or obstructing sidewalks, crossings, etc. When two (2) or more persons are walking together they shall proceed not more than two (2) abreast, and shall not loiter or stand upon the walks or crossings so as to interrupt or obstruct the free passage of other persons; but if they halt, they shall stand singly, so near to the curb or inner line as to leave abundant room for others to pass without turning in or out. (1988 Code, § 9-106)

**15-107.** <u>Pedestrians obstructing streets</u>. It shall be unlawful for persons to congregate on any of the streets of the city, to the annoyance of citizens, or to obstruct said streets to the free passage of travelers by vehicle or on foot or otherwise; and it shall be the duty of the policemen to disperse all such gatherings on such streets, and to keep the streets and thoroughfares open. (1988 Code, § 9-107)

# 15-108. Traffic violation; citation issued; appearance required.

- (1) A police officer at the scene of a traffic accident may issue a written traffic citation to the driver of any vehicle involved in an accident when, based on personal investigation, the officer has reasonable and probable grounds to believe that such person has committed an offense under the traffic control provisions of the code of ordinances of the City of Tullahoma, Tennessee, and/or the Tennessee Code Annotated.
- (2) It shall be unlawful for any person to violate his written promise to appear given to an officer upon the issuance of a traffic citation regardless of the disposition of the charge for which such citation was originally issued. However, a written promise to appear in court may be complied with by appearance of counsel representing the person charged.
- (3) The foregoing provisions of this section shall govern all police officers in making arrests without a warrant for violation of any provisions of the traffic rules and regulations of <u>Tennessee Code Annotated</u> or the Code of Ordinances of the City of Tullahoma, Tennessee, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law or by municipal ordinance for the arrest and prosecution of a person for an offense of like grade.
- (4) Any person who violates any of the foregoing provisions of this section shall be subject to the general penalty provisions of the Code of Ordinances of the City of Tullahoma. (1988 Code, § 9-108)
- **15-109.** Adoption of Manual on Uniform Traffic Control Devices. All of the provisions of the Tennessee Manual on Uniform Traffic Control Devices for streets and highways, dated January 1989, as amended hereafter, are hereby adopted by the City of Tullahoma, Tennessee. (1988 Code, § 9-109)
- **15-110.** <u>Speed control devices policy</u>. The following policies are hereby adopted by the Board of Mayor and Aldermen, City of Tullahoma, Tennessee, regarding the use of speed control devices:

Speed control devices shall be used only under the following circumstances:

- (1) Where public buildings and facilities front both sides of the street and citizens frequently cross the street to gain access to these facilities, or
- (2) Where public buildings front the same side of the street and there are no sidewalks, or

- (3) Where the physical construction and/or terrain of street or the road causes an unsafe road condition to exist. (1988 Code, § 9-110)
- 15-111. <u>Designation of public streets and alleyways for pedestrian</u> <u>use</u>. Upon the recommendation of the planning commission, the board of mayor and aldermen, by adoption of an appropriate resolution, may designate certain public streets and alleyways, or portions thereof, for pedestrian use and restrict vehicular traffic thereon. The public works department is authorized to place such signs, barriers, or other traffic control devices to restrict vehicular and encourage pedestrian traffic. (as added by Ord. #1467, Oct. 2016)

# **CHAPTER 2**

# **OPERATION OF VEHICLES**

## **SECTION**

- 15-201. Authorized emergency vehicles; right-of-way, etc.
- 15-202. Authorized emergency vehicles; operation of vehicles on approach.
- 15-203. Vehicles meeting to pass to the right.
- 15-204. Vehicles overtaking another to pass to the left.
- 15-205. Right turn at intersections.
- 15-206. "U" turns.
- 15-207. Backing of vehicles.
- 15-208. Signal to be given when stopping or turning.
- 15-209. Signal to be given when slowing or stopping.
- 15-210. Driving on or across sidewalk--generally.
- 15-211. Bicycles, etc., on or across sidewalks.
- 15-212. Obedience to stop signs and signals.
- 15-213. Speed restrictions; generally.
- 15-214. Speed restrictions; evidence of reckless driving.
- 15-215. Riding bicycles with hands off handle bars prohibited.
- 15-216. Condition of vehicles generally.
- 15-217. Vehicles which damage pavement.
- 15-218. Warning devices.
- 15-219. Lights on motor vehicles required; exceptions; regulations as to color, type and visibility distance.
- 15-220. Headlights.
- 15-221. Mufflers.
- 15-201. <u>Authorized emergency vehicles; right-of-way, etc</u>. (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, but subject to the conditions herein stated.
  - (2) The driver of an authorized emergency vehicle may:
    - (a) Park or stand, irrespective of the provisions of this chapter;
  - (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
  - (c) Exceed the speed limits so long as he does not endanger life or property;
  - (d) Disregard regulations governing direction of movement or turning in specified directions.
- (3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an

authorized emergency vehicle operated as a police vehicle 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. (1988 Code, § 9-201)
- **15-202.** Authorized emergency vehicles; operation of vehicles on approach. (1) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the applicable laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
- (2) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (1988 Code, § 9-202)
- 15-203. Vehicles meeting to pass to the right. A vehicle meeting another shall pass to the right. (1988 Code, § 9-203)
- **15-204.** <u>Vehicle overtaking another to pass to the left</u>. A vehicle overtaking another shall, in passing, keep to the left and not turn in to the right until entirely clear of the vehicle passed. (1988 Code, § 9-204)
- **15-205.** <u>**Right turn at intersections**</u>. (1) A vehicle turning to the right from one street into another shall turn the corner as near to the right-hand curb as practicable.
- (2) It shall be lawful for vehicles within the city, when entering an intersection at which there is a traffic signal, to turn right when said traffic light signal is red, after stopping to determine whether or not it is safe to make such turn, said turns to be permitted, however, only at such intersections as are clearly marked with a sign "Turn Right on Red After Stop," which intersections shall be determined by the board of mayor and aldermen upon recommendation of the safety committee, and said signs erected at said intersections, by being placed in a clearly visible location. (1988 Code, § 9-205)
- **15-206.** <u>"U" turns</u>. No person shall turn a vehicle around in any street or make a "U" turn by backing or other manipulation of the vehicle, so as to proceed in the opposite direction. (1988 Code, § 9-206)

- 15-207. <u>Backing of vehicles</u>. No vehicle shall be reversed or backed unless the driver shall first ascertain by observation that such operation can be safely made. No vehicle shall be backed without first giving an unmistakable warning signal to pedestrians and approaching vehicles, nor, in any case, shall it be backed a distance of more than sixty (60) feet. No vehicle shall be backed around a corner at an intersection of streets unless preceded by the driver's helper to observe whether the road is clear and whether the backing may be made safely. (1988 Code, § 9-207)
- 15-208. <u>Signal to be given when stopping or turning</u>. No vehicle shall make a stop or shall turn any corner or shall in any way turn from or out of the regular line of traffic without the driver thereof giving a signal of his intentions by holding out his hand or in some other appropriate manner. (1988 Code, § 9-208)
- **15-209.** <u>Signal to be given when slowing or stopping</u>. In slowing or stopping, the driver of a vehicle shall signal those behind by raising or extending his hand or some other appropriate manner. (1988 Code, § 9-209)
- **15-210.** <u>Driving on or across sidewalk--generally</u>. No vehicle of any kind, or stock shall be driven across a sidewalk, or the area between the curbline and the property line except where a drive is established; provided, baby carriages and wheelbarrows are excepted. (1988 Code, § 9-210)
- 15-211. <u>Bicycles, etc., on or across sidewalks</u>. It shall be unlawful to operate any motorized vehicle or conveyance except for motorized wheelchairs upon any public sidewalk, foot path or bicycle trail in the city. Those operating allowed non motorized vehicles or conveyances upon any public sidewalk, foot path or bicycle trail shall yield the right of way to pedestrians. (1988 Code, § 9-211)
- **15-212.** <u>Obedience to stop signs and signals</u>. It shall be unlawful for any person operating any vehicle whether motor propelled, horse drawn or self propelled (bicycles) to fail to observe any stop signs or signals on any street within the city. (1988 Code, § 9-212)
- **15-213.** <u>Speed restrictions; generally</u>. It shall be unlawful for any person to operate an automobile, motorcycle, truck or any other motor propelled vehicle upon the streets within the city at a greater rate of speed than thirty (30) miles per hour, except as follows:
- (1) When passing a school while flashing school speed limit signs are in operation, or twenty (20) minutes before the opening of school and ten (10) minutes after the dismissal of school, the maximum speed is fifteen (15) miles per hour.

- (2) Whenever speed limits contrary to the thirty (30) mile per hour limit hereinabove set out are posted by signs indicating the applicable speed limit. A committee composed of Director of Public Works, Chief of Police and City Administrator of the City of Tullahoma, Tennessee, is hereby empowered and directed to establish speed limits, contrary to the general speed limit of thirty (30) miles per hour, for recommendation to the board of mayor and aldermen which shall then approve or reject said recommendations. Upon approval of said speed limits by the board of mayor and aldermen, signs shall be posted in accordance therewith until further action by the board of mayor and aldermen. It shall be the duty of the city recorder to maintain a current roster of speed limits in the city as to length and location. (1988 Code, § 9-213)
- 15-214. Speed restrictions; evidence of reckless driving. Driving a vehicle in excess of the speeds authorized by this chapter shall be prima facie evidence of reckless driving. (1988 Code, § 9-214)
- 15-215. <u>Riding bicycles with hands off handle bars prohibited</u>. It shall be unlawful for any person to ride a bicycle or cycle of any kind on the public streets or other public places within the city, with hands off the handle bars. (1988 Code, § 9-215)
- 15-216. <u>Condition of vehicles generally</u>. It shall be unlawful for any person to drive any vehicle in such condition or so constructed, or so loaded as to be likely to cause delay in traffic or to cause accident or injury to man or beast or property, or to in any manner litter the street with dirt, rock or other material. (1988 Code, § 9-216)
- 15-217. <u>Vehicles which damage pavement</u>. It shall be unlawful for any person to move on, over or across any paved street within the city, any vehicle, implement or any machinery of any kind having a tread of corrugation, cleat or any other substance that causes the tread or tire to be otherwise than smooth. (1988 Code, § 9-217)
- 15-218. Warning devices. Every motor vehicle driven in any street shall be equipped with a horn or bell or some other signal which shall be used when necessary to give warning to pedestrians or drivers of vehicles. Said vehicles may be equipped with horns or any other signal equipment sufficient in character and volume to give ample warning to pedestrians and drivers of vehicles; provided that no device shall be used on any motor vehicle, whereby said warning signal may be operated automatically, that is, without the constant touch of the operator; and no horn or other device shall be used except as a warning of danger. (1988 Code, § 9-218)

15-219. Lights on motor vehicles required; exceptions; regulations as to color, type and visibility distance. Every motor vehicle other than a motorcycle, road roller, road machinery or farm tractor shall be equipped with at least two (2) and not more than four (4) headlights, with at least one on each side of the front of the motor vehicle, provided that auxiliary road lighting lamps may be used, but not more than two (2) of such lamps shall be lighted at any one time in addition to the two (2) required headlights and provided that no spotlight or auxiliary lamps shall be so aimed upon approaching another vehicle that any part of the high intensity portion of the beam therefrom is directed beyond the left side of the motor vehicle upon which the spotlight or auxiliary lamp is mounted, nor more than one hundred (100) feet ahead of such motor vehicle. No vehicle operated in this city shall be equipped with any flashing red light which displays to the front of such vehicle except school buses and emergency vehicles used in firefighting including ambulances, fire fighting vehicles, rescue vehicles or other emergency vehicles used in fire fighting owned, operated or subsidized by the governing body of the county or city. Any vehicle other than an emergency vehicle used in fire fighting which displays any flashing red light to the front of such vehicle shall be considered in violation of this provision. Every motor vehicle shall be equipped with two (2) red tail lamps and two (2) red stop lights on the rear of such vehicle, and one tail lamp and one stop light shall be on each side, except that passenger cars manufactured or assembled prior to January 1, 1939, trucks manufactured or assembled prior to January 1, 1968, and motorcycles and motor-driven cycles shall have at least one red tail lamp and one red stop light. Each lamp and stop light required in this section shall be in good condition and operational. The stop light shall be so arranged as to be actuated by the application of the service or foot brakes and shall be capable of being seen and distinguished from a distance of one hundred (100) feet to the rear of a motor vehicle in normal daylight but shall not project a glaring or dazzling light. The stop light may be incorporated with the tail lamp. (1988 Code, § 9-219)

15-220. <u>Headlights</u>. The headlights of every motor vehicle shall be so constructed, equipped, arranged, focused, aimed and adjusted, that they will at all times mentioned in this chapter, and under normal atmospheric conditions and on a level road produce a driving light sufficient to render clearly discernible a person two hundred (200) feet ahead, but shall not project a glaring or dazzling light to persons in front of such headlights. Such headlights shall be displayed during the period from one-half hour after sunset to one-half hour before sunrise, during fog, smoke or rain and at all other times when there is not sufficient light to render clearly discernible any person on the road at a distance of two hundred (200) feet ahead of such vehicle. (1988 Code, § 9-220)

**15-221.** <u>Mufflers</u>. It shall be unlawful for any person to drive or cause to be driven a motor vehicle or to operate a gas or oil driven machine on the

streets of the city, without properly installed and operational standard mufflers. (1988 Code, § 9-221)

## **CHAPTER 3**

# STOPPING, STANDING, PARKING

## **SECTION**

- 15-301. Obedience to signs and markings.
- 15-302. Parking within marked spaces.
- 15-303. Parking restrictions in designated areas.
- 15-304. Parking spaces for handicapped persons.
- 15-305. Vehicles obstructing streets and sidewalks; generally.
- 15-306. Backing on sidewalk or to curb; parking crosswise.
- 15-307. Loading and unloading freight.
- 15-308. Bicycles, etc., parking.
- 15-309. Prohibition of unauthorized presence in posted parking lots of a closed commercial business.
- 15-310. Authority to impose traffic regulations by the city in privately owned parking lots open to the public generally.
- **15-301.** Obedience to signs and markings. Where signs or curb markings indicate parking restrictions, it shall be unlawful for any person to park a vehicle contrary thereto. (1988 Code, § 9-301)
- **15-302.** Parking within marked spaces. Vehicles shall park within parking spaces as designated by conventional lines painted on the paving of certain streets. (1988 Code, § 9-302)
- **15-303.** Parking restrictions in designated areas. The following restricted parking areas, parking requirements, and parking designations are established in the city on the streets and public alleys of the city, and it shall be unlawful for any person to fail to comply herewith:
- (1) North Jackson Street, west side, from W. Lincoln Street intersection North, about 40 feet, no parking anytime.
  - (2) No parking anytime on East Grundy Street at railroad crossing.
- (3) North West Atlantic Street, no parking both sides from Moore Street north to city limits. Existing parking on city right-of-way out of the road area will be allowed from Moore Street to Brown Street.
- (4) No parking on Highway 55 from Jackson Street (and Carroll Street) east to city limits. No parking on Highway 55 from Jackson Street (and Wilson Avenue) west to city limits.
- (5) Volney Street from Anderson, about 400 feet east on both sides of street, 90 degree parking.
- (6) South Cornish Street, from Highway 55 to Volney Street, no parking either side of.

- (7) Grau Lane, east side, manufacturing facility, from Hogan Street to Wilson Avenue, no parking anytime.
- (8) Stone Boulevard, front of Bel-Aire School, about 250 feet between signs, no parking any time.
- (9) No parking on Jackson Street from Grundy Street north to city limits on either side. No parking on Jackson Street from Lauderdale Street south to city limits on either side.
  - (10) In any alley, except for loading and unloading, no parking any time.
  - (11) Within 25 feet of fire plug, no parking any time.
  - (12) On any bridge or viaduct, no parking any time.
- (13) West Lincoln Street, both sides, Jackson Street to Rock Creed Bridge, no parking any time.
- (14) West Blackwell Street, both sides, from North Jackson Street to Campbell Avenue, no parking any time.
- (15) West Grundy Street between North Jackson and North Atlantic Street:
  - (a) Angle parking on south side;
  - (b) No parking on north side to Wall Street except for 2 parallel handicapped parking spaces adjacent to Wall Street. Angle parking from Wall Street to Atlantic Street.
- (16) West Grundy Street between North Jackson Street and the alley, 200 feet west thereof:
  - (a) Angle parking on south side to the alley.
  - (b) Parallel parking on the north side to the alley.
- (17) North Jackson Street, west side, from West Grundy Street to West Lauderdale Street, parallel parking only except for 40 feet designated no parking area at the northern corner of Lincoln Street.

North Jackson Street, east side, 80 feet south of West Lincoln Street to 150 feet North of West Lauderdale Street, parallel parking only.

- (18) West Lincoln Street between North Jackson Street and North Atlantic Street:
  - (a) Angle parking on the south side except for 1 parallel parking spot 35 feet from corner of Jackson Street.
  - (b) Parallel parking on north side from North Jackson Street east 90 feet and thereafter angle parking to North Atlantic Street.
- (19) 2 hour parking--North West Atlantic Street between West Grundy and Lincoln Street, both sides of Lincoln Street from Jackson to Atlantic Street from 8:00 A.M. to 5:00 P.M., weekdays. Anyone who violates this subsection shall be subject to a fine. Failure to pay the fine within the ten (10) days from the date of issuance of the ticket shall render the offending party subject to the penalty in § 1-107 and subject to pay all court costs involved. Further, there shall be no parking in the first 5 north spaces on the east side of the public parking lot located adjacent to the railroad tracks and immediately south of West Lincoln Street and East of SW Atlantic Street.

- (20) Campbell Avenue, both sides, from Moore Street to Wilson Avenue within 2 feet from the edge of the main roadway pavement, no parking any time.
- (21) Circle park or around the perimeters thereof on the city right-ofway of Iris Drive, no parking either side any time.
- (22) A loading zone shall be established 25 feet in length immediately in front of and adjacent to that property located at 329 West Lincoln Street in the city of Tullahoma, Tennessee.
- (23) No parking in alley 70 feet south on Jackson from east side corner of Lincoln Street.
- (24) East side of Jackson Street, from the corner of Lincoln Street south to alley, be designated for parallel parking.
- (25) Wall Street Alley, from 101 Wall Street south to sidewalk at Lincoln Street, be designated as 15 minute unloading zone between 8:00 A.M. and 5:00 P.M.
- (26) SW Atlantic from Lauderdale to Lincoln on the west side of street, parallel parking. SW Atlantic from Lauderdale to Lincoln on the east side of street, angled parking.
- (27) NW Atlantic from Lincoln Street to Moore Street, angled parking both sides of road. (1988 Code, § 9-303, as amended by Ord. #1203, Nov. 1998, and replaced by Ord. #1334, June 2006, and amended by Ord. #1451, Sept. 2015)
- 15-304. Parking spaces for handicapped persons. Parking will be allowed for only handicapped persons in any marked off parking spaces either in parking lots open to the public or upon publicly owned or city owned property where the handicapped symbol or a sign limiting parking to handicapped persons is posted; and it shall be unlawful for any person not so handicapped to stop or park a vehicle in such spaces. (1988 Code, § 9-304)
- 15-305. <u>Vehicles obstructing streets and sidewalks; generally</u>. No vehicle shall stop in such a way as to obstruct a street, sidewalk or crossing; except in case of accident or other emergency, or when directed to stop by the police, or as otherwise permitted herein. (1988 Code, § 9-305)
- 15-306. Backing on sidewalk or to curb; parking crosswise. It shall be unlawful for any person driving or having charge of any vehicle, to drive or back such vehicle on the sidewalk, except as hereinafter provided; or to place such vehicle crosswise of a street, except to load thereon or unload therefrom; but in no case shall it be lawful for any person to permit such vehicle to remain crosswise of any street for a longer period than is actually necessary for such purpose. In no case shall a vehicle remain backed up to the curb, except when actually loading or unloading. (1988 Code, § 9-306)

- **15-307.** Loading and unloading freight. So far as practicable all freight shall be taken on and discharged from the side of the vehicle. (1988 Code, § 9-307)
- **15-308.** <u>Bicycles, etc., parking</u>. It shall be unlawful for any person to place or leave any bicycle, tricycle or motorcycle upon a sidewalk in such manner as to obstruct traffic along or across the same; or on any street except at the curbline. (1988 Code, § 9-308)
- 15-309. <u>Prohibition of unauthorized presence in posted parking lots of a closed commercial business</u>. (1) It is unlawful for any person or vehicle to be present in a parking lot, or in an area of a parking lot designated as prohibited to unauthorized presence, which has been posted with a sign prohibiting unauthorized presence.
- (2) In situations where presence in the entire parking lot is not prohibited, as when a location has multiple businesses and some businesses may remain open, signs shall be placed to designate the area or areas in which there is to be no vehicle parking or human presence during the prohibited hours.
- (3) The hours of prohibited presence shall be posted along with the signs prohibiting the unauthorized presence. The signs shall be at least one foot by one foot (1' x 1') and the text shall be in letters no less than one inch (1") in height.
- (4) The sign(s) shall read substantially the following way: WARNING Unauthorized presence on parking lot after business is closed, or in designated closed areas, violates TMC 15-309, \_\_\_ P.M. to\_\_\_ A.M. (1988 Code, § 9-309, as replaced by Ord. #1430, Sept. 2012)
- 15-310. Authority to impose traffic regulations by the city in privately owned parking lots open to the public generally. If the owner and/or duly authorized manager of property upon which is situated a parking lot which serves industries and/or commercial enterprises located on said property requests the City of Tullahoma to enforce the rules of the road as provided in Tennessee Code Annotated and other traffic regulations set forth in the Code of Ordinances of the City of Tullahoma, Tennessee, and other traffic regulations set forth in Tennessee Code Annotated, upon said property, then the City of Tullahoma shall have the authority to enforce said laws, ordinances, rules and regulations in all respects. Said property must be posted with signs and devices in compliance with the Tennessee Uniform Traffic Control Manual. After the posting of signs and devices, the City of Tullahoma shall have the authority to enforce all traffic regulations upon said property. It shall be unlawful for any motorist to violate any of said statutes, ordinances, rules and regulations and any violations shall subject said motorist to the general penalty

provisions of the Code of Ordinances of the City of Tullahoma as well as any penalties imposed by the laws of the State of Tennessee. (1988 Code, § 9-310)

#### **CHAPTER 4**

#### VEHICLES TRANSPORTING SCHOOL CHILDREN

#### **SECTION**

- 15-401. Applicability of chapter.
- 15-402. Vehicles covered by chapter.
- 15-403. Safety devices.
- 15-404. Advertisements prohibited.
- 15-405. Vehicle inspection; permit-decal required; fee.
- 15-406. Liability insurance.
- 15-407. Special chauffeur's license required.
- 15-408. Seating of passengers; adherence to load and weight limits.
- 15-409. Times of delivery and pickup of students.
- 15-410. Stopping by other vehicles; stopping at railroad crossings.
- 15-411. Suspension or revocation of permit--authorized.
- 15-412. Hearing.
- **15-401.** Applicability of chapter. The provisions of this chapter shall apply to all owners and operators of vehicles used for the purpose of transporting school children to and from school, for hire, and to the board of education of the city, as to "mini-school buses" owned and operated by it. (1988 Code, § 9-401)
- 15-402. <u>Vehicles covered by chapter</u>. For the purposes of this chapter any privately owned vehicle which is operated for the purpose of transporting children, for hire, from their homes to any schools located within the city, including nursery schools, private schools, kindergartens, and public schools, shall come under the provisions hereof, as well as "mini-school buses" owned and operated by the board of education of the city. (1988 Code, § 9-402)
- **15-403.** <u>Safety devices</u>. All of such vehicles so used and operated shall be equipped with the following safety devices:
- (1) A five (5) pound fire extinguisher mounted in an accessible position in the front of the vehicle.
- (2) Safety handles to facilitate the opening of the back doors from the inside by the operator of the vehicle.
- (3) "Flip-out" stop signs mounted on the front, left side of said vehicle which will be "flipped out" when the vehicle is in a stopping and stopped position. The signs will be red with white letters, the design to be such as is required for public school buses in the state, with the word "stop" in letters six (6) inches high printed on both sides thereof and the words "school bus" two and one-half (2 1/2) inches high printed on both sides thereof, the word "school" being placed above the word "stop." Said sign shall have an eight (8) inch long

arm extending from the side of said vehicle and the body of said sign shall be fifteen (15) inches high and sixteen and one-half (16 1/2) inches wide.

- (4) Each of said vehicles shall be equipped with red flashing lights of a diameter of no less than five (5) inches each; two of said lights to be mounted on the front corners of said vehicle and two being mounted on the rear corners of said vehicle, to be mounted no lower than the top of the vehicle front and rear windows.
- (5) Upon each of said vehicles shall be mounted signs, on the front and rear thereof at the top of said vehicle, above the front and rear windows or in the alternative, one sign on the top and in the top center of the vehicle, upon which signs shall be printed the words "stop" and "school bus." The word "stop" shall be between the words "school" and "bus." The print for the word "stop" shall be six (6) inches high and the print for the words "school" and "bus" shall be four and one-half (4 1/2) inches high. If the alternate one, center mounted sign is utilized, it shall have the aforementioned wording printed on both sides thereof.
- (6) Any words to be printed on signs may be larger than the minimum prescribed height hereinabove set out.
- (7) Reflector type numbers shall be mounted on the rear and sides of all vehicles governed by the provisions hereof at a height directly below the windows of said vehicles so as to be clearly visible. Said numbers shall be no smaller than five (5) inches by five (5) inches. Said number shall correspond to the permit number assigned to said vehicles pursuant to § 15-405 hereof. Said numbers shall be assigned at the next annual inspection for each vehicle following the enactment hereof. Each vehicle owner shall have said numbers painted on said vehicles at their own expense or, at their option, each vehicle owner may pay \$8.00 to the city to defray the cost of said signs being provided by the City of Tullahoma to each vehicle. Said numbers shall be inspected annually thereafter and shall be replaced by the vehicle owners as directed by the inspection officer, from time to time, for which a charge shall be rendered as is established for time to time by the board of mayor and aldermen. (1988 Code, § 9-403)
- 15-404. Advertisements prohibited. When being used to transport children, said vehicles shall exhibit no other writing such as commercial advertisements, etc. (1988 Code, § 9-404)
- 15-405. <u>Vehicle inspection; permit-decal required; fee</u>. All owners of such vehicles shall initially take them to the police department between the hours of 9:00 A.M. and 5:00 P.M. where same shall be inspected by the chief of police or his duly appointed representative to insure that the safety equipment provided for herein has been installed upon said vehicle and further said vehicle shall be inspected for all-round safety. In the event that a deficiency is found then said deficiency must be corrected. Upon properly passing said initial inspection the city, through the police department, will issue a decal permit to

be placed on the right-hand front windshield of said vehicle. A fee of five dollars (\$5.00) will be charged for this inspection and permit to defray the costs thereof. The police department shall keep records regarding inspection and the granting of permits to all such vehicles. Further the police department, upon the advice of the safety committee, shall establish safety standards to which all such vehicles must adhere.

Annually thereafter during the month of July for each consecutive year, all vehicles to be used and operated for the purposes aforementioned will be inspected to insure that the aforementioned safety apparatus is installed and operating properly and to insure that said vehicles have properly operating parts and accessories and to insure that said vehicles are safe for the transportation of children. An annual inspection fee of five dollars (\$5.00) shall be charged and annually new permit-decals to be placed on the right front windshield of each vehicle will be issued to the owners of said vehicles. The owner of any vehicle which is not properly submitted for inspection or which does not carry the proper permit-decal shall be subject to fine and other proceedings as is hereinafter set out. Henceforth all aforementioned vehicles shall have a current permit-decal displayed as is aforementioned.

Immediately after the enactment hereof, and at the appropriate time as is hereinabove provided, each vehicle owner for each vehicle owned shall apply for his annual permit at the time of the annual inspection of said vehicle. The permit number assigned to said vehicle shall be the same number as to be posted on said vehicle pursuant to the provisions of § 15-403 hereof. (1988 Code, § 9-405)

- **15-406.** <u>Liability insurance</u>. All owners of such vehicles shall have, maintain and exhibit at the annual inspection, a current policy of liability insurance with minimum coverage of one million dollars, single limit, per occurrence. Copies of said liability policies must be submitted to the city on an annual basis when acquired, and as renewed. If renewal periods are for shorter than a one year period, then copies of the renewal policies shall be submitted as renewed for said shorter period of time. (1988 Code, § 9-406)
- 15-407. Special chauffeur's license required. Any person who operates the vehicles controlled herein while said vehicle contains and is transporting school children must have a special chauffeur's license according to the terms and conditions of the laws of Tennessee Code Annotated, § 55-7-106. (1988 Code, § 9-407)
- 15-408. Seating of passengers; adherence to load and weight limits. When said vehicles are in operation all passengers must be seated at all times and no more passengers shall be allowed to embark upon or be transported in said vehicles than there is space available for the comfortable seating thereof. Further, the manufacturer's specifications for load and weight

limits shall be adhered to at all times, as to each vehicle. Each vehicle regulated by the provisions of this chapter must have seats marked off therein to allow for seating, at least thirteen (13) inches wide and twelve (12) inches deep per passenger. This shall be done at the time of the annual inspection of said vehicle. Each vehicle owner shall post on the dashboard of the vehicle, in the front of the vehicle, the seating capacity of said vehicle, based upon the measurements hereinabove set forth. No annual permit shall be issued until said seats are so marked and the number so posted. (1988 Code, § 9-408)

- 15-409. <u>Times of delivery and pickup of students</u>. No operator of any school bus as defined herein shall deliver students to any schools which they serve within the city prior to 7:15 A.M., nor shall they pick up students from said schools later than 3:30 P.M. A violation of this provision shall, in addition to the penalty provision set out in § 1-107, also be cause for the board of mayor and aldermen to revoke the permit (or license) of said school bus operator to operate said school bus, if said board sees fit to do so under all the circumstances. (1988 Code, § 9-409)
- **15-410.** Stopping by other vehicles; stopping at railroad crossings. There is hereby adopted as part of this chapter, the provisions of <u>Tennessee Code Annotated</u>, § 55-8-151, as amended, "Overtaking and passing school or church bus" and <u>Tennessee Code Annotated</u>, § 55-8-147, "Certain vehicles must stop at all railroad grade crossings," in all respects. (1988 Code, § 9-410)

#### 15-411. Suspension or revocation of permit-authorized.

- (1) Anyone to whom a permit (or license) has been issued as is hereinabove provided for who shall violate any of the provisions of this chapter or any other ordinance of the city, or shall violate the laws of the state regulating traffic, school buses, traffic control devices, etc., shall, in addition to being liable under the penalty provisions set out in § 1-107, also be subject to whatever action the board of mayor and aldermen deems to be appropriate, including the revocation or suspension of the permit (or license) heretofore issued to him.
- (2) The board of mayor and aldermen shall be empowered upon a complaint being made to it in writing setting forth the violations of said permit holder, or upon a conviction of said permittee in a court of competent jurisdiction of any of said laws or ordinances to suspend or revoke said permit (or license) or take other appropriate action as it sees fit to do under all the circumstances. (1988 Code, § 9-411)
- **15-412.** <u>Hearing</u>. Any operator of any school bus or any permit holder may under the aforementioned circumstances set forth in § 15-411, request a hearing before the board of mayor and aldermen for review of any decision theretofore made by the board of mayor and aldermen regarding suspension or

revocation of said permit (license), which request the board of mayor and aldermen, in its sole discretion may grant. (1988 Code, § 9-412)

#### **CHAPTER 5**

#### TRUCK ROUTES

#### **SECTION**

- 15-501. Compliance with chapter.
- 15-502. Designated federal and state highways.
- 15-503. Deviations.
- 15-504. Exemptions.
- 15-505. Signs.
- **15-501.** Compliance with chapter. It shall be unlawful for any motor vehicle, whether a single self-contained, self-propelled unit, or a truck tractor and trailer, or truck, which has a rated capacity of one ton or more to be allowed or caused to travel upon any streets or alleyways within the city, except as provided in this chapter. (1988 Code, § 9-501)
- **15-502.** <u>Designated federal and state highways</u>. Such motor vehicles as are defined herein are allowed to travel upon all federal and state designated highways and on streets indicated herein, within the city, as follows:
  - (1) U. S. Highway 41-A (Jackson Street);
- (2) Tennessee Highway 55 (East Carroll Street, Jackson Street, Wilson Avenue, Lynchburg Highway);
- (3) Old Tennessee Highway 55 (Old Manchester Road, East Lincoln Street, West Lincoln Street);
  - (4) Tennessee Highway 16 (Jackson Street);
- (5) Tennessee Highway 130 (Old Shelbyville Road, Wilson Avenue, Jackson Street, West Lincoln Street, Westside Drive, and Old Winchester Highway);
  - (6) On West Carroll Street and Clement Drive. (1988 Code, § 9-502)
- 15-503. <u>Deviations</u>. Should such motor vehicles as herein be engaged in local delivery, or begin their travels from a point within the city where they are normally garaged, and must use streets and alleyways upon which their travel is otherwise prohibited herein in order to travel to said authorized streets and alleyways, then notwithstanding such prohibition, said vehicles may use said unauthorized alley streets and alleyways to travel to and from authorized streets and alleyways by the shortest possible route when making said local deliveries or when embarking from or returning to a local garaging point to or from points outside the city; provided, however, said vehicles shall use the designated routes as much as possible when engaging in said deliveries or traveling to and from a local garaging point. (1988 Code, § 9-503)

- **15-504. Exemptions**. The prohibitions to vehicular travel in this chapter shall not prohibit:
- (1) <u>Emergency vehicles</u>. The operation of emergency vehicles upon any street in the city.
- (2) <u>Public utilities</u>. The operation of trucks owned or operated by the city, public utilities, any contractor or materialman which is and while engaged in the repair, maintenance or construction of streets, street improvements, or utilities within the city.
- (3) <u>Detoured trucks</u>. The operation of trucks upon any officially designated detour in any case where such truck could lawfully be operated upon the street for which such detour is established. (1988 Code, § 9-504)
- 15-505. Signs. The appropriate officials shall erect or cause to be erected clearly legible signs at the corporate limits of the city upon all state and the federal highways entering the city, as follows: "Through trucks follow numbered highways or marked truck routes only." The appropriate officials shall also erect or cause to be erected signs along authorized routes as designated herein, within the corporate limits, as follows: "Truck Route." The safety committee shall designate the locations for said signs. (1988 Code, § 9-505)

#### **TITLE 16**

#### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### **CHAPTER**

- 1. IN GENERAL.
- 2. EXCAVATIONS AND CURB CUTS.
- 3. CONSTRUCTION AND REPAIR OF SIDEWALKS, CURBS, ETC.
- 4. STREET LIGHTING.
- 5. STREETS, CURB AND SIDEWALK DESIGN STANDARDS AND SPECIFICATIONS.
- 6. SPECIAL EVENTS AND TEMPORARY STREET CLOSURES.

#### **CHAPTER 1**

#### IN GENERAL

#### **SECTION**

- 16-101. Adoption of local government public works standards and specifications.
- 16-102. Obstructing with merchandise, etc.
- 16-103. Sale of goods, etc.
- 16-104. Railroads to keep crossings open and in good repair.
- 16-105. Permit required prior to paving of streets in subdivisions.
- 16-106. Property address numbers on all buildings; assigning numbers; naming streets.
- 16-107. Rules and regulations regarding use of parks, public buildings and public facilities.
- 16-108. Notice of defects--prerequisite to suit.
- 16-109. Naming of public facilities and places.

# 16-101. Adoption of local government public works standards and specifications. There is hereby adopted by the City of Tullahoma a document entitled "Local Government Public Works Standards and Specifications" as is now in full force and effect and as is hereafter amended. Said document shall prescribe standards and specifications in the following areas of public works:

- (1) Water distribution systems;
- (2) Sewerage systems;
- (3) Drainage systems;
- (4) Street systems; provided, however, that the standards, specifications and criteria relating to curbs shall be amended to allow as

Related motor vehicle and traffic regulations: title 15.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

additional approved curbs in residential areas with a density of four (4) single family units per acre or less single family units per acre the construction of slip-form curbs, thereby amending the local government public works standards and specifications to allow slip-form curbs for certain residential subdivisions as set out above, as an additional approved curb.

Said document shall prescribe criteria for construction standards and specifications, design criteria and contract documents appertaining to the aforementioned public works.

Further provided that said local government public works standards and specifications may be amended and/or partially deleted by resolution of the board of mayor and aldermen at any time; and

Further provided that the board of mayor and aldermen may, by simple motion create, adopt, delete from or amend specifications for slip form curbs from time to time and same shall be considered a part of said local government public works standards. (1988 Code, § 12-101)

- **16-102.** Obstructing with merchandise, etc. It shall be unlawful for any person to place upon any of the streets, alleys, sidewalks or pavements of the city, any wood, lumber, boxes, barrels, bales, packages, or any other obstruction. (1988 Code, § 12-103)
- **16-103.** Sale of goods, etc. It shall be unlawful for any person to offer for sale or sell any goods, wares or merchandise of any description from any platform, box or wagon, or otherwise, upon any public street, sidewalk or alley of the city, so as to impede the flow of traffic. (1988 Code, § 12-104)

#### 16-104. Railroads to keep crossings open and in good repair.

- (1) All railroad companies operating trains through or in the city shall keep all crossings now in use by the public, over its tracks, in good repair, at its own expense and shall be required to keep all such crossings as are now in use, open to the public at all times.
- (2) Any person or company operating any railroad in or through the city, closing or attempting to close, to the public use, any crossings now used by the public, or failing to keep said crossings in proper and safe repair, so as to allow the safe passage of vehicles and pedestrians over its tracks at all such crossings, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined as prescribed in § 1-107. (1988 Code, § 12-106)

#### 16-105. Permit required prior to paving of streets in subdivisions.

(1) During the development of any subdivision subject to and developed under the Subdivision Regulations of the City of Tullahoma, Tennessee, as promulgated and amended from time to time by the Tullahoma Planning Commission, at such time as the owner and/or contractor is ready to pave those streets set out in said subdivision, said owner and/or contractor must apply for and obtain from the City Administrator of the City of Tullahoma, Tennessee, a permit to begin said paving operations.

- (2) At such time as said application is made for said permit, the owner and/or contractor shall submit to the city administrator, or his designee, test results for various quality control tests conducted by a geotechnical engineering firm satisfactory to city in compliance with standards outlined in the "Local Government Public Works Standards and Specifications" as set forth in § 16-101 of the Code of Ordinances of the City of Tullahoma, Tennessee, whereby said standards are adopted. The number of tests to be conducted per linear 100 feet of paving for a paved road bed of up to 24 feet in width shall be at least one.
- (3) Prior to issuing said permit upon receipt of application therefor, after having reviewed and approved said test results mentioned in subparagraph (2) above, the city administrator and/or his designee shall inspect said street, roadbed bases to determine whether or not same are in compliance with the specifications set forth in said local government public works standards and specifications, and with the Subdivision Regulations of the City of Tullahoma, Tennessee, and, said permit for the beginning of paving operations shall not be issued until said street, roadbed bases are found to be or have been placed in compliance with said aforementioned standards and specifications and subdivision regulations.
- (4) Said application fee to be paid by any owner and/or contractor to the City of Tullahoma for the permit provided for herein shall be \$50.00, until changed by the board of mayor and aldermen by motion, from time to time.
- (5) Failure of any owner and/or contractor to apply for said permit prior to beginning paving operations is hereby declared to be a violation of the Code of Ordinances of the City of Tullahoma, Tennessee, and an offense hereunder, punishable as set forth in § 1-107 hereof. In addition to said penalties prescribed in § 1-107, the City of Tullahoma, Tennessee, is hereby authorized to take immediate legal action to obtain a restraining order and/or injunction, restraining and enjoining the owner and/or contractor from continuing said operations until the Subdivision Regulations of the City of Tullahoma, Tennessee, and this section, have fully been complied with. (1988 Code, § 12-107)
- 16-106. Property address numbers on all buildings; assigning numbers; naming streets. (1) All contractors and/or home builders shall install on or near all buildings constructed within the city limits of Tullahoma hereafter, numbers designating the proper street address numbers of said buildings, which numbers shall be at least three inches in height, and shall be installed near the main entrance to said building and shall be visible from the street upon which said building fronts. Owners of all buildings located within the city limits of the City of Tullahoma for which construction has been completed must, within six months from enactment hereof, install numbers which are at least three inches in height, designating the proper street address

of said building, said numbers to be installed near the main entrance, on said building, and to be visible from the street upon which said building fronts. In the event that said numbers on any building are not visible from the street upon which said building fronts, then said numbers shall be placed upon any mail box serving said building, and if there is no such mailbox serving said building, said numbers shall be placed upon a placard or sign located near the street upon which said building fronts.

Anyone who should fail to adhere to the provisions hereof shall be guilty of an offense punishable under the general penalty clause of this Code of Ordinances of the City of Tullahoma, Tennessee.

- (2) The building official shall assign all street addresses (numbers) within the corporate limits of the City of Tullahoma.
- (3) The director of public works shall review street names within the city to determine whether conflicts exist within the City of Tullahoma, or Coffee or adjoining Counties. The director of public works is empowered to present conflicting street names, or recommended changes in street names to the board of mayor and aldermen in the form of a resolution to be approved by said board. Further, the director of public works shall have the authority to review street names for streets to be located within proposed residential subdivisions and for all new streets to be constructed in the city and to require appropriate changes in street names so as to prevent conflicts among street names within the city, Coffee County and adjoining counties. (1988 Code, § 12-108)
- 16-107. Rules and regulations regarding use of parks, public buildings, and public facilities. The board of mayor and aldermen, from time to time, by resolution, may establish and thereafter amend certain Park Rules and Regulations of the City of Tullahoma as promulgated by and recommended by the city recreation director. Said rules and regulations shall regulate the use of city parks and public buildings and facilities owned by the City of Tullahoma including the regulation of the conduct of the activities in and upon said public facilities. Said rules and regulations may pertain to cemeteries, recreational facilities, and any and all other public facilities as established by the board of mayor and aldermen. A copy of said rules and regulations shall be kept on file in the office of the city recreation director at all times as to recreational facilities and in the office of the city recorder as to other facilities and public buildings. (1988 Code, § 12-109)
- 16-108. Notice of defects--prerequisite to suit. Prior to any entity bringing suit against the City of Tullahoma for any damages or injuries resulting from any defects within or upon personal or real property owned by the City of Tullahoma, Tennessee, said person must have notified the mayor and city attorney, in writing, of said defect and said injury or damage within ten days of said injury or damage. If said notice is not rendered as provided for herein, same shall operate as a bar against any action being brought against the

city to recover damages for injuries or damages incurred by said entity. (1988 Code, § 12-110)

16-109. Naming of public facilities and places. The city administrator shall accept requests for the naming of a public facility or place or portion of a public facility or place located therein and make the determination whether a conflict name exists with other public facilities or places. The city administrator shall prepare a report that includes all documentation regarding the proposed naming of a public facility or place and a recommendation on the naming of the public facility or place for review by the board of mayor and aldermen. The naming of the public facility or place shall be effective upon the approval of a resolution by the board of mayor and aldermen. The city recorder shall maintain a record of all public facility and place names so designated by the board of mayor and aldermen. (Ord. #1158, Oct. 1996)

#### **CHAPTER 2**

#### EXCAVATIONS AND CURB CUTS

#### **SECTION**

- 16-201. Permit required; application form; fees.
- 16-202. Permit exemptions from prior approval.
- 16-203. Permit form as prescribed.
- 16-204. Cash deposit; determination of necessity and amount.
- 16-205. Cash deposit; exemption of utilities board.
- 16-206. Annual cash deposit.
- 16-207. Cash deposit; disposition of unused portion.
- 16-208. Restoration work; required.
- 16-209. Restoration work; performance by city or permittee.
- 16-210. Rules and regulations authorized; uniform charges.
- 16-211. Duty to erect barricades; liability of parties.
- 16-212. Violation; penalty.
- 16-201. <u>Permit required; application form; fees</u>. Before any person shall conduct any excavation work or curb cuts whatsoever on municipally owned road rights-of-way whether on or off the roadbed or pavement situate thereon, it shall be necessary that a permit for such work be obtained from the director of public works, or the designated official, upon an application form to be adopted by him.

Further, fees shall be assessed and collected as above for the purposes enumerated above as established by ordinance from time to time:

- (1) For driveway cuts.
- (2) For tile installation. (1988 Code, § 12-201, modified)
- 16-202. Permit exemptions from prior approval. In the event that a public utility, such as the Tullahoma Utilities Board or the Elk River Public Utility District, in an emergency situation, finds it necessary to conduct any excavation work or curb cuts across roadbeds or on city road rights-of-way at times other than during normal working hours of the city, they may do so without prior approval of the city; provided, however, that they must then make arrangements with the proper city officials on the next business day after the emergency for posting the cash deposit provided for herein and insuring satisfactory repairs to the city roadbeds and rights-of-way and curbs. (1988 Code, § 12-202)
- **16-203.** Permit form as prescribed. The permit granted by the director of public works or the designated official shall be upon a form adopted by him for that purpose. (1988 Code, § 12-203, modified)

- 16-204. Cash deposit; determination of necessity and amount. Upon the application of a party desiring to conduct excavation work or curb cuts as aforementioned, the director of public works, or the designated official, shall determine the circumstances under which said permit will be issued and whether or not a cash deposit is necessary to insure placing the property back in the condition it was prior to said excavation or curb cut, and the amount of said deposit. (1988 Code, § 12-204, modified)
- 16-205. Cash deposit; exemption of utilities board. The Tullahoma Utilities Board, the Elk River Public Utility District, the South Central Bell Telephone Company, and other local public utilities, instead of having to post a cash deposit as is otherwise required herein, shall be billed by the city on a monthly basis for work done for it by the city under the provisions hereof, which bills will be paid promptly and within thirty (30) days of the receipt thereof by said board or organization. (1988 Code, § 12-205)
- **16-206.** Annual cash deposit. The director of public works or the designated official may establish a policy of accepting an annual cash deposit from any person in lieu of periodic special deposits as are herein described or as set out in rules and regulations established by the director of public works or the designated official. (1988 Code, § 12-206, modified)
- **16-207.** Cash deposit; disposition of unused portion. Any portion of any deposit which remains unused after the repair work is completed shall be refunded to the applicant, or applied as has previously been established and prescribed by the director of public works or the designated official. (1988 Code, § 12-207, modified)
- 16-208. Restoration work; required. Persons doing the excavation work or curb cuts on all rights-of-way of the city as is set out in this chapter or off of roadways or improved roadbeds in said rights-of-way shall conduct proper and necessary repair operations to insure the returning of said property to the condition in which it was found prior to said excavation work or curb cuts to the satisfaction of the director of public works or the designated official. Failure to do so shall result in the city's applying any deposit toward the cost of rendering said repairs which, in said event, will be conducted by the city. (1988 Code, § 12-208, modified)
- 16-209. Restoration work; performance by city or permittee. The city, under the direction of the director of public works or the designated official, may at its option repair all streets and roadbeds upon which excavation work or curb cut is conducted by third parties, and utilize the cash deposit to reimburse it for the cost incurred, or may allow the applicant to render said

repairs under such terms as the director or the designated official prescribes. (1988 Code, § 12-209, modified)

16-210. Rules and regulations authorized; uniform charges. The director of public works or the designated official shall adopt, publish, and keep on hand, as amended, from time to time, rules and regulations implementing the provisions of this chapter, which rules and regulations shall be subject to change as determined necessary by the director or the designated official or as determined necessary by the board of mayor and aldermen from time to time.

The director of public works or the designated official shall also adopt, publish and keep on hand, as amended, from time to time, a method of establishing and collecting uniform charges to be rendered to parties conducting excavations and/or curb cut activities under the provisions of this chapter; said charges shall be as directed by the board of mayor and aldermen. (1988 Code, § 12-210, modified)

16-211. <u>Duty to erect barricades; liability of parties</u>. Whenever any person or entity conducts any excavation work or curb cuts on rights-of-way of the City of Tullahoma, Tennessee, pursuant to this chapter, on or off of roadways or improved roadbeds in said rights-of-way, said parties shall be responsible for erecting proper barriers and markings alerting the public of the danger caused by said curb cuts and/or excavations and shall be responsible and liable to and for the safety of persons traveling on or near said curb cuts or excavations, and shall agree to indemnify and hold harmless the City of Tullahoma, Tennessee, from any of such liability on the form prescribed for permits as set forth in § 16-203 hereof. (1988 Code, § 12-211)

16-212. <u>Violation; penalty</u>. Any violation of any of the provisions of this chapter, or failure to adhere to any of the requirements contained herein shall constitute an offense under the Code of Ordinances of the City of Tullahoma, Tennessee, and shall render the violating person or organization subject to the general penalty clause of the City of Tullahoma, Tennessee, set forth in § 1-107 of the Code of Ordinances of the City of Tullahoma, "general penalty; continuing violations." (1988 Code, § 12-212)

#### **CHAPTER 3**

#### CONSTRUCTION AND REPAIR OF SIDEWALKS, CURBS, ETC.

#### **SECTION**

16-301. Approval of curb lines and sidewalk lines.

16-302. Improvement of area between curb and sidewalk; between streets, roadbeds, and property lines; and installation of drainage tiles.

16-301. <u>Approval of curb lines and sidewalk lines</u>. All curb lines and sidewalk lines shall be established on straight and approved lines and grades under direction of the director of public works or the designated official, the mayor and chairman of the street committee, or some duly authorized person before any curb line or sidewalk line permits are issued by the city authorities. (1988 Code, § 12-409, modified)

16-302. Improvement of area between curb and sidewalk; between streets, roadbeds, and property lines; and installation of drainage tiles. (1) No property owner shall fill in, pave, install drainage tiles, or take any action to alter in any manner the area between the property line and the curb or edge of the roadbed, except in compliance with the provisions hereof. No sidewalk shall be constructed by any property owner, tile installed, concrete installed, or sod and earth placed on any city property between private property and any city roadbed without the prior approval of the director of public works or the designated official and upon permit applied for to and granted by him. Said permit so granted shall prescribe the authorized activities permitted therein to said owner. In the event that the permit grants said property owner the right to install drainage tiles, or other materials, the city shall select the type and size of drainage tile to be so installed and will, at city's expense, install said drainage tile, purchased by owner, for residential driveways only, not to exceed 20 feet in length. The city will also provide necessary gravel and install same at city's expense. For installation of drainage tiles or other materials for commercial or industrial properties, the city shall provide nothing nor install anything; however, the city must approve the size, type, and other requirements for the installation of any tiles or other materials, or the construction of sidewalks, prior to any action being taken by said property owner, said requirements to be fully set forth in the aforementioned permit. City shall approve and inspect all of said construction activities and may require replacement or correction of deficiencies or removal of said improvements by owner in the event that said construction is not in compliance with the permit so granted. Should owner fail to comply with the orders of the city regarding correction, replacement, or removal, city may perform said work at its expense and shall bill property owner for the cost thereof. In all cases, owner shall purchase drainage tiles and/or materials as prescribed by city in said permit.

Only in the case of residential driveways not exceeding 20 feet in length shall city install drainage tiles at city's expense. All other installations of drainage tiles or other materials shall be at owner's expense, and in all cases owner shall purchase and provide necessary drainage tiles and/or other materials.

- (2) Applicants for permits shall pay an application fee as established by ordinance from time to time. Said fees shall aid in deferring city's expenses in administering the provisions hereof.
- In the event that owner shall fail to adhere to any provisions of this section hereinabove set forth, or should fail to comply with any provisions set forth in the permit granted to him as above provided, the director of public works or the designated official shall give notice, in writing, to the owner, owner's agent, or occupant of the offending lot or parcel of land of said deficiency, default, or breach, requiring said owner, etc. to correct same within fifteen (15) days of the date of said notice. A copy of said written notice will also be placed on the bulletin board inside the lobby of the city hall. Said notice shall be in writing, shall be mailed by the director of public works or the designated official certified mail, return receipt requested, to the address of said owner shown on the property tax records of the City of Tullahoma. If the owner of said property shall fail to comply with the provisions in said notice within said period, the city recorder shall notify the director of public works or the designated official to correct said deficiencies at city's expense, and the whole cost thereof, plus fifteen (15) per cent for inspection and other incidental costs in connection therewith, shall be paid by the owner of said lot or parcel of land, and said costs shall be billed to the owner of the property, said bill to be sent by the city recorder, by certified mail, return receipt requested, to owner's address as is above set forth. If the bill is not fully paid within one hundred and twenty (120) days after the mailing of said bill, a ten (10) per cent penalty shall be added, and it shall be placed on the tax rolls of the city as a lien upon the property and collected in the same manner as other city taxes. (1988 Code, § 12-410, modified)

#### **CHAPTER 4**

#### STREET LIGHTING

#### **SECTION**

16-401. Street lighting policies of the City of Tullahoma.

16-401. Street lighting policies of the City of Tullahoma. In addition to any provisions relative to street lighting requirements as are established from time to time by the Tullahoma Municipal-Regional Planning Commission in the subdivision regulations adopted by said planning commission, the City of Tullahoma, Tennessee, may, by resolution, adopt and thereafter by resolution, amend street lighting programs or policies to be followed by the city in those particulars contained therein. There is hereby adopted the current street lighting program of the City of Tullahoma, Tennessee, adopted September 1, 1983, as same shall be amended hereafter by resolution of the board of mayor and aldermen from time to time, said September 1, 1983 street lighting program being attached as exhibit "A" in Ord. #865 of record in the recorder's office and being incorporated herein by reference as though same were fully set forth herein. (1988 Code, § 12-801)

#### **CHAPTER 5**

#### STREETS, CURB AND SIDEWALK DESIGN STANDARDS AND SPECIFICATIONS

#### **SECTION**

- 16-501. Jurisdiction.
- 16-502. General.
- 16-503. Street design standards.
- 16-504. Maintenance and assurance for completion.
- 16-505. Standards and specifications for excavations, fills and embankments, and subgrades.
- 16-506. Standards and specifications for crushed stone.
- 16-507. Standards and specifications for bituminous prime coat and tack coat.
- 16-508. Standards and specifications for bituminous binder or surface course.
- 16-509. Technical specifications--contract work.
- 16-510. Technical specifications--concrete sidewalks.
- 16-511. Technical specifications--concrete and gutter.
- 16-512. Technical specifications--stabilization of ditches.
- 16-513. Technical specifications--seeding.
- 16-514. Technical specifications--sodding.
- Appendix A. Summary of figures.
- **16-501.** <u>Jurisdiction</u>. These rules and regulations governing the construction of streets, curbing, sidewalks and other necessary public improvements related thereto, shall apply to all areas within the City Limits of Tullahoma. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10\_6-22-20*)
- 16-502. General. The purpose of these rules and regulations is to provide adequate design standards and specifications, construction procedures, and quality of materials that would be in the best interest of the safety, convenience and prosperity of the community in the use of these public improvements.

Approval of the construction plans shall be effective for a period of one (1) year. If construction has not begun within this time, plans shall be resubmitted for approval and changes made as may be required by the public works director including changes resulting from amendments to these regulations.

Any maintenance of street, curbing, sidewalk, and drainage system improvements until final approval is granted by the appropriate governing body shall be the responsibility of the developer.

Sidewalk construction shall be required to be installed along both sides of all collector and arterial streets as classified by the approved major thoroughfare plan. Sidewalks along certain collector and arterial streets could be limited to only one (1) side of the street if recommended by the public works director and approved by the planning commission. Sidewalks may be required along certain residential streets within subdivisions as outlined in the City of Tullahoma Subdivision Regulations. This construction shall be at the expense of the developer. The streets that may require sidewalk construction shall be determined by the Tullahoma Municipal-Regional Planning Commission and shall be indicated in the minutes of the planning commission upon approval of the preliminary plat and constructions plans for a subdivision.

Concrete curbs shall be required on all streets unless otherwise authorized by the public works director and approved by the Tullahoma Municipal-Regional Planning Commission.

The type of base, binder, and surface course to be used for streets shall be based upon the classification of the street as determined by the public works director and approved by the planning commission. Field testing shall be done in accordance with the methods outlined in the following specifications. The number and location of points of testing for the subgrade, base, binder, and surface course shall be determined by the public works director. Material mix designs for all asphalt pavement shall be submitted and approved prior to street paving. The expense of all testing shall be the responsibility of the developer. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10\_6-22-20*)

- **16-503.** Street design standards. (1) General. (a) The arrangement, character, extent, width, grade and location of all streets shall conform to the major thoroughfare plan of the Tullahoma Planning Region and shall be considered in relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of land to be served by such street.
- (b) The general location and alignment of all streets and roads shall conform substantially to the preliminary plat and other documents approved by the Tullahoma Municipal-Regional Planning Commission.
- (c) No construction shall proceed on streets until the public works department has granted approval of the design.
- (d) All streets shall be properly designed as related to special traffic generators, such as industries, business districts, schools, churches, and shopping areas or centers; to population densities; and to the pattern of existing and proposed land use.
- (e) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions or, unless, in the opinion of the planning commission, such extension is not necessary or desirable for the coordination of the subdivision design with the existing layout or the most advantageous future development of adjacent tracts.

- (f) Block lengths in residential areas shall not exceed sixteen hundred feet (1,600') nor be less than two hundred feet (200'), except as the planning commission deems necessary to secure efficient use of land or desired features of the public way pattern. Wherever practicable, blocks along arterial or collector routes shall not be less than one thousand feet (1,000') in length.
- (g) Blocks designed for industrial or commercial uses shall be of such length and width as may be deemed suitable by the planning commission.
- (h) In any long block, the planning commission may require the reservation of an easement through the block to accommodate utilities, drainage, facilities, and/or pedestrian traffic.

A pedestrian walkway, not less than ten feet (10') wide, may be required by the planning commission through the approximate center of any block more than eight hundred feet (800') long, where deemed essential to provide circulation or access to a school, playground, shopping center, transportation facility, or other community facility.

- (i) The finished elevation of proposed streets subject to flood shall be no more than one foot (1') below the regulatory flood protection elevation. All drainage structures shall be sufficient to discharge flood flows without increasing flood height. Where fill is used to bring the finished elevation of any public street to the required elevation, such fill shall not encroach upon a floodway, and the fill shall be protected against erosion by rip-rap, vegetative cover, or other methods deemed acceptable by the public works department.
- (j) Where a subdivision borders on or contains an existing or proposed arterial or collector route, the planning commission may require that access to such street be limited by:
  - (i) The subdivision of lots so as to back on the arterial or collector route and front on a parallel minor route;
  - (ii) A series of cul-de-sac, "U" shaped public ways, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial or collector route; or
  - (iii) A marginal access or service street, separated from the arterial or collector route by a planting or grass strip and having access thereto at suitable points.

The number of residential or local streets from the development entering onto arterial or collector routes shall be held to a minimum. Residential lots fronting onto an arterial or collector street with driveways having direct access to the arterial or collector street shall generally be prohibited unless otherwise approved by the planning commission.

- (k) The creation of reserve strips adjacent to a proposed public way in such a manner as to deny access from adjacent property to such public way shall generally not be permitted.
- (l) The arrangement of streets shall provide for the continuation of major streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provisions of utilities, and when such continuation is in accordance with the major thoroughfare plan or street plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line.

A temporary cul-de-sac shall be provided on temporary dead-end streets as outlined in the following section of these regulations, with a notation on the subdivision plat that land outside the normal public way right-of-way shall revert to abutting property owners whenever the street is continued. Temporary cul-de-sac shall be constructed in accordance with the standards for a permanent street. The extruded curb and asphalt surface course may be deleted from the temporary cul-de-sac if an appropriate bond amount is posted to cover the cost of these items.

(m) Where a street does not extend beyond the boundary of the subdivision and its continuation is not required by the planning commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty feet (50'). However, the planning commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A permanent cul-de-sac turnabout shall be provided at the end of a dead-end street in accordance with the design standards of these regulations.

For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations.

- (n) Where a subdivision adjoins an existing narrow street or where the major thoroughfare or road plan or any zoning setback provisions indicate plans for realignment or widening of a street that would require use of some of the land in the subdivision, the subdivider shall be required to dedicate, at his expense, areas for widening or realigning such street, as set forth below:
  - (i) The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street; or
  - (ii) When the subdivision is located on only one (1) side of an existing street, one-half (1/2) of the required right-of-way, measured from the center line of the existing pavement, shall be provided.
- (o) The public works director may require a traffic study be prepared by the developer to assess rezoning requests, residential

developments, and non-residential developments that may impact the current transportation system. Such traffic studies shall be prepared by a registered professional engineer with specific training in transportation engineering. Such studies shall provide appropriate data and recommendations as to the impact to the capacity of the existing traffic system, access control requirements, and any proposed system upgrades including traffic signals, turn lanes, additional lanes, or alignment changes.

- (p) Street signs including all stop signs, street name signs, and other regulatory signs as may be required shall be provided and installed by the developer prior to approval of a final subdivision plat. The public works department may permit the use of certain decorative sign posts as requested by the developer. The decorative sign posts must receive approval prior to installation. The developer or homeowners association will be required to replace the decorative type sign posts if damaged. The public works department will only install standard metal sign posts.
- (2) <u>Design requirements</u>. (a) Street right-of-way widths shall be as shown on the major thoroughfare plan or as otherwise specified in Table 1.

## TABLE 1 MINIMUM RIGHT-OF-WAY AND PAVEMENT WIDTH (IN FEET) BY TYPE OF DEVELOPMENT

#### Type of Development

	Residential		Non-Residential	
Type of Street	R.O.W.*	Pavement	R.O.W.*	Pavement
Local	50	22	60	24
Collector	60	24	60	24**
Arterial	80-150	24**	80-150	24**

#### Notes:

- \* Additional right-of-way may be required to provide adequate slopes given topographic conditions. Such slopes shall not be steeper than four to one (4:1).
- \*\* Note that curb and gutter section is required on collector and arterial street unless otherwise approved by the public works director and planning commission. If a ditch section is permitted, the paved surface shall include two (2) lanes twelve feet (12') in width with six foot (6') DBST shoulders.

- (b) Proposed new intersections along one side of an existing public way shall coincide with any existing intersections on the opposite side of such public way. Street jogs with centerline offsets of less than one hundred fifty feet (150') shall not be permitted. Intersections of arterial or collector streets shall be at least eight hundred feet (800') apart.
  - (c) Maximum street grades shall be as follows:
    - (i) Arterial--Not greater than six percent (6%)
    - (ii) Collector -- Not greater than eight percent (8%)
    - (iii) Local -- Not greater than eleven percent (11%)

All streets shall have a minimum street grade of not less than one percent (1%) for all portions of the street unless otherwise permitted. The cross slope on all streets, including intersections, shall be three percent (3%) or less.

Intersections shall be designed with a flat approach wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) grade for a distance of sixty feet, (60') measured from the nearest right-of-way line of the intersecting public way.

Where a street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the subdivider shall cut such ground or vegetation (including trees) in connection with the grading of the public right-of-way to the extent necessary to provide adequate sight distance.

(d) Horizontal curves measured to the centerline of the street shall have a minimum radii (in feet) as follows:

Local: one hundred feet (100') feet with normal crown. Superelevation is not permitted unless otherwise authorized by public works department. Based on thirty (30) mph design speed.

Collector and arterial: Minimum radius shall be designed based on design speed and superelevation rate in accordance with "Geometric Design of Highways and Streets," AASHTO, latest edition.

(e) Minimum tangent distance between curves (in feet) shall be as follows:

(i)	Arterials	300'
(ii)	Collectors	100'
(iii)	Local	100'

- (f) The paved surface shall slope downward from the centerline of the paved surface outward to the edge of the paved surface on each side two-fifths (2/5ths) of an inch per foot to provide sufficient road crown for all paved surfaces. Superelevation shall be permitted upon approval of the public works department for utilization on collector and arterial streets only.
  - (g) The minimum sight distance\* (in feet) shall be as follows:

	Design Speed, mph		
	30	40	50
Minimum stopping Sight distance, feet	200	275	350
Desirable stopping Sight distance, feet	200	300	450
Minimum passing Sight distance, feet	1100	1500	1800

Sight distance values are from "Geometric Design of Highways and Streets," AASHTO, 1994. Sight distances for other design speeds shall be obtained from the latest edition of this manual. Vertical curve lengths shall be designed based on the minimum sight distance values. "K" values shall be calculated and provided on design documents.

\*Sight distance is measured from a point (3'-6") three and one-half feet (3 1/2') above the centerline of the roadway surface to a point six inches (6") above the centerline of the road surface unless otherwise noted in the latest edition of "Geometric Design of Highways and Streets," AASHTO.

The developer shall be required to make any improvements necessary to comply with the minimum sight distance requirements including making modifications to existing roads and streets in order to provide proper sight distance.

(h) Minimum right-of-way and pavement diameter (in feet) for cul-de-sacs shall be as follows:

Type of Development

		Residential		Non-Residential	
		R.O.W.	Pavement	R.O.W.	Pavement
(i)	Local	100	80	120	80
(ii)	Collector	120	100	120	100
(iii)	Arterial	120	100	160	140

Pavement diameter shall be measured from the inside edge of curb and gutter where applicable, or within foot (1') of paved shoulder to roadways without curb and gutter. A cul-de-sac shall be provided at the dead end of a street unless the street extends not more than one (1) lot width past an intersection within a residential subdivision.

- (i) Permanent or temporary cul-de-sac streets with only one (1) point of improved access for emergency vehicles shall be limited to a maximum length of two thousand feet (2,000'). This distance shall be measured from start of the street (center line intersection with existing street) to the end of the cul-de-sac or to the point of intersection of a loop street if that condition is provided. The length of the looping segment is not measured.
- (j) Minimum radius (in feet) of return at intersection shall be as follows:

		Local	Collector	Arterial/Industrial
(i)	At right-of-way	25	40	50
(ii)	At pavement	25	40	50

(k) Intersections--Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventy-five degrees (75°) shall not be permitted. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least seventy-five feet (75') on residential streets and for at least one hundred feet (100') on commercial streets and for at least one hundred fifty feet (150') on arterial streets. Not more than two (2) streets shall intersect at anyone point unless specifically approved by the public works director.

Public ways parallel to a railroad, when intersecting a public way which crosses the railroad at grade, shall be at a distance of at least one hundred fifty feet (150') from the railroad rail-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

- (l) Street construction designs shall conform to the details shown illustrated in Figures 1 through 7 contained in Appendix A of this standard.
- (m) Street construction shall consist of base and pavement thicknesses as indicated in the following table. The sections are minimum thicknesses for the street classifications if no subgrade soils testing is performed prior to construction.

TABLE 2
Aggregate Base and Asphaltic Concrete
Layer Thicknesses
(Compacted Depth)

Street Classification	Aggregate Base Course	Asphalt Concrete Binder	Asphalt Surface Course	Total Thickness
Local	8"	2"	1 1/2"	11 1/2"
Collector	10"	2 1/2"	1 1/2"	14"
Arterial or Industrial	10"	4 1/2" (2 1/2" + 2")	1 1/2"	16"

Materials shall conform to § 16-507, Standards and Specifications for Bituminous Binder or Surface Course.

Subgrade conditions may be such that a lesser pavement section can be placed and support intended loads. Soils testing shall be performed' on the in-situ subgrade material and on proposed fill material. The soil materials shall have a plasticity index of between ten and twenty (10 and 20) (ASTM D-424 and ASTM D-423). The dry density of soil materials shall be not less than ninety (90) pound per cubic foot. Placement and compaction testing shall conform to the requirements of § 16-505, including density tests performed at a frequency of every five thousand (5,000) square feet but not less than three (3) tests. Subgrade conditions meeting plasticity index and dry density requirements shall permit pavement sections as indicated in the following table:

TABLE 3

Aggregate Base and Asphaltic Concrete Layer Thicknesses
For Soils with 10< P.I. <20 and Dry Density >90 Pounds per Cubic Foot
(Compacted Depth)

Street Classification	Aggregate Base Course	Asphalt Concrete Binder	Asphalt Surface Course	Total Thickness
Local	6"	2"	1 1/2"	9 1/2"
Collector	8"	2 ½ "	1 1/2"	12"
Arterial or Industrial	8"	4 " (2 " + 2")	1 1/2"	13 1/2"

Materials shall conform to § 16-507, Standards and Specifications for Bituminous Binder or Surface Course.

A geotechnical engineering investigation of the soil conditions may be performed by a registered engineer specializing in the field of soils and asphalt concrete pavement and submitted to the department of public works for review. Based on the geotechnical engineering report, a pavement section of lesser dimensions than required by table or may be permitted. The report shall provide laboratory soil test results, existing soil conditions, required pavement section, recommended compaction efforts, and inspections and field testing requirements. Inspections and testing shall be performed by an independent testing agency and all costs shall be paid by the developer. The department of public works shall approve the report inspection and testing plan, and the inspection and testing agency. A copy of the daily inspection and testing reports shall be submitted to the department of public works.

(3) Access control and driveways. (a) The number of driveways shall be based upon the amount of lot frontage a parcel of land has directly adjoining a public street. The number of driveways onto a given street shall be as follows:

Amount of Lot Frontage (see note i)	Maximum Number of Driveways
Less than 75 feet	1
75 feet to 149 feet	1 (see note i and iii)
150 feet to 299 feet	2 (see note ii)
Each additional 300 feet	1 (see note ii)

Notes

- (i) In the case of corner or double fronts lots, each individual street and its associated lot frontage shall be considered separately rather than combined to orient all driveways onto one (1) particular street.
- (ii) Single family residences and drive-thru business enterprises whereby a service is provided without the patron leaving the vehicle may have two (2) driveways if separated by a distance equal to the width of the widest driveway or a minimum of twenty-five feet, (25') whichever is greater, unless otherwise not permitted by the department of public works due to concern for public safety.

- (iii) Unless otherwise determined by the department of public works.
- (b) All driveways shall be located subject to the following controls:
  - (i) No driveway shall be constructed within thirty feet (30') of an adjacent street right-of-way line. On collector or arterial streets this minimum shall be forty feet (40'); or in such a manner that the driveway curb cut is less than five feet (5') from the point of tangency of a street radius except that a compound curve including both the driveway radius and street radius may be utilized where the street radius exceeds fifty feet (50'). A reduction of up to ten feet (10') in any or all dimensions may be allowed by the department of public works at locations where such reduction would not result in a hazardous condition.
  - (ii) All driveway radii at the point of intersection with the public street shall be set back from the side property line a minimum of one foot (1') as measured by the extension of the side property line into the right-of-way at a right angle to the paved surface with the exception of joint use driveways where written consent from both property owners is provided to the department of public works.
  - (iii) No curb on city streets or right-of-way shall be cut or altered without a permit from the planning and codes department and approved by the department of public works, and if a state highway, a permit also be obtained from the Tennessee Department of Transportation.
  - (iv) In no case shall a commercial or industrial driveway or parking area be arranged such that vehicles be required to back directly into a public street of any classification. No residential driveway or parking area shall be arranged such that vehicles be required to back directly into a collector or arterial street. A minimum ten feet (10') wide by fifteen feet (15') deep turnaround bay shall be provided within the driveway and outside of the right-of-way.
  - (v) All driveways shall be located a minimum of two feeet (2') off of the adjacent property line. If drainage easements are existing along lot lines, driveways must be located outside of these areas.
  - (vi) Driveway culverts shall be provided and installed by the property owner and/or developer for all residential, commercial, and industrial driveways. Culverts shall be sized in accordance with the requirements of the Tullahoma Stormwater Management Ordinance. Concrete headwalls are required on all culverts eighteen inch (18") in diameter or larger or on multi-tile

installations. Concrete headwalls are required on all culverts of any size installed in the street right-of-way. Culvert installation and curb cut requirements are outlined in Appendix B.

- (vii) The portion of the driveway for residential, commercial, and industrial driveways extending from the edge of pavement of the street to the public right-of-way line (property line) shall be required to be paved (asphalt or concrete) with no exposed gravel surface in an effort to minimize gravel on the public streets and sidewalks.
- (c) The width of all driveways shall be within the minimum and maximum dimensions as follows:

	Driveway Width*		Length of	Curb Cut
Land Use	Minimum	Maximum	Minimum	Maximum
All residential districts	10 feet	24 feet	16 feet	40 feet
Non-residential districts:				
Commercial	16 feet	30 feet	36 feet	70 feet
Industrial	16 feet	40 feet	36 feet	90 feet
Uses served by a substantial number of large trucks (5 or more per day)	20 feet	40 feet	60 feet	90 feet

(\*) The required length of the driveway culvert for residential driveways shall be determined by the department of public works at the time of application. The minimum length of driveway culvert for residential driveways shall be sixteen (16) linear feet. The required length of the driveway culvert for commercial or industrial uses shall be determined at the time of site plan development based on the proposed driveway width, type of business, and type and number of vehicles accessing the site.

Major traffic generators defined as those uses and facilities utilizing in excess of one hundred fifty (150) parking spaces shall be reviewed on an individual basis by the department of public works to determine appropriate entrance driveway requirements in relation to traffic generated by the use or facility.

In no case shall total driveway widths exceed fifty percent (50%) of their respective road frontage. The department of public works may require additional restrictions on driveway widths and lengths of curb cuts where access control is warranted.

- (d) Any parcel of land in which the driveway configuration including width, radius, and positioning is contrary to these provisions and becomes vacant and remains unoccupied for a continuous period of one (1) year shall be required to remove and modify said. driveways into conformance with applicable provisions contained herein for access and driveways unless otherwise authorized by the department of public works.
- (4) <u>Curbs and gutters</u>. (a) All curb and gutter shall be concrete. No asphalt curbing and gutter is permitted.
- (b) Curb and gutter type and size shall be approved by the department of public works.
- (c) Concrete curbs are required for all streets where sidewalks are required.
- (d) Curb and gutter construction shall conform to the specifications of § 16-510 and to the details shown illustrated in Figures 10 through 14 contained in Appendix A of this standard.
- (5) <u>Sidewalks</u>. (a) All sidewalks shall be constructed with concrete in accordance with the specifications contained in § 16-510.
- (b) Sidewalk widths shall be as specified in this section unless otherwise directed by the department of public works.

#### Sidewalk Design Standards

Class	of Street	or	Othor
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#### Sidewalk Width

	Residential	Non Residential
Local	5' (unless otherwise approved)	5'
Collector	5'	5'
Arterial	5'	6'-5'
Greenway (multimodal)	12'	12'

- (c) All sidewalks shall be designed to conform to applicable accessibility requirements for physically challenged individuals to provide for the full and free use of streets, highways, public buildings, public facilities and all other buildings and facilities, both publicly and privately owned, which serve the public.
- (d) Sidewalks and bicycle paths, where required by the planning commission, shall be included within the dedicated nonpavement right-of-way of all streets and shall be improved as required by enforcing officer. Concrete curbs are required for all streets where sidewalks are to be constructed unless otherwise approved. A median strip of grassed or

landscaped area at least two feet (2') wide shall separate all sidewalks from adjacent curbs.

(e) Sidewalk construction shall conform to the details shown illustrated in Figures 15 through 19 contained in Appendix A of this standard. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10\_6-22-20*)

#### 16-504. Maintenance and assurance for completion. (1) Streets.

- (a) The Public Works Director or his appointed representative shall be notified a minimum of forty-eight (48) hours (two (2) full working days) prior to the developer's intended time of paving so that a representative can be available for inspection throughout the placement of asphalt, if determined necessary by the inspecting authority. The sub grade and base must have approval prior to placement of asphaltic binder course.
- (b) After approval of the 307 binder course of asphalt, a certification of inspection shall be issued. The developer shall post a bond with the City of Tullahoma for the estimated cost to place and compact one and one-half inches (1.5") of 411 "E" mix on the streets being developed. Included in this payment shall be the estimated cost of binder repair, raising all manholes, valve boxes, storm drainage structures, and appurtenances from the binder course elevation to the finished pavement elevation. This amount shall be estimated by the developer's design engineer and verified by the public works director or his designee. This bond shall be posted with the City of Tullahoma prior to approval of the final plat by the public works director.
- (c) The developer shall be required to maintain the roadway pavement condition during the period prior to final surface course paving but not exceeding two (2) years from application for the binder course or issuance of seventy-five percent (75%) of certificates of occupancy within that subdivision whichever comes first.
- (d) The developer shall place the final surface course consisting of one and one-half inches (1 1/2") of 411 "E" mix. This shall be performed after two (2) years from application of the binder course or issuance of seventy-five percent (75%) of certificates of occupancy within that subdivision whichever comes first.
- (2) Other. Sidewalks and curbs and gutters shall be completed in their entirety prior to approval of final plat. Performance and maintenance bonds for improvements shall conform to the Subdivision Regulations of the Tullahoma Planning Region. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10\_6-22-20*)

### 16-505. Standards and specifications for excavations, fills and embankments, and subgrades. (1) Scope. This section includes the furnishing

of all labor, equipment, materials, tools, supplies, transportation, construction drainage, and incidentals of any nature necessary to complete the excavation and construction of fills and embankments.

- (2) General. (a) Cut or excavation Cut or excavate earth or other materials in accordance with the elevations, dimensions and slopes shown on the plans. Materials excavated in excess of that so shown shall be backfilled and compacted to plan grade in accordance with (b) below. Cut or excavated areas shall be compacted to densities of not less that ninety-five percent (95%) of maximum density determined by AASHTO Designation T-99 Method A (standard proctor) or ASTM D-698 unless specified otherwise in these standards.
- (b) Fills and embankments Remove all debris subject to termite infestation, rot or corrosion, and all other deleterious materials from areas to be filled or backfilled. Deposit fill and backfill in loose layers not more than six inches (6") in thickness. Compact all fills to densities of not less than ninety-five percent (95%) "standard proctor." Rocks, blocks or concrete and masonry materials, not more than six inches (6") maximum dimension, but not debris, may be used for fills if well distributed in the earth and provided further, that such materials not be placed against manholes, underground structures, or utilities, or in the top twenty-four inches (24") of fill below grade. No frozen material shall be placed in backfill. Sloping ground under new fill embankment, existing embankment against which new or embankment is to be built, and existing embankment to be widened, shall be stepped, trenched, plowed or bladed as directed by the public works department.

Where a pavement structure is to be placed upon the subgrade, the top six inches (6"). Where a pavement structure is to be placed upon the subgrade, the top six inches (6") of both cut and fill sections shall be compacted to a density equal to one hundred percent (100%) of maximum density determined by standard proctor. The location and number of density tests shall be determined by the city or county engineer or road superintendent.

For all areas where subgrade has been prepared, a proof-roll test shall be performed for uniformity of support by driving a loaded dump truck at a speed of two to three (2 to 3) mph over the entire surface. Further improvements shall be made on all areas that show a deflection of lit or more. When completed, the finished subgrade shall be hard, smooth, stable, and constructed in reasonable close conformance with the lines, grades, and typical cross sections shown on the drawings.

(c) Preparation of subgrade - All traces of utility trenches shall be filled and thoroughly tamped with mechanical tamping device. Spongy or unsuitable material shall be removed and replaced with stable compactable material. Every precaution shall be taken to obtain a subgrade of uniform bearing strength through compaction by such means

as will provide a firm base and insure against future settlement or superimposed construction. After removal of all loose material from the subgrade, it shall be tested with a template or straight-edge, before depositing surfacing material thereon. All subgrades shall be maintained in satisfactory condition, protected against traffic and properly drained until surfacing is placed upon the subgrade.

Utility trenches within areas to receive asphalt pavement shall be backfilled completely with a TDOT No. 57 stone or compacted by mechanical means to required densities herein specified.

- (d) Settlement or shrinkage of fill or embankment Fill to required finish grade any areas where settlement occurs. All such areas shall be compacted to the required densities herein specified.
- (e) Field testing when required by the public works department, density and moisture testing shall be performed by ASTM D1556 (sand cone method) or ASTM D2922 (nuclear methods).
  - (i) When ASTM D2922 is used, check and adjust calibration moisture curves if necessary by procedure described in ASTM D2922, paragraph, "ADJUSTING CALIBRATION CURVE." ASTM D2922 results a wet unit weight of soil and when using this method use ASTM D3017 to determine moisture of soil. If mica or other cementitious materials are present, use ASTM D1556.
  - (ii) Check calibration curves furnished with moisture gages along with density calibration checks as described in ASTM D3017. Make calibration checks of both density and moisture gages at beginning of project on each different type of material encountered and at intervals as required by architect/engineer or testing laboratory;

Compaction testing of areas be paved shall be perform ed at a frequency of one field density test of subgrade every five thousand (5,000) square feet, but not less than three (3) tests. For all areas where subgrade has been prepared, a proof-roll test shall be performed for uniformity of support by driving a loaded dump truck at a speed of two to three (2 to 3) mph over the entire surface. Further improvements shall be made on all areas that show a defection of one inch (1") or more. When completed, the finished subgrade shall be hard, smooth, stable, and constructed in reasonable close conformance with the lines, grades, and typical cross sections shown on the drawings.

(3) <u>Compacted earth fill (non-paved applications)</u>. Compacted earth fill - Consists of the removal of selected earth material from existing stockpiles within the project site to meet the required embankment or fills shown on the grading and topographic planes). Compaction of earth fill against, or around walls, footings, inlets, etc., or any part of a structure that cannot be accessed by rollers shall be compacted with hand operated compaction equipment approved

by the public works department. When directed, areas shall be compacted to not less than ninety-five percent (95%) "standard proctor" (ASTM D698).

- (4) Water for sprinklering and dust control. Sprinklering shall be performed with an approved type of equipment for the sprinklering of water on roadways during construction. Equipment shall be so constructed that it will spray the surface lightly and uniformly and so equipped that the delivery may be regulated and controlled at all times of ap plication of water to roadway surface. Calcium Chloride may not be used.
- (5) <u>Final grade</u>. Before final acceptance the entire project area shall be graded by mechanical means to final finish, contour, or grade as shown on the plans and as required herein. The area shall be free of any weeds and all scattered debris, spoil or waste. Any area showing wash or erosion shall be scarified, backfilled, graded, and recompacted to the required density or densities. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10\_6-22-20*)

#### 16-506. Standards and specifications for crushed stone.

- (1) <u>Scope</u>. (a) This section includes the furnishing of all labor, equipment, materials, tools, supplies, transportation, construction drainage, and incidentals of any nature necessary for the placement of a crushed stone base.
- (b) Street construction standards for the Tullahoma Planning Region for which the developer is responsible shall meet the following requirements: [all reference numbers are taken from the Tennessee Department of Transportation (TDOT) Standard Specifications for Road and Bridge Construction, latest edition].
- (2) <u>Materials</u>. The stone base section of the road shall be constructed with compacted Grading D Pug Mill Mix. All base stone shall be placed and compacted according to Section 303, TDOT Standard Specifications for Road and Bridge Construction, latest edition.
  - (3) General requirements. (a) All manholes, water line valve boxes, and appurtenances shall be adjusted to an elevation which corresponds to the finished grade for the binder course of asphalt.
  - (b) Once the developer has sufficient stone depth, compaction, and proper adjustment of all castings, the developer shall notify the public works department at least twenty-four (24) hours in advance that the stone base is ready for inspection including castings. Once the base stone and castings have been approved, a certificate of inspection shall be issued by the inspecting authority, permitting the paving, it will be the responsibility of the developer to make the proper adjustments prior to paving, should the developer fail to comply with his requirement, the developer shall still be responsible for expense of the same and a stop work order shall be issued by the inspecting authority until such time as the corrective work has been completed, either by the developer or the

appropriate authority and, in the case of corrective work being completed by the appropriate governmental authority, payment in full for said work has been received from the developer. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10 6-22-20*)

- 16-507. Standards and specifications for bituminous prime coat and tack coat. (1) Scope. This section includes furnishing of all labor, equipment, materials, tools, supplies, transportation, construction drainage, and incidentals of any nature necessary for the placement of a bituminous prime coat upon the crushed stone base.
  - (2) <u>Materials</u>. (a) Prime coat The bituminous prime coat of emulsified asphalt, Grade AE-P, or cutback asphalt, Grade RC-250 shall conform to Section 402, TDOT Standard Specifications for Road and Bridge Construction, latest edition.
  - (b) Tack coat The bituminous tack coat of emulsified asphalt, Grade RS-2, or cutback asphalt, Grade RC-250 shall conform to Section 403, TDOT Standard Specifications for Road and Bridge Construction, latest edition.
  - (3) Construction methods. (a) Prime coat The crushed stone base, prepared as outline in this standard, shall be sprinkled lightly with water to settle any loose dust. A bituminous prime coat shall then be applied uniformly over the surface of the base by the use of an approved bituminous distributor. The prime coat shall be applied at the rate of three-tenths (3/10) gallon per square yard, and shall be immediately covered with (No. 8) crushed stone chips at the rate often ten (10) pounds per square yard. The chips shall be applied with a suitable spreading device to prevent the tires of the trucks from running over the fresh bituminous material.
  - (b) Tack coat. The asphalt surface shall be dry and cleaned and free of any dirt or debris. The tack coat material shall be applied at a rate not to exceed 0.05 gallon of residual bitumen per square yard for all materials except asphalt cement. When asphalt cement AC-20 is used, the application rate shall be to 0.05 to 0.10 gallon per square yard. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10\_6-22-20*)
  - **16-508.** Standards and specifications for bituminous binder and surface course. (1) Scope. (a) This section includes the furnishing of all labor, equipment, materials, tools, supplies, transportation, construction drainage, and incidentals of any nature necessary of the placement of a bituminous binder or surface course.
  - (b) Street construction standards for the Tullahoma Planning Region for which the developer is responsible shall meet the following requirements: [all reference numbers are taken from the Tennessee

- Department of Transportation (TDOT) Standard Specifications for Road and Bridge Construction, latest edition].
- (2) <u>Materials</u>. (a) The bituminous base material (binder) required for the construction of this specification shall be grading "A" or "B-modified" in conformance to Section 307, TDOT Standard Specifications for Road and Bridge Construction, latest edition, and as called for on the Standard Drawings contained in these specifications. All placing and compaction of asphalt binder shall adhere to TDOT specifications.
- (b) The asphaltic concrete surface course required for the construction of this specification shall be grading "D" or "E" in conformance with Section 411, TDOT Standard Specifications for Road and Bridge construction, latest edition. All placing and compaction surface course shall adhere to TDOT specifications.
- (3) <u>General requirements</u>. Inspection, maintenance, and assurance for completion of bituminous binder and surface course shall conform to  $\S$  16-504 of this document. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10\_6-22-20*)
- 16-509. Technical specifications—concrete work. (1) Scope. The work shall include all required forms for construction of the concrete work to the profiles and grades shown, screens for striking concrete off at proper grade, forms for slabs, walls and curbs, reinforcing bars and mesh and all necessary troweling to obtain the finish surfaces specified. The work shall include all necessary protection and curing of the concrete work immediately following the finishing thereof and for as long a period as may be deemed necessary by the Engineer for the proper protection of finished surfaces. The work shall include the setting of all required dowels, inserts, ferrules, and similar items to build into the concrete construction.
- (2) General conditions. The contractor shall examine the drawings and specifications for this portion of the work, and for other work affecting his own, and shall report to the engineer for adjustment any discrepancies found to exist. Before starting the work he shall check all lines, levels, and previous work. He shall check shop drawings to see that they conform to his work and assist other craftsmen in their work. The contractor shall be in charge of forms and centering, placing reinforcement, pouring concrete and removal of forms and centering. The contractor shall be responsible for laying out all concrete work, set lines and establish correct levels therefore, and be responsible for the accuracy of same. The contractor shall see to it that at no time is the concrete structure subject to loading, or overloading, with materials and apparatus by other contractors, or by his own operations.
- (3) <u>Materials</u>. Cement except as noted, shall be Portland cement of american manufacture, and shall meet all the requirements of the standard specifications for Portland cement of the American Society for Testing Materials (ASTM) ASTM C-150. the same brand of cement shall be used for all exposed

concrete above grade. Air entraining Portland cement may be used and shall conform to the specifications of ASTM C-175.

Fine aggregate shall conform to specifications for concrete aggregate, ASTM C-33. The sand shall be similar to size #33 of the Tennessee State Highway Department Specifications. The weight removed by decantation shall not be more than three percent (3%) and all sand shall be screened and washed and the use of bank sand shall not be permitted.

Course aggregate shall conform to specifications for concrete aggregate, ASTM C-33. The course aggregate shall be similar to size #14 of the Tennessee State Highway Department Specifications.

Water used for mixing concrete shall be clean and fresh, free from oil, acid, injurious vegetative matter, alkalis or other salts. It shall be perfectly equal in all physical and chemical properties to potable water.

Admixtures shall be a resin gum, air-entraining agent, Darex, or other similar and equal product mixed in the proportions recommended by the manufacturer. It shall conform to Specifications for air-entraining admixtures for concrete, ASTM A-377.

Reinforcing bars and dowels shall be of new billet steel or intermediate grade of the deformed type, conforming to ASTM A-15. Reinforcing steel shall be unpainted and uncoated, free from loose rust or scale, corrugated or deformed for the entire length while being rolled. Deformations shall conform to ASTM A-305. Bars shall be of the forms and sizes as shown on the drawings. Beam stirrups, column hoops and ties shall be of new steel, bent to shape around pins having diameter of not less than four (4) times the least dimension of the bar. Accessories shall be of approved and standard type chairs and spacers for beams and slabs of the proper depth to provide the required embedment for the bars.

Membrane curing compounds for all slabs, when used, shall be of the White Pigmented Type II, equal to or similar to that manufactured by W.R. Meadows 1600 Sealtight or Hunt Process Corporation, shall meet the specifications of ASTM C-309 Type II, and shall be applied at a minimum rate of one (1) gallon per two hundred (200) square feet.

All materials used in the work shall be stored and handled in such a manner as will prevent deterioration or the intrusion of foreign matter. Any material which has deteriorated or has been damaged shall be immediately and completely removed from the work. Manufactured materials, such as admixtures, cement, etc., shall be delivered and stored in the original packages, plainly marked with the brand and the maker's name.

When requested, the contractor shall submit samples of any or all materials used in the construction work for inspection and or further testing at the expense of the contractor. Materials furnished for such inspection and testing shall be in accordance with requirements for testing of such materials.

(4) <u>Proportions for concrete</u>. Concrete shall be composed of Portland cement, fine aggregate, and coarse aggregate, admixture, and water. The mix shall be designed to secure concrete having the following compressive strength at the age of seven and twenty-eight (7 and 28) days as determined by breaking

test specimens in accordance with procedures set forth in the ASTM Designation C39-49 except where otherwise specified. For simplification, the following mix ratios may be used in lieu of detailed analysis unless otherwise authorized:

$\underline{\text{Class}}$	Cement: Sand: Gravel Ratio
Class "A"	1:2:3
Class "B"	1:2:4
Class "C"	1:2 1/2:5

TABLE 3 MINIMUM COMPRESSIVE STRENGTH AT AGE OF 7 AND 28 DAYS BY CLASS					
Class	Competitive Strength for Design Purposes (psi)	Average for any 5 consecutive cylinders (pounds per square inch psi) 7-day 28-day		_	cylinder uare inch psi) 28-day
A	4,000	2,800	4,000	2,800	4,000
В	3,000	2,100	3,000	2,100	3,000
С	2,500	1,750	2,500	1,750	2,500

The slump shall be in accordance with ASTM C-143, and the methods shall be as follows:

#### SLUMP IN INCHES

TYPE OF STRUCTURE	MINIMUM	MAXIMUM
Massive Sections, Pavement Slabs on Ground	3	6
Heavy Slabs, Walls and Footings	4	6

If tests show excessive slumps the proportion of materials and the method of mixing shall be modified as necessary to reduce slump. Suitable means shall be provided for controlling and accurately measuring the water. Free water from moisture carried by aggregates shall be included as part of the mixing water.

Class "A" and Class "B" concrete shall be acceptable if they are designed in accordance with the American Concrete Institute (ACI) Standard Recommended Practice for the Design of Concrete Mixes (ACI 613.44) with an approved cement dispersing agent, pozzolith, or equal, which reduces the water

required for a given consistency and complies with water-cement ratio laws, except that no reduction in cement will be allowed for Class "A" concrete. The cement dispersing agent shall be applied in solution. The strengths and slumps shall be as specified. The concrete mixture shall be so designed that the materials will not segregate and excessive bleeding will not occur.

Classes of concrete shall be noted on all plan documents. Generally, all structural, reinforced concrete shall be Class "A" except that Class "B" concrete may be used for slabs on ground other than in manhole bases, pipe piers and footings. Class "C" concrete may be used for unreinforced, non-structural concrete fill, pipe encasement, and thrust blocks.

The proportions in all mixtures, to meet the essential requirements, must be such that the sand and cement form a rich, strong, mortar consistency sufficient to thoroughly bond in the coarse aggregate making it inert in the mass when set. No concrete having initial set or concrete temperature in excess of ninety degrees Fahrenheit (90°F) shall be used anywhere on the construction site.

(5) Forms. Forms are required for all concrete work, except that earth banks may be substituted for footing forms, exterior wall forms, tops of pedestals, etc., where soil will form the concrete to true dimensions. Forms shall conform to shapes, lines, grades, and dimensions indicated and shown on the drawings, shall be substantial and made tight to prevent leakage and sufficiently strong to withstand and support without deflection all work and materials as conditions require, and all dead and live loads thereon. Forms shall be smooth and even throughout the surface to be in contact with the concrete with all offsets, bevels, chamfers, miters, etc., carefully fastened together. Forms shall conform to the American Concrete Institute's recommended practice for concrete framework (ACI 347.63).

Forms may be of metal or wood and shall be furnished in sufficient quantity to expedite the work without endangering the safety or strength of any part of the construction. Matched and dressed lumber, or plywood forms, if wood is used therefore, shall be used for exposed work on both inside and outside surfaces not exposed in completed work. All forms shall be fastened to studs at each bearing. Exposed outside angles of walls, columns, piers, etc., shall be chamfered except where same build in flush with wall or floor surfaces. Furnish and place all necessary wooden fastening blocks or other attachments as may be necessary to be placed in the forms for securing of other branches of the work before concrete is poured. Particular care shall be taken to keep all lines on exposed work straight and true. All walls shall be plumb and true.

Forms shall be lightly sprayed or mopped with an approved form coating before concrete is poured, extreme care being exercised to keep the coating off the reinforcing steel. After such use, the forms shall be thoroughly cleaned and recoated. In the reuse of wood forms, sections showing loose knots, warp or other defects likely to cause irregularities in the exposed concrete surfaces, shall be removed from construction work. Joints in forms for reuse shall be made

tight to prevent leakage and shall be filled where necessary to make tight and smooth.

Forms shall be properly tied or braced together to maintain position and shape, and to conform to shape, lines, and dimensions shown on the drawings or required to insure safety of workers. Temporary openings shall be provided in the inside face of all wall forms and column forms to facilitate cleaning and inspection immediately before depositing concrete into the forms.

Form ties used shall be of a type approved by the engineer. They shall have a minimum working strength when fully assembled of at least three thousand (3,000) pounds at two foot (2') lifts. Ties shall be so adjustable in length as to permit tightening the forms and of such type as to leave no metal closer than one and one-half inches (1 1/2") of the surface, and they shall not be fitted with any device to act as a spreader within the form which will leave a hole larger than three inch (3") in diameter. Wire ties will not be permitted as a means of fastening forms together.

Concrete shall not be placed in any form until such form has been inspected by the public works director and permission given to start placing, nor shall forms be removed until permission is obtained from the public works director. The period during which forms will be required to remain in place after pouring concrete will vary with the type of construction, span, weather conditions, and other factors. In general, unloaded wall forms may be removed when the concrete has hardened to sixty percent (60%) of design to prevent damage, but in no case less than sixteen (16) hours at forty degrees Fahrenheit (40° F) or forty-eight (48) hours below thirty-two degrees Fahrenheit (32° F) .

(6) <u>Placing reinforcement</u>. Metal reinforcement before placing shall be thoroughly cleaned of mill scale, rust, and coatings that would destroy or reduce the bond. Bars shall be of the required size, fabricated to the required shape and form.

The contractor shall receive reinforcement on the job and lay out bars according to identification in good order to expedite location for placing in permanent position. Reinforcement bars or members shall have identification tags attached corresponding to marks or numbers designated for same on the approved shop drawings.

The workers responsible for placing the reinforcement shall be supplied with adequate copies of the approved shop drawings and bar lists for the project. Care shall be exercised to avoid substitutions of bar sizes and a stock of straight bars of the commonly used sizes shall be maintained on the job site by the contractor for use in the construction where required and as may be directed by the public works director.

Metal reinforcement shall be accurately positioned and secured against displacement by using tie wires of annealed wire not less than No. 16 gauge or suitable clips at all intersections, and shall be supported in a manner that will keep all metal away from the exposed surfaces of the walls or members. Slab reinforcement shall be supported on a sufficient number of metal chairs and

bars, to hold the reinforcement rigidly while placing concrete. Bars in footings poured directly on the ground shall be supported on small precast concrete blocks of the required depth.

The minimum clear distance between any reinforcing and the surface of concrete shall be in accordance with ACI-318.

(7) Mixing and placing concrete. All concrete may be mixed on the site in an approved type of power operated mechanical batch mixer of ample capacity to handle complete batches of measured materials. At no time shall mixer be charged above its rated capacity, and no fractional sack mixer shall be used on the work. The mixer shall be equipped with approved water storage and measuring device. Dry concrete materials shall be placed in the mixer drum and rotated a few times before water is added. The mixing shall be continued after water is added for a sufficient length of time to insure uniform distribution of the material throughout the mass, but not less than five (5) minutes for a four inch (4") slump, two (2) minutes for a two inch (2") slump.

No concrete shall be drawn from the mixer until the full mixing time has elapsed and no aggregates shall be added to a batch during mixing. Retempering of the concrete with the addition of water or remixing of partially hardened concrete will not be permitted. Mixers shall be kept clean and free from accumulated material on the interior of the drum. In general, hand mixing will not be allowed, except to complete a pour in the event of breakdown of mechanical mixer.

As soon as the concrete has been mixed it shall be discharged from the mixer, conveyed and placed in the forms in such a manner as will require a minimum of handling. Movement of fresh concrete from point of deposit to final position, where necessary, shall be by shoveling rather than by raking and crowding.

Such methods shall be employed in conveying and handling concrete to insure that no mortar will be lost, and that the concrete as placed is dense and uniform throughout with no segregation of the aggregates and no lack or excess of mortar any place. Concrete shall not be placed in forms in such condition that it will flow more than six feet (6') in any direction and shall be deposited as nearly as practical in its final position to avoid rehandling.

In the placing of concrete with the aid of mechanical vibrators, the vibration shall be transmitted through the forms. Vibration shall be supplemented by forking or spading by hand adjacent to the forms on exposed faces in order to secure smooth, dense, even surfaces without "honeycomb."

Should any honeycomb concrete be disclosed upon removal of the forms, the contractor shall cut out said honeycomb portion back to solid concrete and shall fill the opening with concrete to the same proportions as that specified section of work in which the fault occurred. No pointing of honeycomb areas shall be done until the surfaces have been inspected by the public works director.

Where concrete is placed on the ground, the subgrade shall be smooth and firm and fine graded to the exact required depth below the finished concrete surface. Reinforcing bars and subgrade shall be moist, but not wet, and shall be moistened with water ahead of the concrete pouring to prevent loss of entrained water in the concrete mix.

Ready mix concrete shall be mixed and delivered to the site in accordance with specifications for ready mix concrete contained in ASTM C-94.

The time lapse from the addition of water to the dry mix until the final deposit of concrete in the forms shall in no case exceed forty-five (45) minutes, or three hundred (300) revolutions and in no case with concrete temperature in excess of ninety-five degrees Fahrenheit (95° F).

(8) Water content. The amount of water to be used in mixing concrete shall at all times be the minimum amount necessary to produce a plastic mixture of the strength specified, of the desired density, uniformity, and workability. In general, the consistency of any batch shall be that required for the specific placing conditions and method of placement and ordinarily the slump shall be between three and five inches (3" and 5") for structural concrete placed in forms and/or with reinforcement, and from two to three inches (2" to 3") inches for slabs and other concrete poured directly on the ground.

In general, for dry aggregates the average amount of water required to produce concrete having a compressive strength of four thousand (4,000) psi at twenty-eight (28) days should not exceed five (5) gallons of water per bag of cement or thirty (30) gallons per cubic yard of concrete, or water/cement ratio of 0.6 by weight.

- (9) <u>Curing</u>. Provisions shall be made for maintaining fresh concrete in a moist condition for a period of at least five (5) days after placement. Longer periods of curing may be required by the public works director when air temperatures are below fifty degrees Fahrenheit (50° F). Curing shall commence as soon as concrete has hardened sufficiently. Curing may be accomplished by ponding; wet burlap; sprinkling and covering with a non-staining sealed water proof paper or plastic; or membrane curing.
- (10) <u>Inspection</u>. No concrete shall be placed until forms, reinforcement, subgrade, etc., have been inspected and approved by the public works director. Notification of required inspection shall be the responsibility of the contractor. Failure to have inspections may result in removal of sufficient amounts of material to determine whether concrete was placed in conformance with applicable standards and specifications.
- (11) <u>Construction joints</u>. Construction joints shall be horizontal or vertical and keyways installed as shown on the approved drawings, or as directed by the public works director. Joints not indicated on the approved drawings shall be so made and located as to least impair the strength and appearance of the structure. Where a horizontal joint is to be made any excess water and latence shall be removed from the surface after concrete is deposited.

Construction joints between walls and footings shall be keyed in all cases. No horizontal construction joints will be permitted in vertical walls. Bulkheads shall not be removed until the concrete has set hard and before concrete work is resumed all debris shall be removed from the forms adjacent to the bulkheads. Joints in slabs supported on the earth shall be made in the manner as shown on the approved drawings, and as directed by the public works director. Reinforcements shall be carried through the joints and keyways formed to prevent lateral or vertical displacement of adjacent sections at the joint due to unequal settlement of the supporting earth subgrade.

(12) <u>Concrete finish, screeds, hardener</u>. After forms are removed, cut away all projections and point up all depressions while concrete is still fresh, using a rich mortar composed of cement and silica sand. Use cement of the same brand as used in the concrete. Thoroughly wet surfaces before pouring, then rub surfaces with carborundum of medium fineness. Use plenty of water during rubbing and remove cement from surface.

The top surfaces of column footings, wall footings, and concrete at other similar locations shall be floated to a smooth and level surface. Grade stakes or nails shall be set to designate the levels to which concrete is to be poured.

For establishing the correct level of finish for all slabs, screeds shall be provided and set. Screeds for supported slabs may be metal strips or steel pipe spaced not over one hundred feet (100') on centers and supported on metal adjustable screed chairs which may be left in the concrete.

- (13) <u>Admixtures</u>. All concrete work required under this standard shall contain a resin gum admixture similar to or equal to Darex. Admixture shall be ap plied in strict accordance with the directions of the manufacturer.
- (14) <u>Expansion joints</u>. The contractor shall provide and install (tooled) expansion joints through concrete slabs at locations shown on the approved drawings, same to consist of preformed asphalt saturated fiber of thickness shown.
- cylinders to be cast daily by a qualified representative of a certified commercial laboratory. These samples shall be cast, cured and tested in accordance with current ASTM Specifications. Testing ages shall be seven and twenty-eight (7 and 28) days unless otherwise specified by the public works director. Laboratory cylinders shall be used to determine the structural quality of the concrete materials used. For daily pours up to fifty (50) cubic yards, four (4) cylinders per pour, shall be provided, both of which shall be laboratory cured. For daily pours of over fifty (50) cubic yards at least four (4) test cylinders per pour shall be cast and laboratory cured. Field cylinders to be used as a gauge for early safe removal of forms shall be cast where contractors request earlier removal than that set out in the specifications. The contractor shall be responsible for the safe transportation of the cylinders to the laboratory. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10 6-22-20*)

- **16-510.** <u>Technical specifications—concrete sidewalks</u>. (1) <u>Scope</u>. This section covers all labor, tools, equipment, and materials, including minor excavation and fine grading required to provide concrete sidewalks on previously prepared grade at the locations shown on approved drawings and as hereinafter specified.
- (2) <u>General requirements</u>. Preparation of subgrade All 6" boulders and larger rock, organic materials, soft clay, spongy material, and any other objectionable material shall be removed and replaced with approved materials. The subgrade shall be properly shaped, rolled and uniformly compacted to conform with the accepted cross-section and grades.

Forms for concrete - The forms for concrete shall be of wood or metal, straight, free from warps or kinks and of sufficient strength. They shall be staked securely enough to resist the pressure of the concrete without spring. When ready for the concrete to be deposited they shall not vary from the approved line and grade and shall be kept so until the concrete has set.

Concrete sidewalks - The concrete shall be proportioned, mixed and placed in accordance with the requirements contained in § 16-507 of this standard, and shall contain fibermesh (one (1) lb. per cubic yard). Concrete for sidewalks shall have a minimum twenty-eight (28) day strength of three thousand (3,000) psi with four to eight percent (4% - 8%) air entrainment on surfaces where vehicular traffic does not cross. A thickened cross-section of concrete shall be utilized on those portions of the sidewalk where vehicular traffic is likely to cross. The minimum slump shall be three inches (3") and maximum slump shall be five inches, (5") unless otherwise approved. All sidewalks shall meet ADA Regulations.

The concrete sidewalks shall have a minimum thickness of four inches (4") except where vehicular traffic is likely to cross in which case the sidewalk shall be thickened to a minimum six inches (6") unless otherwise approved. Sidwalks shall be a minimum of five feet (5') in width unless otherwise required by the public works director. See Figure 15 contained in Appendix A in this standard for design detail and standards and specifications. The surface of concrete walks shall be cut into flags by marking with an edging tool having a radius of one fourth inch (1/4"). Flags shall be no longer than the width of the sidewalk.

Expansion joints - One-half inch (1/2") traverse expansion joints with premolded filler shall be installed as directed by the public works director, but maximum spacing shall not exceed twenty-five feet (25'). Expansion joints shall be installed where walks terminate at curbs, at both the top and bottom of steps, around utility structures, and at sidewalk intersections. Such expansion joints are not required (except at curb returns) between walks and contiguous parallel curbs.

Turn-downs - Sidewalks shall be formed to "turn down" their own thickness at terminal points or ending points. The turn down or extra thickness shall extend for the width of the sidewalk. On steep grades or at soft spots in the

subgrade, post holes eight inches (8") in diameter and eighteen inches (18") in depth shall be poured monolithically with the sidewalk slab when so directed by the public works director.

At the request of the public works director, slight adjustments shall be made by the contractor in the grades and cross-slopes of walks to connect with existing sidewalks or other work, and/or to improve drainage. Grade stakes not more than twenty-five (25') apart shall be provided for all sidewalk work. Short vertical curves shall be introduced at all summits and valleys where the algebraic difference in grade equals or exceeds two percent (2%).

(3) <u>Finishing</u>. Concrete sidewalks shall be tamped and screeded sufficiently-to bring the necessary water to the surface for finishing. All sidewalks shall be given a steel trowel finish with light brooming. All edges, including edges at dummy joints and expansion joints, shall be rounded to a one-fourth inch (1/4") radius.

Where "washed" or exposed aggregate sidewalk or slab is called for on the plans, the washing of the concrete surface shall be accomplished by removing the surface paste with brushes and water from a garden hose. After the depth of aggregate exposure has been approved by the public works director, the same pattern or texture shall be carried out throughout the entire slab areas and every effort shall be made to have the same workers finish adjoining slabs in order to assure uniformity of workmanship. If a chemical retardant is planned for use in or near the slab surface, the product must be approved by the public works director prior to application, and must be applied strictly in accordance with the manufacturer's directions.

(4) <u>Curing and protection</u>. Curing - Curing of concrete sidewalks shall conform to the requirements specified under § 16-508 of the standard, unless otherwise authorized.

Protection - Concrete shall be protected as specified under § 16-508 of this standard. Under no circumstances shall the contractor allow traffic of any type on concrete sidewalks until at least seven (7) days have elapsed after placing the concrete. The contractor shall be responsible for any damage incurred as a result of such traffic upon sidewalks including the repair and or replacement of such damaged sections of the sidewalk.

Backfilling - Backfill shall be of suitable selected material and shall be placed and tamped until firm and solid against concrete work. Backfilling shall follow immediately after the concrete forms have been removed.

Seasonal limits - No concrete shall be poured on a frozen or thawing subgrade or during unfavorable weather conditions, or when the temperature is forty degrees Fahrenheit (40° F) and falling without adequate protection. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10 6-22-20*)

**16-511.** <u>Technical specifications--concrete and gutter</u>. (1) <u>Scope</u>. This section covers all labor, tools, equipment, forming and materials required for the installation of concrete curb, concrete gutter, combined concrete curb and

gutter and integral curb at the locations shown on approved construction plans and as hereinafter specified.

All concrete items included in this section shall be proportioned, mixed and placed in accordance with § 16-508 of this standard, except as hereinafter modified. Concrete shall have a minimum twenty-eight (28) day strength of four thousand (4,000) psi, with a minimum slump of one inch (1") and a maximum slump of four inches (4"), unless otherwise approved or directed by the public works director. See Figures 10 through 14 in Appendix A of this standard for further design details and standards and specifications.

(2) <u>General requirements</u>. Curbs and gutters shall be constructed to the sizes and dimensions shown on approved plans. Existing curbs and gutters which have been cut and removed for construction purposes shall be replaced at the contractor's expense with curbs and gutters of the same section as the portion removed unless otherwise authorized by the public works director.

The limits of the work shall be as shown on the approved plans. The area within such limits shall be carefully graded and tamped with suitable materials to the required line and grade. The final subgrade surface shall be compacted to ninety-five percent (95%) of standard proetor and even density and firmness and shall be made smooth and true to line and grade just prior to concrete placement.

After the subgrade has been properly prepared the forms shall be set carefully with their top edges true to line and grade of the finished work and shall be rigidly held in place by stakes or braces. The ends of the forms shall be flush and securely fastened together. Forms shall be cleaned and oiled before they are set in place. If a facing board is used it shall be so shaped and constructed that its lower edge will conform to the radius called for on the approved plans. Forms shall be tight to prevent leakage of wet concrete.

Curbs and gutters shall be constructed in sections of uniform length. The length of section may be reduced where necessary to make closures but in no case shall a section be less that six feet (6') long. Curved curbs at intersections shall extend entirely around the curve and one foot (1') beyond at each end. Sections shall be separated by steel templates set normal to the face and top of the curb. Templates shall be one eighth inch (1/8") thick and to full width of the gutter and at least two inches (2") inches deeper than the curb or gutter. Special turn-out sections shall be constructed as shown on the approved plans at all intersecting driveways.

Preformed bituminous joints shall be set in new construction at intervals of approximately fifty feet (50') along the curb or gutter and at intersections with sidewalks, storm drainage inlets, other curbs, driveway ramps, and buildings. Preformed joints shall be set normal to the finish surface.

(4) <u>Finish and curing</u>. After the subgrade has been prepared and the forms set, they shall be inspected and approved by the public works director just prior to concrete placement. The concrete shall be thoroughly tamped or vibrated so as to produce a homogeneous mass and to bring the mortar to the

surface, after which it shall be stuck off with the template cut to the design of the curb or gutter. Before initial setting begins, the surfaces shall be finished with a wooded float so as to compact the mass and produce a true, even surface. Plastering with mortar to build up or finish uneven surfaces or excessive troweling with a steel trowel shall not be permitted. The surface shall be checked with a ten foot (10') straight-edge and all irregularities corrected with not more than one-fourth (1/4") tolerance. The upper edges of curb and gutter shall be rounded with an approved edging tool with a one-half inch (1/2") radius. The joint templates shall remain in place until the concrete has set sufficiently to permit removal without damage to the concrete and shall then be removed while the forms are still in place.

After the concrete has set sufficiently, and in no case less than twenty-four (24) hours after placement, the forms shall be removed and all minor defects or irregularities in the surface corrected. When the finishing operations have been completed to the satisfaction of the public works director, the exposed surfaces shall be covered with wetted burlap or other approved material and kept continuously moist for a period of not less than five (5) days after concrete placement so as to permit the concrete to cure properly and prevent it from drying too rapidly. The concrete shall be protected from damage during the curing process and thereafter until finally accepted by the public works director. Any section of curb or gutter that is damaged during construction and before final acceptance by the public works director shall be replaced in a satisfactory manner by the developer or contractor at his expense.

After the curing process has been completed, the spaces along the sides of the curb and gutter shall be backfilled with suitable material and then tamped and compacted to the required elevation. Backfill material shall be compacted with approved tamps and shall and shall be made smooth and even with the pavement or other material adjacent to the new work. All excess materials and debris shall then be removed from the construction site and the area left in a neat condition. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10\_6-22-20*)

## 16-512. <u>Technicial specifications - stablization of ditches.</u>

- (1) <u>Scope</u>. This section covers all labor, tools, equipment, forming materials, seeding, sodding, and other materials to provide the stabilization of ditches. All concrete work included in this section shall be in accordance with § 16-508 of this standard. All seeding and sodding work in this section shall be in accordance with §§ 16-507 and 16-508, respectively.
- (2) <u>General requirements</u>. All open ditches shall be stabilized in accordance with the requirements outlined in the City of Tullahoma Storm Drainage Design Standards and Specifications.

Concrete linings, when required, shall be constructed of Class "A" concrete. All ditch cross-sections shall be constructed in a workman like manner as shown on the approved construction plans. Ditches that require lining with

concrete shall be lined to a height above the bottom of the ditch not less than one-half (1/2) the diameter of the nearest culvert upstream. However, in no case shall the lining extend less than one foot (1') above the bottom of the ditch. Slopes of ditches shall not exceed 3:1 to insure proper maintenance and stability of ditch.

Any ditch section that must traverse or cross through a street section shall have installed appropriate sized and dimensioned concrete headwall structures that include wing walls and toe slabs to collect and disperse stormwater uniformly. All concrete utilized shall be adequately reinforced using steel reinforcement as noted on the illustration and shall have a twenty-eight (28) day strength of four thousand (4,000) psi. All exposed edges shall have a three-fourths (3/4") chamfer. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10 6-22-20*)

- **16-513.** Technical specifications—seeding. (1) Scope. Seeding shall include the preparation of the ground, application of fertilizer, and sowing of seeds including furnishing of labor, machines, tools, fertilizers, seed and other materials incidental to providing for an acceptable growth of grass in the area or areas shown on the approved plans or as directed by the public works director.
- (2) <u>Definition of acceptable growth</u>. The growth of grass shall be termed acceptable by the public works director when
  - (a) A uniform dense growth is secured over the entire area designated to be seeded, and
- (b) The grass has the appearance of healthy growth. An erosion control matting shall be used in areas subject to erosion such as drainage ways and slopes.
- (3) <u>Prepartion of the ground</u>. The ground to be seeded shall be loosened to a depth of four inches (4") by raking, disking, or harrowing, or any suitable means until the soil is friable, well as pulverized and acceptable to the public works director. Where top soil has been redistributed over the area, all clods, roots, stones, etc., exceeding one inches (1") in any dimension shall be removed. This operation shall be performed only at such time when the moisture content of the soil to be worked is within the acceptable limits for satisfactory results.
- (4) <u>Application of fertilizer</u>. After the ground has been prepared in accordance with the above section, commercial fertilizer shall be distributed uniformly over the area at a minimum rate of five hundred (500) pounds per acre. The fertilizer shall be incorporated into the soil to a depth of three inches (3") by raking, disking, or any acceptable method. Care will be exercised to avoid over fertilizing an area to the extent of damaging or retarding growth. The fertilizer used shall be an approved manufacturer and shall be "Vertigreen" or "Vigaro" or equal. It shall contain not less than five percent (5%) nitrogen, ten percent (10%) phosphorous and four percent (4%) potash. All fertilizers shall comply with all laws governing the sale and manufacture of fertilizer.

(5) <u>Planting</u>. The area shall be seeded by means of a drill or a mechanical distributor, or any other approved sowing equipment/or method. The mixture of seed used shall meet the latest requirements of the Tennessee Department of Transportation. The mixture of seed selected shall be suitable for the area to be sown and such as to give the required acceptable growth.

Where practical, one-half (1/2) of the seed shall be sown with the sower moving in one (1) direction and the other half with the sower moving at right angles to give the required acceptable growth. The seed shall be covered to a depth of not over one-half inch (1/2") by means of a flexible tooth weeder, harrow, or any approved device. At terraces, berms, ditches, or other locations highly susceptible to erosion, the public works director may direct that the rate of application be increased. No sowing shall be done in windy weather or when the ground is wet or otherwise non-tillable.

(6) <u>Planting season</u>. Unless otherwise permitted in writing by the public works director, the seeding operations shall be limited to the following periods:

SPRING: March 1st to June 1st

FALL: September 1st to November 1st

(7) Reseeding and maintenance of area(s). The developer and/or contractor shall be required to secure an acceptable growth of grass on all areas designated to be seeded. Locations where acceptable growth is not obtained on the first planting shall be reseeded until such growth is secured. If the public works director so directs, the ground shall be reworked and refertilized before reseeding. This practice shall be avoided unless the previous planting was less than fifty percent (50%) successful.

The developer and/or contractor shall maintain the area(s) until an acceptable growth is established, and if any erosion occurs during the construction period, the developer and/or contractor shall be required to restore the area(s) where such erosion may have occurred. No mowing or other maintenance of the grass will be required unless otherwise directed by the public works director. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10 6-22-20*)

- **16-514.** <u>Technical specifications--sodding</u>. (1) <u>Scope</u>. This section includes all labor, equipment, sod and other materials, final preparation of soil surface required to plant the areas shown on the approved plans with solid sod as herein specified. Unless otherwise authorized or directed, all areas between sidewalks and curb adjacent to streets shall be sodded.
- (2) <u>Definition</u>. Area sodding shall consist of planting an entire area with sod. Strip sodding shall consist of planting narrow strips in continuous lines. Spot sodding shall be planted as indicated on the approved plans. Sod, strip sod, or spot sod shall be planted on areas indicated on the approved plans and in accordance with these specifications, and/or as directed by the public works director.

(3) <u>Materials</u>. Sod shall consist of live, dense, well rooted growth of permanent grasses, free from Johnson grass, Nut grass, and other obnoxious grasses, of suitable character for the purpose intended and for the soil in which it is to be planted. It shall be uninj ured at the time of planting. Sod containing Bermuda grass will be accepted only when indicated on the approved plans or when approved by the public works director. If Bermuda grass is approved, it shall be native to the area being planted. Sod must be free of weeds, bind weeds, or other matter which has a tendency to kill the grass.

Sod for area sodding shall be at least eight inches (8") wide and twelve inches (12") long and shall have at least a three inch (3") thickness of dirt on its roots.

Sod for strip sodding shall be at least three inches (3") wide and twelve inches (12") long and have at least a three inch (3") thickness of dirt on its roots.

Sod for spot sodding shall be at least three inches (3") square and have at least three inch (3) thickness of dirt on its roots.

Fertilizers used in area, strip or spot sodding shall comply with § 13-513(4)of the Standard.

- (4) <u>Planting season and soil conditions</u>. Unless otherwise permitted in writing by the public works director the sodding operations shall be limited to March 1st through November 1st all sod shall be planted only when the soil is moist and otherwise favorable to growth.
- (5) Area sodding. The area to be sodded shall be constructed to the lines and grades indicated on the approved plans. The surface shall be loosened to a depth of not less than three inches (3") with a rake or other device. If necessary it shall be sprinkled until saturated at least one inch (1") in depth and kept moist until the sod is placed. Immediately before placing sod, the fertilizer shall be uniformly applied at the rate of five hundred (500) pounds per acre. The entire area shall be thoroughly covered with sod.

Sod shall be placed on the prepared surface with the edges in close contact and, so far as possible, in a position to break joints. Each sod laid shall be fitted in the space and shall be pounded into place with wooden tamps or other approved implements.

The sod shall be maintained moist from the time of removal until reset, but shall be placed as soon as practical after removal from the place where it had been grown. Immediately after placing, it shall be rolled and hand tamped to the satisfaction of the public works director. On steep slopes, or where necessary, pinning or pegging will be required to hold the sod in place.

(6) <u>Strip sodding</u>. Strip sod shall be laid in a continuous line not more than twelve inches (12") apart. Before placing strips, the furrows shall be thoroughly watered and fertilizer applied uniformly in the furrows at the rate of five hundred (500) pounds per acre. The sodding strips shall be reset as soon as practical after removal from the location where they were grown and shall be maintained moist until they are reset.

After setting, the strips shall be lightly covered with earth and thoroughly rolled and hand tamped. After tamping and rolling the sod shall be carefully raked, to the satisfaction of the public works director, in order to break up the crust or earth formed by rolling or tamping.

(7) Spot sodding. The area to be spot sodded shall be constructed to the lines and grades indicated on the approved plans. Holes shall be dug not less than four inches (4") square and four inches (4") deep and not more than twelve inches (12") apart. The entire area shall be thoroughly wetted until all holes hold water to one-third (1/3) of their depth. Fertilizer shall be applied after wetting at the rate of five hundred (500) pounds per acre. One-half (1/2) of the fertilizer shall be evenly distributed and placed in the holes due for spot sodding.

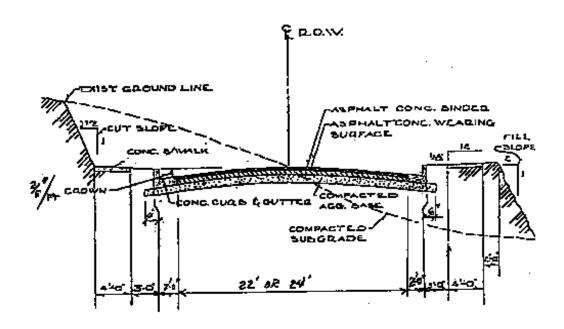
After sod has been placed in holes, any openings remaining shall be filled and the entire area thoroughly rolled and hand tamped.

(8) Watering and maintenance. The sod shall be watered for a period of two (2) weeks after setting. The developer and/or contractor shall not allow any equipment or material on any area planted with sod and shall erect barricades and guards if necessary, to prevent any damage from unauthorized traffic on or over any planted area. It shall be the obligation of the developer and/or contractor to secure acceptable growth of grass before final acceptance of the project by the city. (Ord. #1195, Jan. 1998, as replaced by Ord. #1530, Dec. 2019 *Ch10\_6-22-20*)

## APPENDIX A

# **SUMMARY OF FIGURES**

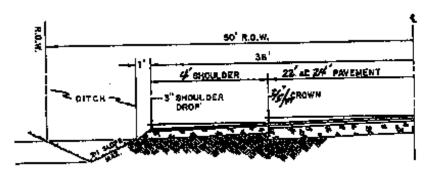
Figure 1	Typical SectionResidential Street (50' R.O.W.)
Figure 2	Typical SectionResidential Conventional Roadway (50' R.O.W.)
Figure 3	Typical SectionCollector Street (60' R.O.W.)
Figure 4	Typical SectionArterial Street (80' R.O.W.)
Figure 5	Standard Residential Cul-de-sac Detail
Figure 6	Standard Cul-de-sac Detail (Residential)
Figure 7	Concrete Swale Approach Apron
Figure 8	Driveway Conncection to Non-Curbed Streets
Figure 9	Non-Residential Driveway Ramp (Concrete)
Figure 10	Extruded Curb Detail (Residential)
Figure 11	Rollover Curb, Gutter, & Sidewalk Detail (Residential)
Figure 12	24" Concrete Curb and Gutter Detail (Collector)
Figure 13	Post Curb Detail (Collector)
Figure 14	30" Concrete Curb and Gutter Detail (Arterial/Industrial)
Figure 15	Standard Concrete Sidewalk
Figure 16	Standard Handicap Ramp (Side Mountable)
Figure 17	Standard Concrete Sidewalk at Return with Grass Strip and
	Handicap Ramps
Figure 18	Standard Concrete Sidewalk at Return with No Grass Strip and
	Handicap Ramps
Figure 19	Handicap Ramp Locations
Figure 20	Trench Pavement Repair Details
Figure 21	Residential Driveway Ramp Detail (as replaced by Ord. #1530, Dec.
2019 <b>Ch10</b> _	_ <i>6-22-20</i> )



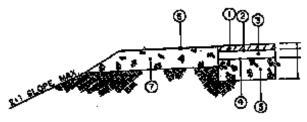
#### NOTE:

- THE THICKNESS OR ASPEALT CONC. WEARING SURFACE, BINDER, AND CRUSERD AGGREGATE BASE, SHALL BE IN ACCORDANCE WITH SECTION UI, OF THESE STANDARDS.
- 2. THIS SECTION IS INTENDED TO SET FORTH A MIN. SPEC. FOR STREET CONSTRUCTION. PARKWAY TYPE STREETS, IMPROVED SLOPES AND ANY OTHER DETAILS EXCEEDING THE MIN. WILL BE CONSIDERED FAVORABLE BY THE FUBLIC WORKS DEPT.

TYPICAL SECTION — LOCAL STREET			
	(50' R.O.W.)		
Scale: None			
Date: 9/10/97	FIGURE 1		



HALF - SECTION



PAVEMENT & SHOULDER COURSES

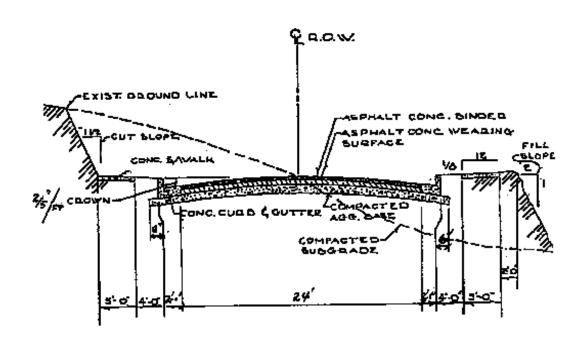
### PAVEMENT

- ASPMALTIC CONCRETE SURFACE (411E)
- ASPHALTIC CONCRETE SASE (8-MODIFIED)
- PRIME COAT
- STONE (GRADING O PUG MILL MIX)

## SHOULDER

- DOUBLE BITUMINUS SURFACE TREATMENT
- **⊚** ⑦ 7" CRUSHED STONE BASE

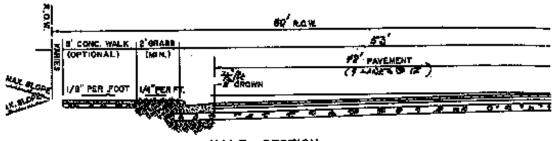
TYPICAL SECTION - LOCAL CONVENTIONAL ROADWAY		
Scale: 1* = 5		-[
Deta: 9/10/97	FIGURE 2	



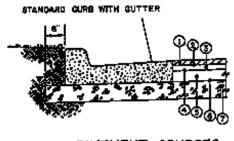
#### NOTE:

- THE THICKNESS OF ASPHALT CONC. WHARING SURFACE, BINDER, AND CRUSHED AGGREGATE BASE, SHALL BE IN ACCORDANCE WITH SECTION III OF THESE STANDARDS.
- THIS SECTION IS INTENDED TO SET FORTH A MIN. SPEC. FOR STREET CONSTRUCTION. PARKWAY TYPE STREETS, IMPROVED SLOPES AND ANY OTHER DETAILS EXCEEDING THE MIN. WILL BE CONSIDERED FAVORABLE BY THE PUBLIC WORKS DEPT.

TYPICAL SECTION - COLLECTOR STREET		
_		(60' R.O.W)
Scale: None		L.
Date: 9/10/97		FEHURE 3



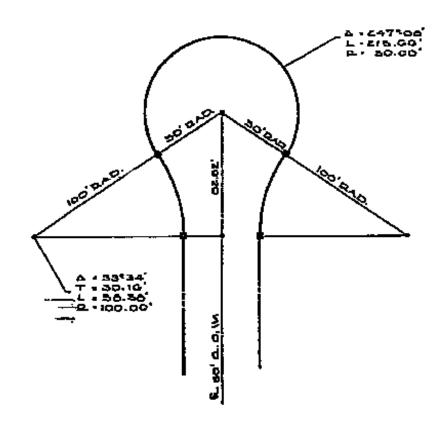
HALF - SECTION



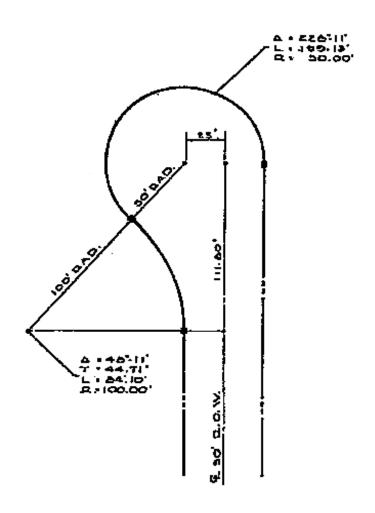
- PAVEMENT COURSES
- ASPHALTIC CONCRETE SURFACE (411E)
- 2 TACH COAT
- 3 ASPHALTIC CONCRETE BASE ( B-MODIFIED
- TACK COAT

  ASPHALTIC CONCRETE BASE (307A)
- В РЯВНЕ ООМІТ
- TONE SASE (GRADING D PUG MILL MIX)

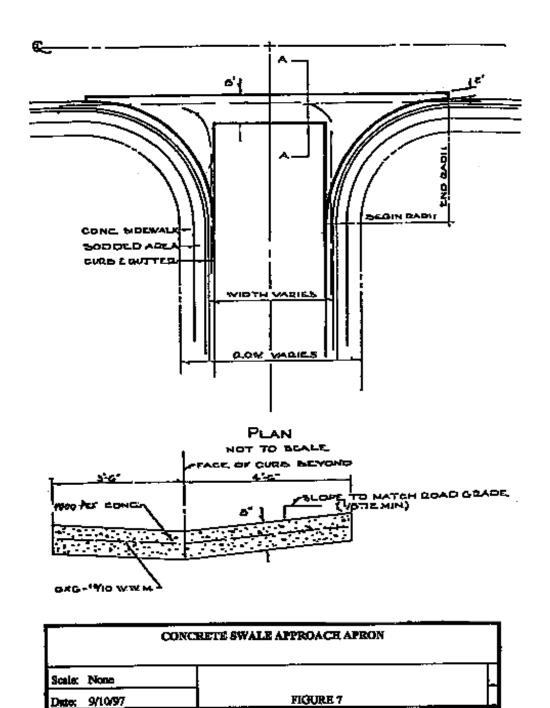
TYPIC	al section – arterial street
	(80' R.O.W)
Scale: 1" = 5"	
Date: 9/10/97	FIGURE 4

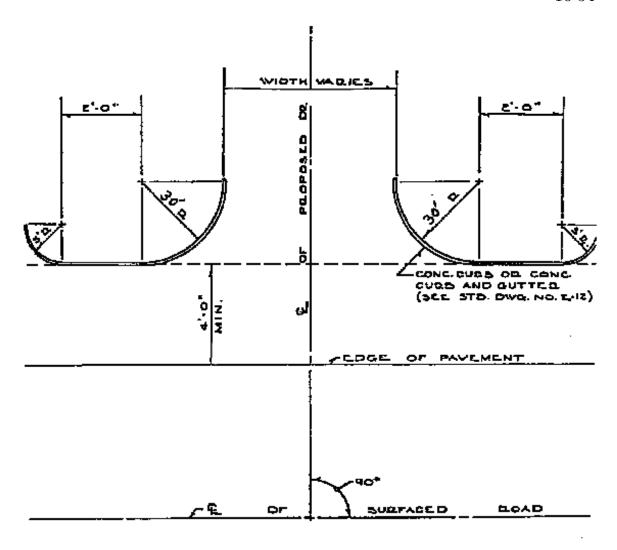


STANDARD RESIDENTIAL CUL-DE SAC DETAIL			
Scale:	1" = 50"		
Dete:	9/10/97		FIGURE 5

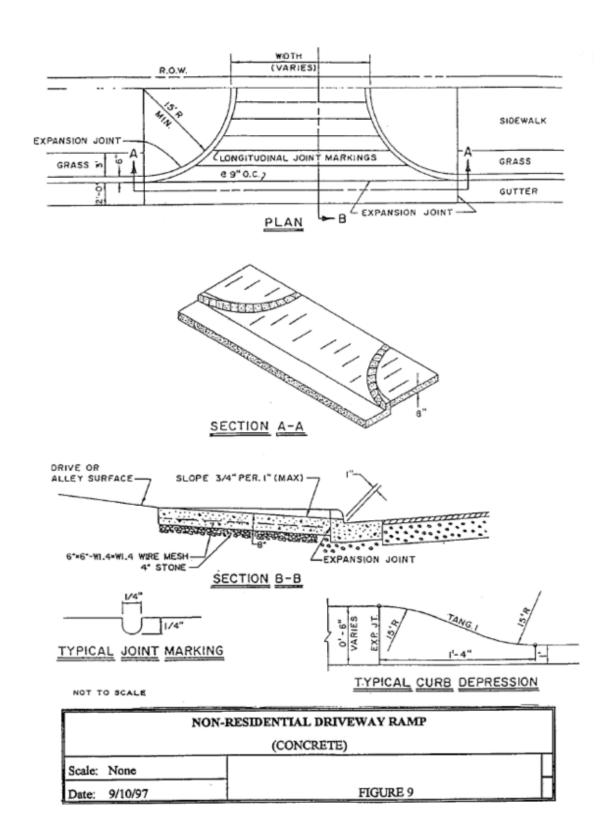


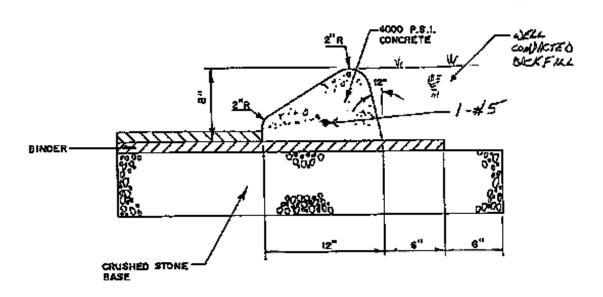
	NDARD OFFSET CUL-DE SAC DETAIL	
	(RESIDENTIAL)	
Scale: 1" = 50"		L
Date: 9/10/97	FIGURE 6	





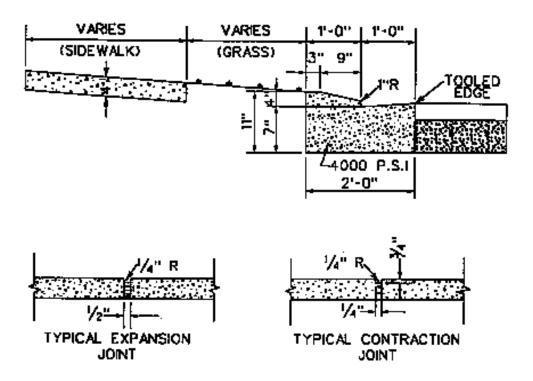
DRIVEWAY CONNECTION TO NON-CURBED STREETS		
Scale:	None	
Date	9/10/97	FIGURE 8





- CONSTRUCTION JOINTS CONSISTING OF M" PREFORMED EXPANSION JOINT MATERIAL SHALL BE PLACED AT A MAXIMUM OF 50 FEBT INTERVALS.
- 2. PREFORMED 14" EXPANSION JOINT MATERIAL SHALL BE PLACED BETWEEN CURB AND DRAINAGE INLETS OR OTHER STRUCTURES, TANGENT POINTS, AND DRIVE RAMPS.
- 1/4" CONTRACTION JOINTS SHALL BE SPACED 10 FEBT ON CENTER BETWEEN EXPANSION JOINTS.

		EXTRUDED CURB DETAIL (RESIDENTIAL)	1
Scale:	None		black
Date:	9/10/97	FIGURE 10	l

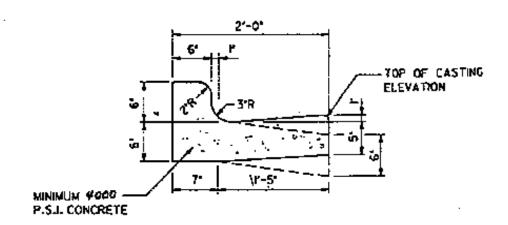


PREFORMED WE EXPANSION JOINTS SHALL BE EQUALLY SPACED AT 50 ON CENTER (MAX.) WITH 1/4" CONTRACTION JOINTS EQUALLY SPACED AT 10" ON CENTER BETWEEN EXPANSION JOINTS. JOINTS IN SIDEWALK TO BE IN LINE WITH JOINTS IN CURB AND GUTTER.

PREFORMED IN EXPANSION JOINT MATERIAL SHALL BE PLACED BETWEEN CURB AND GUTTER AND DRAINAGE INLETS, TANGENT POINTS, AND DRIVE RAMPS.

CONCRETE SHALL CONTAIN FIBERMESH REINFORCING AT 1 POUND PER CUBIC YARD.

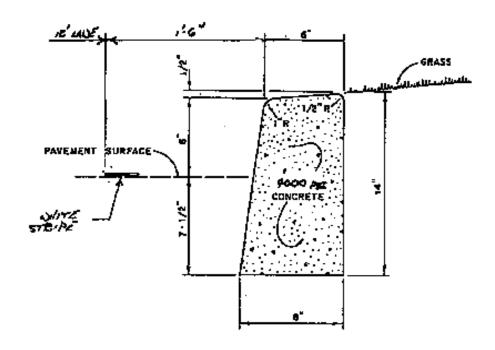
	ROLLOVER CURB, GUTTER, & SIDEWALK DETAIL			
(RESEDENTIAL)				
Scale:	None			_
Date:	9/10/97		FIGURE II	



### NOTE: WHEN PAVEMENT SLOPES AWAY FROM CURB AND GUTTER, USE TILT OUT CURB AND GUTTER

- CONSTRUCTION JOINTS CONSISTING OF ½"
   PREFORMED EXPANSION JOINT MATERIAL SHALL
   BE PLACED AT A MAXIMUM OF 50 FEET INTERVALS.
- PREFORMED 16° EXPANSION JOINT MATERIAL SHALL BE PLACED BETWEEN CURB AND DRAINAGE INLETS, TANGENT POINTS, AND DRIVE RAMPS.
- 1/4" CONSTRUCTION JOINTS SHALL BE SPACED 10 FEET ON CENTER BETWEEN EXPANSION JOINTS.
- CONCRETE SHALL CONTAIN FIBERMESH REINFORCING AT 1 POUND PER CUBIC YARD.

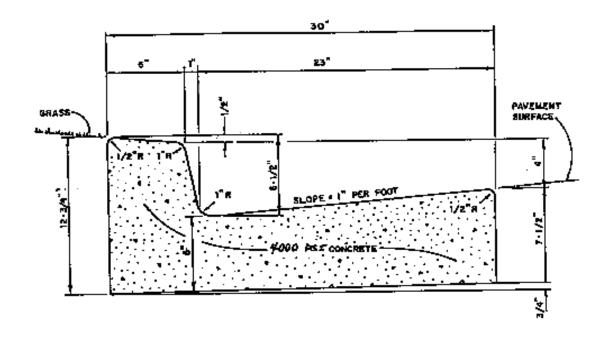
24" CONCR <b>ETE CURB &amp;</b> GUTTER DETAIL			
(COLLECTOR)			
Scale: None			
Date: 9/10/97		PIGURE 12	j.



#### TYPICAL CROSS - SECTION

- EXPANSION JOINTS TO HE SPACED A MAXIMUM OF 50' APART OR AS DIRECTED BY THE ENGINEER.
- EXPANSION POINTS WILL ALSO BE REQUIRED AT TANGENT POINTS, DRIVE RAMPS AND INLETS.
- CONSTRUCTION JOINTS ARE TO BE CUT INTO CURB AND GUTTER EVERY 10 TO A DEPTH OF DAY.
- CONCRETE SHALL CONTAIN FIBERMESH REINFORCEMENT OF 1 POUND PER CUBIC YARD.

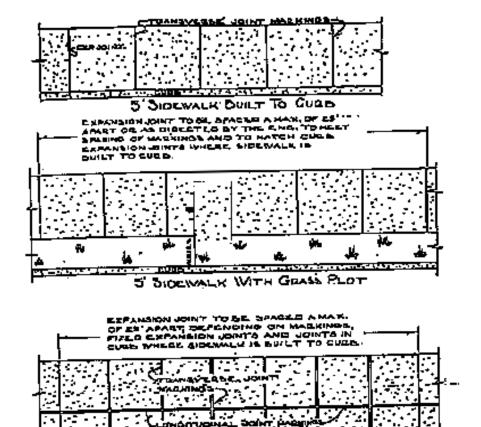
POST CURB DETAIL		
(COLLECTOR)		
Scale: 1" = 6"		Ŀ
Date: 9/10/97	FIGURE 13	



## TYPICAL CROSS - SECTION

- EXPANSION JOINTS TO BE SPACED A MAXIMUM OF 50' APART OR AS DIRECTED BY THE ENGINEER.
- EXPANSION JOINTS WILL ALSO BE REQUIRED AT TANGENT POINTS, DRIVE RAMPS AND INLETS.
- CONSTRUCTION IOINTS ARE TO BE CUT INTO CURB AND GUTTER EVERY 10' TO A DEPTH OF D/4.
- CONCRETE SHALL CONTAIN FIBERMESH REINFORCEMENT AT 1 POUND FER CUBIC YARD.

30" CONCRETE CURB AND GUTTER DETAIL			
		(ARTERIAL / INDUSTRIAL)	
Scale: 14 - 6	,		
Date: 9/10/5	7	FRIGURE 14	



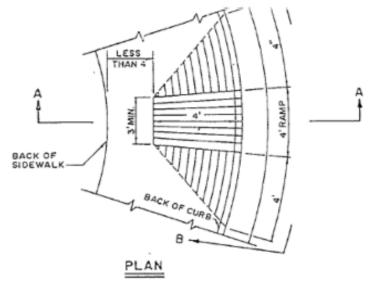
SIDEMALK BUILT TO CHAS (MOTH CREATER TRANC)

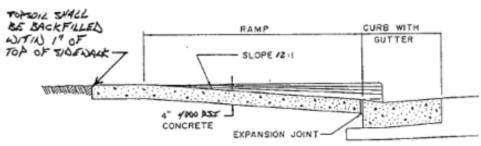
#### Note:

OTE.:

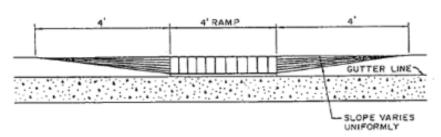
ONE LONGITUDINAL JOINT MACKING REDUCTED ON EIDEMEN OVER 6 1 IN THE STANDIT TWO LENGITUDINAL JOINTS FOOL OILL MACKINGS TO TEAMEVED SE JOINT MACKINGS TO FOOM SQ. DLIDGAL JF SOACTIONAL AB SOCTEBURIED BY MIXED EXR JOINTS SIGNIFICANES.

	STANDARD CONCRETE SIDEWALK			
	(ARTERIAL / INDUSTRIAL)			
Scale:	None		Н	
Dute:	9/1 <u>0/97</u>	FIGURE 15		



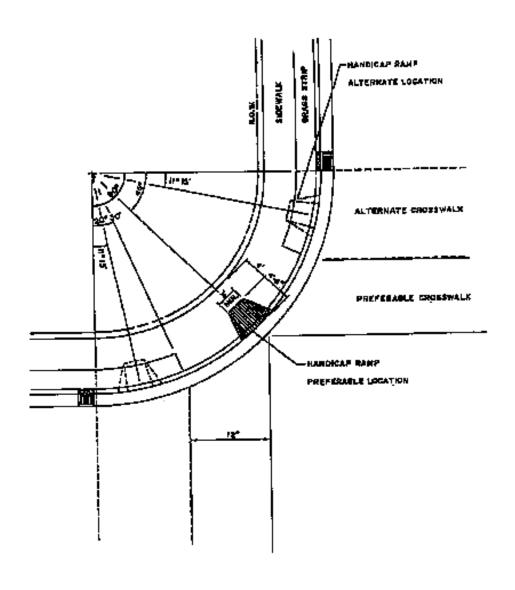


SECTION A-A

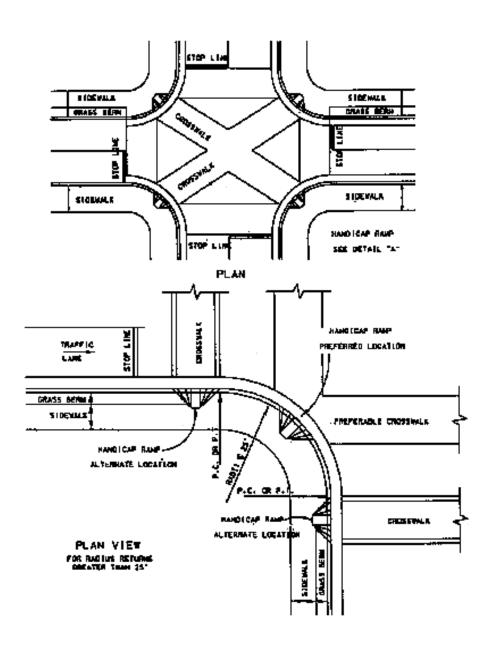


SECTION B-B

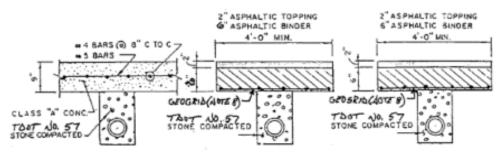
STANDARD HANDICAP RAMP		
	(SIDE MOUNTABLE)	
Scale: 1" = 20'		Н
Date: 9/10/97	FIGURE 16	



STANDARD CONCRETE SIDEWALK AT RETURN WITH GRASS STRIP AND HANDICAP RAMPS				
Scale: 1"=10"				
Date: 9/10/97	FIGURE 17			



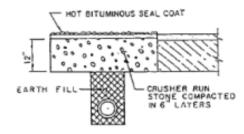
		Ħ.	ANDICAP RAMPS LOCATIONS
Scale:	Nane	-	
Dete:	9/10/97		FIGURE 19



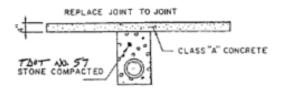
CONCRETE PAVEMENT

'ASPHALTIC SURFACE (CROSSINGS)

ASPHALTIC SURFACE (PARALLEL CUTS)







#### SIDEWALK REPLACEMENT

#### NOTES:

- 1. ALL WORK SHALL BE FIELD CHECKED AND APPROVED BY THE PUBLIC WORKS DEPARTMENT PRIOR TO ITS BEGINNING
- AND AFTER COMPLETION THERROP.

  2. INSPECTION PERSONNEL OF THE
  DEPARTMENT SHALL BE NOTIFIED AT LEAST TWO (2) DAYS PRIOR TO
- COMMENCING WORK.

  3. THE WORK SPECIFIED HEREON SHALL. BE FREE FROM WORKMANSHIP DEFECTS FOR A PERIOD OF ONE YEAR AFTER
- COMPLETION.
  4. EXISTING PAVEMENTS, BASES, CURBS AND OUTTERS AND SIDEWALKS SHALL BE CUT AND BROUGHT TO A NEAT LINE BY USE OF AN
- AND ERCOURT TO A MEAT LINE BY USE OF AN AIR HAMMER OR OTHER SUITABLE EQUIPMENT. EXPANSION JOINTS REMOVED SHALL BE REPLACED.

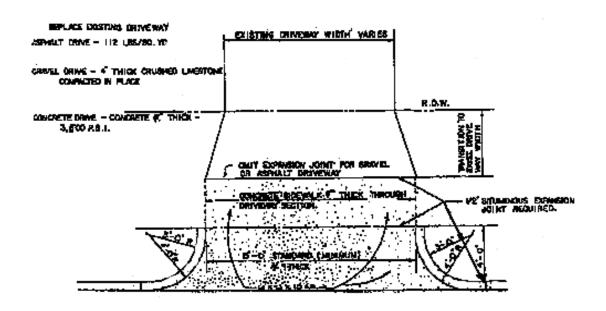
  5. THE MINIMUM WIDTH TO BE TRIMMED ON EACH SIDE OF THE TRENCH LINE, AS SEEN IN THE SECTION MAY BE WAIVED OR AMENDED UPON APPROVAL OF THE INSPECTOR, HOWEVER, A MINIMUM WIDTH OF REPLACEMENT SHALL BE 4 · 0" ALLOW FOR A ROLLER.
- IF PERMANENT PAVEMENT REPAIRS CANNOT BE MADE WITHEN THREE (3) DAYS, THEN TEMPORARY REPLACEMENT SHALL BE MADE WITH 2" COLD MIX OR HOT BITUMINOUS SEAL COAT OVER.
- MIX OR HO! SHOWINGS SEAR THE STORE COMPACTED CRUSHER RUN STORE.

  7. ALL EXCAVATIONS MADE WITHIN PUBLIC RIGHT-OF-WAY REQUIRE EXCAVATIONS AND STREET CLOSURE MERMITS FROM THE PUBLIC WORKS DEPARTMENT PRIOR TO
- FROM THE PUBLIC WORKS DEPARTMENT PRIOR TO COMMENCING WORK.

  I. INSTALL GEOGRID A MINIMUM OF 1'-0" BEYOND EDGE OF TRENCIL GEOGRID SHALL BE ADVANCED DRAINAGE SYSTEM, INC. PRODUCT NO. 2211 OR APPROVED EQUAL.

  P. EXCAVATIONS EXCEEDENG 2 FOOT IN WIDTH SHALL BE BACKFILLED WITH 4"-4" STONE TO SUBGRADE ELEVATION.

TRENCH PAVEMENT REPAIR DETAILS					
Scale: None		L			
Date: 9/10/97	FIGURE 20				



RESIDENTIAL DRIVEWAY RAMP DETAIL					
Scale:	None			L	
Dute:	9/10/97		FIGURE 21		

#### **CHAPTER 6**

# SPECIAL EVENTS AND TEMPORARY STREET CLOSURES

#### **SECTION**

- 16-601. Definitions.
- 16-602. Permit or notice required for special events.
- 16-603. Application for a permit.
- 16-604. Time of filing application.
- 16-605. Barricades, litter collection, and sanitary facilities.
- 16-606. Hold harmless; liability insurance.
- 16-607. Personnel cost; permit fee; grant program.
- 16-608. Compliance with laws.
- 16-609. Conditions in permits.
- 16-610. Standards for issuance of a permit.
- 16-611. Issuance or denial.
- 16-612. Appeals procedure.
- 16-613. Revocation of a permit.
- **16-601.** <u>Definitions</u>. (1) "Amusement ride" or "amusement attraction" shall be defined as in <u>Tennessee Code Annotated</u>, § 56-38-102, excluding wholly inflatable attractions.
- (2) "Private gathering" means a special event that is held on private property and is not open to the public. A private gathering shall not be subject to the requirements of this chapter unless:
  - (a) A temporary street closure is requested;
  - (b) Two hundred (200) or more people gather in a residential area during the course of the event; or
  - (c) Five hundred (500) or more people gather during the course of the event.
- (3) "Special event" shall mean any public gathering such as a block party, local special event, parade, festival, celebration, concert, carnival, fair, exhibits, trade show, air show or any similar occurrence to be conducted on public or private property within the City of Tullahoma, Tennessee. Special events occurring entirely within structures that have been approved by the city for occupancy by five hundred (500) or more people shall be exempt from the requirements of this chapter.
- (4) "Temporary street closure" shall refer to a condition created by special event or private gathering to be conducted within or on any street or intersection in the City of Tullahoma, Tennessee, that requires all lanes of travel be closed for a public safety purpose. Any request for temporary street closure(s) is deemed a request for a special event and requires a special event permit. Any temporary street closure authorized in whole or in part by the city

for municipal purposes, including, but not limited to, conveyance of traffic, or travel is exempt from this chapter. (as added by Ord. #1423, Dec. 2011)

- **16-602.** Permit or notice required for special events. (1) Notice for private gatherings. No permit shall be required for a private gathering unless a temporary street closure permit is requested; however, seventy-two (72) hours notice to the police department shall be required. Such notice may be oral and shall contain the date, time and place of the gathering, as well as contact information.
- (2) <u>Permit required</u>. No person, firm, corporation or organization shall participate in, advertise for or in any way promote, organize, control, manage, solicit, or induce participation in a special event or a private gathering where a temporary street closure is requested unless a special event permit has first been obtained from the city administrator.
- (3) No person, firm, corporation or organization shall violate any of the terms of a permit issued for a special event or this chapter, nor join or participate in any permitted activity under this chapter over the objection of the permit holder, nor in any manner interfere with the progress or orderly conduct of a special event. (as added by Ord. #1423, Dec. 2011)
- **16-603. Application for a permit**. For special events, an application for a permit shall be made upon a form provided by the city recorder and shall contain all of the following information:
- (1) The name, residence and business address, and phone number of each person and organization sponsoring the special event. If an organization, the application shall indicate whether it is authorized to do business within the State of Tennessee and contain the names, residences and business addresses, and phone numbers of the president or chairman thereof, and all other persons:
  - (a) Having an interest or position of management or control in such organization;
  - (b) Who are or will be engaged in organizing, promoting, controlling, managing or soliciting participation in such special event; and
  - (c) Who will be vending or soliciting at the event under the special event permit.
- (2) The date, or dates, and beginning and ending hours of such special event;
- (3) The location, including blocks, streets, or intersections, in which such special event will occur and a map of same, and indicate where a temporary street closure is required, if any;
  - (4) The estimated number of persons who will participate;
  - (5) The purpose of the special event:
- (6) Whether parking is requested to be restricted or prohibited during such closure;

- (7) Whether any sound amplification equipment is proposed to be used, and if so, information describing such sound amplification;
- (8) Whether or not charity, gratuity, or offerings will be solicited or accepted, or sales of food, beverages, including alcohol or beer, or other merchandise will occur;
- (9) Whether any temporary street closure will occupy all or only a portion of the street or intersection involved;
- (10) Whether the special event includes any amusement attraction or amusement ride; and
- (11) Such other information as the city administrator deems reasonably necessary in order to carry out his duties under this chapter. (as added by Ord. #1423, Dec. 2011)
- **16-604.** <u>Time of filing application</u>. The application shall be filed not less than fourteen (14) nor more than three hundred sixty-four (364) days prior to the scheduled street date of such special event. (as added by Ord. #1423, Dec. 2011)
- 16-605. <u>Barricades, litter collection, and sanitary facilities</u>. When a special event permit is granted and includes a temporary street closure, applicants shall provide and remove such barricades and warning devices as are deemed necessary by and are acceptable to the city administrator. Applicants shall also provide for the collection and removal, at applicant's expense, of all trash, garbage, and litter caused by or arising out of such special event and for adequate sanitary facilities as are deemed necessary by the city administrator. (as added by Ord. #1423, Dec. 2011)
- 16-606. Hold harmless; liability insurance. Applicants shall agree in writing to assume the defense of and indemnify and save harmless the city, its aldermen, boards, agencies, authorities, commissions, officers, employees and agents, from all suits, actions, damages or claims to which the city may be subjected of any kind or nature whatsoever resulting from, caused by, arising out of or as a consequence of special event and the activities permitted in connection therewith. The city administrator may require the applicant to submit a certificate of insurance from a Tennessee state-licensed entity prior to the event in an amount not less than one million dollars (\$1,000,000.00), but within the discretion of the city administrator, depending upon the nature, size and duration of the event. (as added by Ord. #1423, Dec. 2011)
- **16-607.** Personnel cost; permit fee; grant program. (1) In addition to a permit fee, applicants shall pay to the city the cost of city personnel who are required by the city to work overtime hours or other than regular shift or perform duties during or because of special event. An application for a special event permit shall be accompanied by a permit review fee as established from

time to time by the board of mayor and aldermen. Governmental entities shall be exempt from permit fees.

- (2) Organizers of events may apply for in-kind support from the City of Tullahoma, as provided in the "special event grant policy," which is hereby adopted by reference and made a part of this chapter as if fully set forth herein. The city administrator shall have the authority to administer the special event grant policy and amend its terms as needed. A copy of the special event grant policy shall be placed on file at the city recorder's office. (as added by Ord. #1423, Dec. 2011)
- 16-608. <u>Compliance with laws</u>. Prior to issuance of a permit under this chapter, all applicable ordinances and laws shall be complied with and all required permits and licenses shall be secured in connection with such special event, or the proposed activities associated therewith including, but not limited to, peddling, street vending, charitable solicitations, collections or acceptance of gratuities, the sale of food, beverages, including alcohol or beer, or other merchandise, or the use of candles, torches, fires, or other combustibles, or amusement attractions or rides. (as added by Ord. #1423, Dec. 2011)
- **16-609.** <u>Conditions in permits</u>. (1) <u>Conditions</u>. Any permit granted under this chapter may contain conditions reasonably calculated to reduce or minimize the dangers and hazards to vehicular or pedestrian traffic or to the public health, safety, tranquility, morals, or welfare, including, but not limited to, changes in time, duration, numbers of participants, or noise levels.
- (2) <u>Deposit or bond</u>. The city administrator may also require as a condition of the permit a deposit or bond to cover clean-up, damage or other costs, the amount of the deposit or bond shall be related to the size, nature, and duration of the event and shall be refundable, to the extent not exhausted by clean-up, damage or other costs. (as added by Ord. #1423, Dec. 2011)
- **16-610.** Standards for issuance of a permit. A permit shall be issued when, from a consideration of the application and from such other information as may otherwise be obtained, all of the following circumstances exists:
- (1) The applicant has not knowingly and with intent to deceive, made any false, misleading or fraudulent statements of material fact in the application for a permit or in any other document required pursuant to this chapter;
- (2) The applicant has met the standards in this chapter, and paid in advance any fee required and agrees to such conditions as are imposed in the permit;
- (3) The time, duration and size of the special event will not substantially disrupt the orderly and safe movement of other traffic or create a public nuisance;

- (4) The special event is of a size or nature such that it will not require the diversion of so great a number of public safety officers of the city as to prevent normal safety protection to the city;
- (5) The concentration of persons will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such special event;
- (6) The special event will not unduly interfere with the movement of firefighting equipment on the way to a fire or 911 call;
- (7) The special event will not unduly interfere with the orderly operation of parks, hospitals, churches, schools, or other public and quasi-public institutions in the city; and
- (8) The applicant has provided reasonable means for informing all persons listed in § 16-603(1) of this chapter, and all other persons participating in the special event of the terms and conditions of such permit and all applicable laws. (as added by Ord. #1423, Dec. 2011)
- **16-611.** <u>Issuance or denial</u>. (1) <u>Small special events</u>. A special event where fewer than two hundred (200) people gather during the entire course of the event shall be considered a small special event. The city administrator shall have authority to issue or deny a small special event permit. Written notice of the issuance or denial of a permit shall be provided to the applicant within five (5) business days of receipt of a complete application.
- (2) <u>Large special events</u>. A special event where two hundred (200) or more people gather during the entire course of the event shall be considered a large special event. Applications for large special events shall be considered by the board of mayor and aldermen after consideration by the appropriate committees. Applicant must be present at all meetings where the application is considered. Failure to appear shall constitute good cause for denial of an application.
- (3) <u>Calculation</u>. For the purposes of this section, the total number of people shall include all special event participants, workers and attendees.
- (4) <u>Denial</u>. Applicants must meet the standards for issuance of a permit in order to receive a permit. Additional criteria for denial may include, but are not limited to:
  - (a) Failure to submit a complete application with supporting documentation;
    - (b) Previous revocation of a special event permit;
  - (c) Previous convictions by the persons listed in § 16-603(1) of this chapter for any crime involving moral turpitude within the past ten (10) years;
  - (d) A finding that the proposed activity or use will unreasonably interfere with the general public's use and enjoyment of the area at the time of the event or in the future due to repetitive use or damage to a public facility;

- (e) A finding that the proposed activity or use will unreasonably interfere with or detract from the public health, safety or welfare, or involve violence, crime or disorderly conduct, at least to the extent that can be reasonably foreseen;
- (f) A finding that the proposed activity or use will entail extraordinary or burdensome expense or emergency operations by the city; or
- (g) A finding that the proposed activity or use will constitute a nuisance to adjoining property owners.
- (5) <u>Notice</u>. Written notice of the issuance or denial of a small or large special event permit shall be provided to the applicant within five (5) business days of any final decision. If a permit is denied, said written notice shall state the reasons for denial. (as added by Ord. #1423, Dec. 2011)
- **16-612.** <u>Appeals procedure</u>. An appeal from denial of the permit shall be by writ of certiorari to the chancery court. (as added by Ord. #1423, Dec. 2011)
- **16-613.** Revocation of a permit. Any permit for a special event issued pursuant to this chapter may be revoked by the city administrator or chief of police, or their designees, at any time when by reason of emergency, disaster, calamity, disorder, riot, extreme traffic conditions, violation of this chapter or of any permit conditions, or undue burden on public services, it is determined that the health, safety, tranquility, morals or welfare of the public or the safety of any persons or property requires such revocation in light of all the circumstances. Notice of revocation of a permit shall be delivered in writing to at least one (1) person named upon the permit by personal service or by certified mail, or if the special event has commenced, orally, or in writing, by personal contact or service, or by telephone. If the number of people attending the event exceeds the number permitted in the application, it shall constitute an undue burden on public services and the special event permit may be orally revoked. Continuance of a special event after such notice has been delivered is unlawful. Revocation of a permit, for any reason, shall constitute a valid reason for denial of any future special event application by the same persons, or any combination thereof, listed in § 16-603(1) of this chapter. (as added by Ord. #1423, Dec. 2011)

#### **TITLE 17**

# REFUSE AND TRASH DISPOSAL<sup>1</sup>

#### **CHAPTER**

1. REFUSE.

# **CHAPTER 1**

#### REFUSE

#### **SECTION**

- 17-101. Definitions.
- 17-102. Purposes.
- 17-103. Administration.
- 17-104. Violations generally.
- 17-105. Cans and containers required; specifications; placement; maintenance.
- 17-106. Replacement when defective.
- 17-107. Location of refuse containers.
- 17-108. Use of containers; flattening cartons.
- 17-109. Deposit of ashes.
- 17-110. Disturbing contents, etc., of containers.
- 17-111. Disposal of construction refuse.
- 17-112. Disposal of dead animals (commercial only).
- 17-113. Frequency of collection.
- 17-114. Collection fees--commercial collection.
- 17-115. Additional service.
- 17-116. Billing basis.
- 17-117. Pooling refuse.
- 17-118. Determination of amount of waste, pick-up frequency, etc.
- 17-119. Delinquent waste collection fees--penalties.
- 17-120. Additional remedies available to the city relative to delinquent waste collection fees.
- 17-121. Violations by nonresidential users.
- 17-122. Private hauler's permit.
- 17-123. Transportation requirements--vehicle beds.
- 17-124. Receptacles; securing debris.
- 17-125. Additional violations.
- 17-126. Duties of the director of public works or his designee.
- 17-127. Dumping activities on public and private property.

Property maintenance regulations: title 13.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

- 17-128. Filling activities on public and private property.
- 17-129. [Repealed.]
- **17-101.** <u>**Definitions**</u>. As used in this chapter, the following terms shall have the respective meanings ascribed to them:
- (1) "Acceptable fill material." Brick and masonry particles, concrete particles, rock or gravel, soil.
- (2) "Ashes." The waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.
- (3) "Collector." Any person who collects, transports, or disposes of any refuse within the city.
- (4) "Commercial user." Commercial users shall be all of those users engaging in commercial, business, industrial or other activities outside of residentially zoned areas. This includes any person, firm or corporation performing any non residential business, occupation or profession, and shall include, but not be limited to, all businesses licensed by the City of Tullahoma, operating from a commercial address, each apartment unit, (triplex or larger complexes); each mobile park (having more than two (2) trailers); each condominium unit (triplexes or larger complexes); or other multiple dwelling units (triplex or larger complexes).
- (5) "Garbage." Every waste accumulation of animal, fruit, or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruits or vegetables, and including tin cans or similar food containers.
- (6) "Junked motor vehicles." Any motor vehicle the condition of which is significantly damaged, wrecked, dismantled totally or partially, inoperative, or a motor vehicle which is a damaged, wrecked, totally or partially dismantled or inoperative condition which has been abandoned, or discarded.
- (7) "Refuse." All solid wastes, except body wastes, and shall include garbage, ashes and rubbish (trash).
- (8) "Rubbish." Waste papers, tin cans, broken ware, discarded shoes and clothing, bottles, grass cuttings, or other non-organic solid wastes; except that the term "rubbish" shall not include debris from construction or repair work, trees or tree trimmings, bricks or rocks or any other waste that is likely to cause damage to the equipment of the city, injury to its employees, or is likely, because of the nature, size, or weight of the material, to cause undue hardship on the collector.
- (9) "Trash." Any items which would be "rubbish" as is herein defined and, as well, broken, discarded, or worthless things.
- (10) "Unacceptable fill material." Brush and wooden particles, portions of trees, articles made from metal, rubber or synthetic materials, such as tires, or articles made from wood, as well as wire and other discarded construction

materials such as pipe, appliances and fixtures, etc. (1988 Code, § 8-201, as replaced by Ord. #1386, March 2009)

- 17-102. <u>Purposes</u>. This chapter, being in the best interests of the health, safety and welfare of the inhabitants of the city, is enacted to insure good sanitary conditions for the city and to render a charge for the disposal of garbage and refuse by the city to help defray the expenses of the collection thereof. (1988 Code, § 8-202, as replaced by Ord. #1386, March 2009)
- **17-103.** <u>Administration</u>. All refuse accumulated within the city shall be collected, conveyed, and disposed of under the supervision of the public works director or his designee except as authorized by permit herein. Collections shall be made regularly in accordance with an announced schedule. (1988 Code, § 8-203, as replaced by Ord. #1386, March 2009)
- 17-104. <u>Violations generally</u>. Any person who shall violate any provision of this chapter or who shall fail or refuse to obey any notice or order issued by the codes department or the director of public works or his designee, with reference to the storage, accumulation, or disposal of refuse as set forth in this chapter, shall be guilty of a misdemeanor and shall, upon conviction, be fined as provided in § 1-107. The director of public works or his designee or both, are empowered to issue citations and/or execute warrants for the violation of any of the provisions of this chapter. (1988 Code, § 8-204, as replaced by Ord. #1386, March 2009)
- 17-105. <u>Cans and containers required; specifications; placement;</u> maintenance. (1) The public works department shall provide residents with one (1) garbage can per household and the cost for disposal shall be from residential property taxes.
- (2) The director of public works may require any residential household regularly exceeding the capacity of the city-issued garbage can in a collection period, to utilize an additional garbage can. An additional garbage can will be provided to a citizen at the city's expense. Any additional can in excess of the first can provided will be billed at the rate established in the city's comprehensive fee schedule.
- (3) Said cans and containers shall be so placed as to be accessible to the city collection service trucks and shall be kept closed at all times and shall be kept in a clean and sanitary condition.
- (4) In addition to standard garbage cans, appropriate plastic bags, properly secured and placed in the garbage can, shall be utilized for containment of garbage for garbage collection purposes.
- (5) Garbage cans shall not be placed curbside earlier than 6:00 P.M. the day before scheduled collection and must be removed from curbside within twelve (12) hours of service.

- (6) The director of public works may require some commercial users to utilize non-standard, city-issued containers due to location and accessibility.
- (7) The maximum gross weight of garbage cans when filled shall not exceed two hundred (200) pounds. The maximum gross weight of dumpsters when filled shall not exceed three thousand (3,000) pounds. (1988 Code, § 8-205, as replaced by Ord. #1386, March 2009)
- **17-106.** Replacement when defective. (1) Refuse containers and garbage cans shall be maintained in good order and repair.
- (2) City-issued containers shall remain the property of the city at the property address where delivered, and are provided and assigned to residences and businesses for the health, safety, convenience and general welfare of the occupants. If a property is vacated, only one (1) city-issued can shall remain at the property. Any additional cans will be collected by the public works department.
- (3) Containers that are damaged or destroyed through neglect, improper use or abuse by the occupant-users shall be repaired or replaced by the city at the expense of the occupants or the owner of the residence. City-issued containers which are damaged in the course of normal and reasonable usage or which are damaged or destroyed, through no abuse, neglect, or improper use of the occupant-users or residence owner shall be repaired or replaced by the city at no charge to the occupant-users or residence owners. The containers shall not be damaged, destroyed, defaced, or removed from the premises by any person; markings and identification devices on the containers except as placed or specifically permitted by the city are expressly prohibited and shall be regarded as damage to the containers.
- (4) In the event of any billable damage to any container, the city shall notify the user of the costs involved, which amount shall be remitted by user to the city within thirty (30) days from the date of said notification. Failure of the user to remit said sums demanded by the city shall result in a violation of this chapter. Further, said user shall be responsible for said monetary damages and losses to the city by civil action in a court of competent jurisdiction and/or at the option of the city, said amount shall be levied as additional personal or real property taxes against said user and collected in the same manner as said taxes are collected. (1988 Code, § 8-206, as replaced by Ord. #1386, March 2009)
- 17-107. <u>Location of refuse containers</u>. It shall be the responsibility of each occupant, on the scheduled day of collection, to place their container on the property side of the curb or street, or in a city approved location for pick-up. Containers shall be placed in such a location as to be readily accessible for removal by the city. The container shall be placed in such a manner as not to interfere with overhead power lines or tree branches, parked cars, vehicular traffic, or in any other way that would constitute a public hazard or nuisance. Garbage containers shall not be placed on a public sidewalk, in the street, or in

a drainage ditch. Commercial or business firms disposing of refuse under the provisions of this section may be permitted to place containers at places upon their premises convenient to the firm if approved by the public works director or his design to be readily accessible to the collection vehicle. The city shall place containers furnished by it to certain commercial users to be readily accessible to collection vehicles. (1988 Code, § 8-207, as replaced by Ord. #1386, March 2009)

- **17-108.** <u>Use of containers; flattening cartons</u>. (1) Refuse shall not be collected unless properly stored.
- (2) In no case will it be the responsibility of the city collectors to shovel or pick up from the ground any accumulation of refuse, including leaves, lawn clippings, brush, packing material, etc., except as specifically approved in advance by the director of public works or his designee of the collection service.
- (3) There shall be compliance with the maximum two hundred (200) pound gross weight limit for any residential containers and three thousand (3,000) pound gross weight for commercial dumpsters; it will be the responsibility of the user or business establishment to reduce the amount of refuse in the container to comply with the weight limit.
- (4) All business establishments shall flatten cardboard boxes and cardboard containers in order to facilitate handling by the city collectors. The city will not pick up cardboard boxes and containers that have not been flattened. It shall be the responsibility of the owner or operator of the business failing to comply with this provision to make appropriate disposition of such boxes and containers. This provision applies to all commercial users. (1988 Code, § 8-208, as replaced by Ord. #1386, March 2009)
- 17-109. <u>Deposit of ashes</u>. Ashes that have been exposed to the weather and are completely free of fire or smoke may be placed in regular containers. "Hot" ashes that may result in damage to refuse packers, or cans or containers, or may result in injury to the collectors shall, in no case, be placed in cans or containers. (1988 Code, § 8-209, as replaced by Ord. #1386, March 2009)
- 17-110. <u>Disturbing contents, etc., of containers</u>. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any garbage can, dumpster, or recycling container issued to or belonging to another. It shall be unlawful to remove any recycling material placed curbside or in recycling collection containers, intended to be collected by the city. This section shall not be construed to prohibit the use of public refuse cans or containers for their intended purpose. (1988 Code, § 8-210, as replaced by Ord. #1386, March 2009)
- **17-111.** <u>**Disposal of construction refuse**</u>. In no case will it be the responsibility of the city to collect refuse resulting from construction, demolition,

or repairs of buildings, structures or appurtenances. The properly owner or contractor, or the person having same in charge, shall be responsible for the disposal of such refuse. (1988 Code, § 8-211, as replaced by Ord. #1386, March 2009)

- 17-112. <u>Disposal of dead animals (commercial only)</u>. There shall be a charge for the disposal of dead animals of five dollars (\$5.00) per animal, minimum charge of twenty-five dollars (\$25.00). The director of public works when in his may waive these fees when, in his or her opinion, it is appropriate to do so. (1988 Code, § 8-212, modified, as replaced by Ord. #1386, March 2009)
- **17-113.** <u>Frequency of collection</u>. (1) Refuse collection shall be made in the residential districts on regularly scheduled routes.
- (2) Refuse collection shall be made in commercial or business areas as frequently as needed to prevent the occurrence or nuisances and public health problems in the city. (1988 Code, § 8-213, as amended by Ord. #1211, Jan. 1999, modified, and replaced by Ord. #1386, March 2009)
- 17-114. <u>Collection fees—commercial collection</u>. (1) Any commercial user, as defined in § 17-101(9), shall be assessed such fees and charges as are established by ordinance from time to time. There shall be exempted from the provisions hereof and from the charges assessed hereby any firm which is under contract to provide services for a business or service provider which is already being billed for said collection fees.
- (2) In the event, in the opinion of the public works director, the sanitation department personnel and equipment cannot provide adequate garbage service, the department shall not dispose of the garbage or debris.
- (3) The director of public works shall assess a monthly charge to industries, firms, or businesses for disposing of their garbage or debris. Said charge shall be based upon the city's cost per cubic yard for the landfill disposal service and other disposal costs involved. (1988 Code, § 8-214, modified, as replaced by Ord. #1386, March 2009)
- 17-115. <u>Additional services</u>. Whenever services are rendered by the city sanitation department, in addition to the routine scheduled pick-up service by the garbage truck, a charge shall be assessed for each such service, in accordance with a schedule as established by ordinance from time to time:
- (1) The director of public works shall determine the need for a front-end loader.
- (2) Call-in service will generally be provided on a first-call, first-serve basis. The director of public works or his designee, however, will schedule pick-ups as required to efficiently use labor and equipment resources. (1988 Code, § 8-215, as replaced by Ord. #1386, March 2009)

- **17-116.** <u>Billing basis</u>. (1) The waste collection fees provided for herein for commercial accounts that are billed more than the minimum monthly charge, shall be billed and payable to the city, on a monthly basis at the end of each billing period (end of month). The fee shall be due and payable upon receipt of the bill.
- (2) Small commercial users which have the minimum service charge, and residential users utilizing more than one (1) garbage can, shall be billed semi-annually, in advance, for such services. (1988 Code, § 8-216, as replaced by Ord. #1386, March 2009)
- 17-117. <u>Pooling refuse</u>. Where more than one (1) firm pools their waste together in a common container, the director of public works or his designee shall designate the size and location of the container. (1988 Code, § 8-217, modified, as replaced by Ord. #1386, March 2009)
- 17-118. <u>Determination of amount of waste, pick-up frequency, etc.</u> The director of public works or designee shall have the authority and responsibility to determine the average amount of waste collected, frequency of pick-up, and additional services rendered. (1988 Code, § 8-218, as replaced by Ord. #1386, March 2009)
- **17-119.** Delinquent waste collection fees--penalties. If any bills as set forth in § 17-116 hereof for waste collection fees are not paid within thirty (30) days of the date thereof, the city shall add thereto a delinquency penalty of ten percent (10%) per month, said ten percent (10%) to be calculated on the base bill, from month to month, until same is paid in full. If same is not paid within three (3) months from the date of billing, the city may turn said delinquent bill over to the city attorney for collection and the city attorney shall, upon receipt, be entitled to twenty percent (20%) of the total bill, excluding penalties, then due and payable, as attorney fees, which shall be added by him prior to initiating collection activities. The city attorney is hereby authorized to collect said delinquent bills under the same procedure as other civil debts are collected. In addition to the foregoing, the city may turn the delinquent accounts over to a commercial collection agency for collection. In addition to the provisions hereinabove set forth in this section, the appropriate city officials may attach any waste collection fees and delinquency penalties thereon, if same are not paid within three (3) months of the billing date as provided for above, to the real property or personal property taxes for the current year, of the persons and/or entities to whom said services were billed. Further, the city, through its appropriate officials, may, at its option, require that all delinquent waste collection fees and penalties, including attorney fees, if applicable, be paid by the persons and/or entities against whom same were assessed prior to the licenses, permits, taxes or other matters applied for being issued (including, but not limited to, beer permits, etc.) to said persons.

Any commercial user (non-residential user) as is defined in this chapter, by generating the waste which is subject to said service, is deemed to have agreed to the provisions herein for all purposes whatsoever. Any commercial user as defined herein for which the waste collection services are available shall also be deemed to have agreed to the provisions herein for all purposes whatsoever. (1988 Code, § 8-219, as replaced by Ord. #1386, March 2009, and Ord. #1397, Feb. 2010)

17-120. Additional remedies available to the city relative to delinguent waste collection fees. In addition to the provisions set forth in § 17-119, the City of Tullahoma shall have the following powers: In the event that any waste collection fee shall be at least three (3) months in arrears (shall have been delinquent for at least three (3) months), the city administrator, or his designee, may send notice to said delinquent party, by registered mail, return receipt requested, notifying the addressee thereof that should said delinquent fees, including all penalties and other charges, not be paid within ten (10) days from the date of said notice, the city shall discontinue waste collection services to said location to which said notice refers. There shall also be a fee as established in the city's comprehensive fee schedule to return a dumpster that has been removed for nonpayment of services. After discontinuance of said service, if said delinquencies are not paid by the party responsible, thus restoring pick-up services, should garbage, trash and other debris collect on said premises, then the occupant of said premises shall be guilty of an offense under the Code of Ordinances of the City of Tullahoma, Tennessee, as set forth in §§ 13-103 and 13-105 hereof and shall be liable under the general penalty provisions set forth in this code. Said violation shall be a continuing one until said property has been cleared of and is kept clear of the accumulation of waste. waste paper, etc. (1988 Code, § 8-220, as replaced by Ord. #1386, March 2009)

17-121. <u>Violations by nonresidential users</u>. Every person, business, industrial, or commercial user who shall violate any of the provisions of this chapter, or who shall fail or refuse to obey any notice or order issued by the codes department or director of public works or his designee with reference to storage, accumulation or disposal of refuse, as set forth in this chapter, shall be guilty of a misdemeanor and shall, upon conviction, be fined as provided for in § 1-107. (1988 Code, § 8-221, as replaced by Ord. #1386, March 2009)

17-122. Private hauler's permit. It shall be unlawful for any commercial enterprise to engage in the practice of handling, collecting, or hauling garbage, refuse, or rubbish within the city without having first obtained a written permit issued by the director of public works, who shall have absolute discretion as to whether or not to issue such permit; provided, however, anyone aggrieved by the decision of the director of public works may appeal that decision to the board of mayor and aldermen for its review of such decision and

such action as it deems appropriate under the circumstances. Persons engaged in the practice of hauling garbage, refuse, and rubbish on a permit so issued shall haul the same as required herein. Said permit must be acquired prior to the engaging in any of said activities. (1988 Code, § 8-222, as replaced by Ord. #1386, March 2009)

- 17-123. <u>Transportation requirements--vehicle beds</u>. 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 about either public or private property, including streets, in any manner. (1988 Code, § 8-223, as replaced by Ord. #1386, March 2009)
- 17-124. <u>Receptacles</u>; <u>securing debris</u>. It shall be unlawful to transport debris, garbage, trash, or other refuse upon the public streets within the city except under the following conditions:
- (1) Whenever garbage is so transported it shall be securely covered and contained in an enclosed receptacle of some type so as to insure that it will not be scattered about either public or private property, including streets, in any manner, and that its odor will not be offensive in any manner. The term "garbage" shall include any and all waste foods or other substances having a propensity to spoil or take on offensive odors.
- (2) Whenever debris or trash is so transported it shall be secured in such a manner (that is, tied down, covered, enclosed) that it cannot be scattered about either public or private property, including streets, in any manner. The terms "debris" and "trash" shall include, but not be limited to, all waste materials; brush; vegetation; paper; broken, damaged or worn out articles of all types; containers of all types; scrap lumber; except garbage, as is herein defined. (1988 Code, § 8-224, as replaced by Ord. #1386, March 2009)
- 17-125. <u>Additional violations</u>. The following activities which are committed or permitted shall be unlawful and shall be a violation of this chapter:
- (1) Nonresidents of the city shall not use dumpsters belonging to the City of Tullahoma or to private parties for any purpose whatsoever.
  - (2) Refuse shall not be placed or allowed to collect around dumpsters.
- (3) Burning refuse in dumpsters or placing combustible or volatile material in said containers shall be unlawful. Anyone guilty of allowing or permitting the burning or refuse in said containers shall, in addition to the penalty prescribed in this code of ordinances, be liable in an action at law to the City of Tullahoma for the value of the collection container damaged and/or destroyed as a result thereof or, in the alternative, shall be billed and charged

by the city for the value thereof along with other refuse collection charges. (1988 Code, § 8-225, as replaced by Ord. #1386, March 2009)

- 17-126. Duties of the director of public works or his designee. The director of public works or his designee shall have the duty and responsibility of enforcing this chapter of the Code of Ordinances of the City of Tullahoma, Tennessee and may cause the codes department to issue citations for violations of said ordinance. They shall enforce the provisions of this chapter by the inspection of property and by the observance of those persons who are seen to violate any of the provisions and shall be empowered to issue citations and/or warrants when in their opinion any of the provisions of this chapter have been violated. Citations so issued may be delivered in person to the violator by said director or designee or may be mailed to the person so charged by registered mail, return receipt requested, if he cannot be readily found. Any citation so mailed or delivered shall direct the violator to appear before the judge of the city court of the City of Tullahoma, Tennessee, at the time specified therein. In lieu of the issuance of citations, warrants may be executed by said director or designee pursuant to the arrest provisions set forth in the code of ordinances. (1988 Code, § 8-226, as replaced by Ord. #1386, March 2009)
- 17-127. <u>Dumping activities on public and private property</u>. It shall be unlawful for any persons, whether owners of private property or others, to place or dump on any private or public property any garbage, trash, junk, disabled and/or discarded household appliances of all types, or junked motor vehicles, whether said activities are with or without the permission of the owners of said property. Each day that a violation continues on said property shall be considered a separate offense, punishable under the general penalty clause of the Code of Ordinances of the City of Tullahoma, Tennessee. (1988 Code, § 8-227, as replaced by Ord. #1386, March 2009)
- 17-128. Filling activities on public and private property. It shall be unlawful for anyone authorized to place material to be used as fill material on vacant private or public property to allow said fill material to remain uncovered and in large piles for a period of more than two (2) weeks from when said material was placed thereon, except in situations where the weather does not permit the appropriate covering of said materials. Each day that said fill material remains on public or private property after two (2) weeks when placed thereon, except in cases of inclement weather, shall be a separate offense, punishable in accordance with the general penalty clause of the Code of Ordinances of the City of Tullahoma, Tennessee. (1988 Code, § 8-228, as replaced by Ord. #1386, March 2009)
- **17-129.** [Repealed.] (1988 Code, § 8-229, as repealed by Ord. #1386, March 2009)

#### **TITLE 18**

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

#### **CHAPTER**

- 1. SEWER USE REGULATIONS.
- 2. STORMWATER MANAGEMENT.
- 3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
- 4. WATER.
- 5. WATER WELLS AND SPRINGS.

#### CHAPTER 1

# SEWER USE REGULATIONS

#### **SECTION**

- 18-101. Purpose and policy.
- 18-102. Scope.
- 18-103. Abbreviations.
- 18-104. Definitions.
- 18-105. General regulations.
- 18-106. Applications for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-107. Industrial user monitoring, inspection reports, records and safety.
- 18-108. Wastewater charges and fees.
- 18-109. Enforcement.
- 18-110. Penalties and abatements.
- 18-111. Sewer regulation appeals board.
- 18-112. Miscellaneous provisions.
- 18-113. Enforcement response guide.

**18-101.** Purpose and policy. (1) This sewer use chapter sets uniform requirements for users of the publicly owned treatment works for the City of Tullahoma and enables the City of Tullahoma to comply with all applicable state and federal laws, including the State Pretreatment Requirements (Tennessee Rule 1200-4-14), the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] part 403).

Board of public utilities: title 2.

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

<sup>&</sup>lt;sup>1</sup>Municipal code references

- (2) This chapter provides a means for determining wastewater volumes, constituents, and characteristics, the setting of charges and fees, and the issuance of permits to certain users. Revenues derived from the application of this chapter shall be used to defray the board's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements, and depreciation.
- (3) This chapter shall supersede ordinance number 1048, including all amendments, and any other ordinances or portions thereof which may be in conflict with this chapter. More specifically, the purposes of this chapter are:
  - (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
  - (b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
  - (c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
  - (d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
  - (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and
  - (f) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)
- 18-102. <u>Scope</u>. This chapter shall be deemed part of all residential, commercial, industrial, and public contracts for receiving wastewater collection and treatment services from the board and shall apply to all services received whether the service is based upon contract, agreement, signed application, or other mutual understanding. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)
- **18-103.** <u>Abbreviations</u>. The following abbreviations, when used in this chapter, shall have the designated meanings:
  - (1) AO Administrative Order
  - (2) ASTM ASTM International
  - (3) BOD- Biochemical Oxygen Demand
  - (4) BMP- Best Management Practice
  - (5) BMR- Baseline Monitoring Report

- (6) CFR Code of Federal Regulations
- (7) CIU Categorical Industrial User
- (8) COD Chemical Oxygen Demand
- (9) EPA- U.S. Environmental Protection Agency
- (10) gpd gallons per day
- (11) IU Industrial User
- (12) IUDP Industrial User Discharge Permit
- (13) mg/I milligrams per liter
- (14) NOV Notice of Violation
- (15) NPDES National Pollutant Discharge Elimination System
- (16) NSCIU -Non-Significant Categorical Industrial User
- (17) PC Pretreatment Coordinator
- (18) POTW Publicly Owned Treatment Works
- (19) RCRA Resource Conservation and Recovery Act
- (20) RV Recreational Vehicle
- (21) SIU Significant Industrial User
- (22) SNC Significant Non-compliance
- (23) TSS Total Suspended Solids
- (24) TUB Tullahoma Utilities Board or Board of Public Utilities
- (25) USC United States Code
- (26) WEF Water Environment Federation

(1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

- **18-104.** <u>**Definitions**</u>. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.
- (1) Act or the Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
- (2) <u>Approval authority</u>. The Tennessee Division of Water Pollution Control Director or his/her representative(s).
  - (3) <u>Authorized or duly authorized representative of the user</u>. (a) If the user is a corporation:
    - (i) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
    - (ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary

systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (c) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (d) The individuals described in paragraphs i through iii, above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.
- (4) <u>Available sewer</u>. A sewer shall be considered available when a parcel of land or property abuts upon a street, public right-of-way, or utility easement that contains a permanent sanitary sewer in which the building or structure to be served by public sanitary sewer is located within two hundred feet (200') of the permanent sanitary sewer.
- (5) <u>Biochemical Oxygen Demand or BOD</u>. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).
- (6) Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-106(3)(b) [Tennessee Rule 1200-4-14-.05(l)(a) and (2)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
  - (7) Board. Board of Public Utilities, Tullahoma Utilities Board.
- (8) <u>Categorical pretreatment standard or categorical standard</u>. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.
- (9) <u>Categorical industrial user</u>. An industrial user subject to a categorical pretreatment standard or categorical standard.
  - (10) <u>City</u>. The City of Tullahoma, Tennessee.
- (11) <u>Chemical Oxygen Demand or COD</u>. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
  - (12) Control authority. The Tullahoma Utilities Board.

- (13) <u>Daily maximum</u>. The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.
- (14) <u>Daily maximum limit</u>. The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (15) <u>Environmental Protection Agency or EPA</u>. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
  - (16) Existing source. Any source of discharge that is not a "new source."
- (17) <u>Grab sample</u>. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- (18) <u>Indirect discharge or discharge</u>. The introduction of pollutants into the POTW from any nondomestic source.
  - (19) Industrial user. A source of indirect discharge.
- (20) <u>Instantaneous limit</u>. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (21) <u>Interference</u>. A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.
- (22) <u>Local limit</u>. Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.0S(1)(a) and (2).
- (23) <u>Manager</u>. The person designated by the board to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the manager.
- (24) <u>Medical waste</u>. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (25) <u>Monthly average</u>. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- (26) <u>Monthly average limit</u>. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily

discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

- (27) New source. (a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (a)(ii) or (iii) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - (i) Begun, or caused to begin, as part of a continuous onsite construction program
    - (A) Any placement, assembly, or installation of facilities or equipment; or
    - (B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

- (28) <u>Noncontact cooling water</u>. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (29) <u>Pass through</u>. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.
- (30) <u>Person</u>. Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.
- (31)  $\underline{pH}$ . A measure of the acidity or alkalinity of a solution, expressed in standard units.
- (32) <u>Pollutant</u>. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (33) <u>Pretreatment</u>. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (34) <u>Pretreatment requirements</u>. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (35) <u>Pretreatment standards or standards</u>. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- (36) <u>Prohibited discharge standards or prohibited discharges</u>. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-106(3) of this chapter.
- (37) <u>Publicly Owned Treatment Works or POTW</u>. A treatment works, as defined by section 212 of the Act (33 U.S.C. 1292), which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

- (38) <u>Septic tank waste</u>. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (39) <u>Sewage</u>. Human excrement and gray water (household showers, dishwashing operations, etc.).
- (40) <u>Significant Industrial User (SIU)</u>. Except as provided in paragraph (iii) of this definition, a significant industrial user is:
  - (a) An industrial user subject to categorical pretreatment standards; or
    - (b) An industrial user that:
    - (i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
    - (ii) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - (iii) Is designated as such by the board on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
  - (c) Upon a finding that a user meeting the criteria in part (b) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the board may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user should not be considered a significant industrial user.
- (41) <u>Slug load or slug discharge</u>. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-106(3) of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.
- (42) <u>Stormwater</u>. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- (43) <u>Total suspended solids or suspended solids</u>. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.
- (44) <u>User</u>. Any person, occupied property, or premises having a connection to the sewer system or having access thereto.
- (45) <u>Wastewater</u>. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and

manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(46) <u>Wastewater treatment plant or treatment plant</u>. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

# **18-105.** General regulations. (1) Use of public sewers required.

- Disposal of waste. It shall be unlawful for any person to place, deposit, or permit to be deposited on public or private property within the City of Tullahoma any human or animal excrement or other objectionable waste in such a manner to create a public nuisance or to create a threat or danger to the public health and safety. This section shall not apply to the depositing of animal excrement by livestock or through other generally accepted agricultural activities, nor to the depositing of excrement from household pets, provided such excrement is not deposited nor allowed to accumulate to such an extent as to cause a public nuisance or otherwise to constitute a threat or danger to the public health or safety, and provided further that it shall be unlawful to place. deposit or to permit to be deposited upon the property of another within the City of Tullahoma human or animal excrement or other objectionable waste in any amount without the permission of the owner of such property. Public nuisance or threat or danger to the public health and safety shall be as determined by the City of Tullahoma Codes Department and Coffee County Health Department or other local regulatory agency having jurisdiction.
- (b) Direct discharge prohibited. It shall be unlawful to discharge to any natural outlet, within the City of Tullahoma, or any area under the jurisdiction of said city, any sewage or other polluted waters, except where a federal or state discharge permit has been duly issued and is currently valid for such discharge.
- (c) New private disposal systems prohibited. Except as hereinafter provided or as otherwise permitted by ordinance or regulation, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other private facility intended or used for the disposal of sewage.
- (d) City's right to require sanitary facilities. The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes to which sewer is available as defined in this chapter shall, upon demand by the board, install suitable toilet facilities therein and connect the same directly with the proper public sewer in accordance with the provisions of this chapter and shall cease to use any other means for the disposal of sewage, waste, wastewater, and other polluting matter. (See definition of available sewer.)

- (e) Connection to public sewer--general requirements. At such time as a sewer becomes available to a property served by a private wastewater disposal system, and upon demand by the board, a direct connection shall be made within thirty (30) days to the public sewer. Where a sewer is available wastewater from the premises shall be discharged either directly or indirectly into the sewer, and the property shall be billed for sewer service. However, if the making of the connection is delayed by the customer, the property shall be subject to such charges thirty (30) days after the sewer is declared operable by the board. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned. An extension of time may be granted by the manager for cause. (See definition of available sewer.)
- (2) <u>Private sewage disposal</u>. The disposal of sewage by means other than the use of the available public sanitary sewage system shall be in accordance with local, county, and state laws. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the available public sanitary sewage system is not available, and where such is otherwise permitted by ordinance or regulations.

# (3) Building sewers and connections.

- (a) Connection of building sewers to POTW. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the board. The owner or his agent shall make application on a special form furnished by the board. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the board.
- (b) Costs of installation. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify the board from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (c) Separate sewers required. A separate and independent building sewer shall be provided for every building at owner's expense. For existing buildings that share building sewers, the building sewers shall be separated upon the sale of any building involved or upon notice from the board.
- (d) Old building sewers. Building sewers left following the demolition of buildings may be used in connection with new buildings only when they are found, upon examination and test by the property owner to the board's satisfaction, to meet all requirements of this chapter and board policies.
- (e) Construction controls for new sewers. 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 back filling the trench, shall all conform to the requirements of the standard plumbing code or other applicable rules and regulations of the city and/or the board. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the latest edition of the ASTM and theWEF Manual of Practices shall apply.

- (f) Sewer entrances to private facilities. Whenever possible, the building sewer shall be brought to the building at elevations 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.
- (g) Extraneous water prohibited. No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Exceptions may be made only if such connection is approved by the manager for purpose of disposal of polluted surface drainage or ground water. Such connections, if approved, will require a wastewater discharge permit.
- (h) Quality of construction. All connections to the public sewer system shall be made gas tight and water tight. Any deviations from the prescribed procedures and materials must be approved by the board before installation. Requirements of the board's specifications and the latest edition of the International Code Council, <u>International Building Code</u> <u>International Plumbing Code</u> shall be followed unless superseded by local state, or federal ordinances.
- (i) Inspection and testing of sewers. The applicant for the building sewer permit shall notify the board when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made by or under the supervision of the board. Testing shall be performed as required by policy established by the board.
- (j) Excavation safety. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public. Property disturbed in the course of the work shall be restored in a manner satisfactory to the board.
- (k) Condition of private sewers. The user shall be responsible for the integrity of building sewers on his property. If it is determined that a building sewer is faulty or in a bad state of repair, such that extraneous stormwater can enter the POTW, the board shall require the user to repair his line. If the line is not repaired within a reasonable time period allowed by the board, water and sewer may be terminated.
- (l) Grease traps. Upon construction or renovation, all cafes, restaurants, motels, hotels, or other commercial institutional food

preparation establishments shall install a grease trap on the kitchen waste line, provided however, all existing cafes, restaurants, motels, hotels, or other commercial food preparation establishments shall be required to construct a grease trap, at the owner's expense within ninety (90) days after notification by the board, if and when the board determines that a grease problem exists which is capable of causing damage or operational problems to structures or equipment in the public sewer system, or if such is otherwise required by city ordinance, state or federal law. The board shall retain the right to inspect and approve installation of the grease trap facility. The grease trap must be designed in accordance with current acceptable engineering standards and shall be easily accessible for cleaning. Grease traps shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer. If the board is required to clean out the public sewer lines as a result of a stoppage resulting from a nonconforming grease trap, the property owner or operator shall be billed the greater amount of two hundred dollars (\$200.00) or the actual cost required to clean the public sewer lines. In the event that an owner or operator of a facility refuses to properly maintain a grease trap, as determined by the board, the board may terminate water and sewer services to the facility. The installation of grease traps shall be in accordance with § 18-105(3)(h).

- (m) Alteration to and obstruction to public sewers. No person shall obstruct entrance to or operation of the board's sanitary sewer system. Existing manhole tops are to be kept uncovered and accessible at all times. In the event that construction involving the filling of an area around a manhole occurs, the owner of the property or the person causing the construction to be accomplished shall bear all costs associated with the required adjustment of the sewer manholes. No building or other structure shall be constructed over a sewer line or easement thereof. Fill in or grading of a property such that stormwater concentrates at a manhole will not be permitted. The board reserves the right to enter onto its easements at all times to maintain its system and to remove or cause to be removed all obstructions to said entrance, and furthermore to assess the costs of the removal of obstructions against the owner thereof.
- (n) Interruption of service. The board shall not be liable for any damage resulting from failure or overflow of any sewer main, service line or valve, or by discontinuing the operation of its wastewater collections, treatment and disposal facilities, for repair, extensions, or connections, or from the accidental failure of the wastewater collection, treatment and disposal facilities from any cause whatsoever. In cases of emergency the board shall have the right to restrict the use of its wastewater collection, treatment, and disposal facilities in any reasonable manner for the protection of the board and the wastewater control system.

- (4) <u>Maintenance of building sewers and grinder pumps</u>. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property to insure that the building sewer is watertight. This maintenance will include repair or replacement of the service line as deemed necessary by the manager to meet specifications of the board. If upon smoke testing or visual inspection by the board, roof downspout connections, exterior foundation drains, area drains, basement drains, building sewer leaks or other sources of rainwater, surface runoff or groundwater entry into the POTW sewer system are identified on building sewers on private property, the manager may:
  - (a) Notify the property owner in writing of the nature of the problems identified on the property owner's building sewer and the specific steps required to bring the building sewer within the requirements of this chapter. All steps necessary to comply with this chapter must be completed within a reasonable time specified by the manager entirely at the expense of the property owner.
  - (b) Except, however, the board will be responsible for replacing/maintaining grinder pumps located on private property unless a grinder pump was installed for the convenience of the owner. The manager or his duly authorized representative shall be permitted to enter all properties for the purpose of inspection, observation, testing and repair of grinder pumps and appurtenances thereto.

# (5) <u>Regulations of hauled wastewater disposal.</u>

Disposal of private waste by truck. The board is not (a) obligated to accept or to continue to accept any trucked wastes, regardless of source, owner or operator. If the board chooses to accept trucked wastes, the manager has sole authority to determine who is eligible to dispose trucked wastes and the requirements and conditions of that privilege. The manager shall designate the locations and times where trucked wastes may be discharged, and may refuse to accept any wastes which, in his judgment, would interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto. The owner or operator disposing of trucked wastes shall, upon request, provide manifest to the POTW that states the source of the wastes they wish to discharge, the volume of wastewater from each source, and whether any industrial waste is included in the wastewater. Unless otherwise specifically allowed in writing by the manager, trucked wastes will only be accepted from the following sources: residential septic tanks, portable toilets, or residential sewage holding tanks, including RVs. Grease trap wastes are not acceptable under any condition. Any damages created by the disposal of trucked wastes, including harm to the POTW operations, process, and/or equipment, regardless if intentional or unintentional, shall be the monetary responsibility of the owner and/or operator. These damages include any fines and/or penalties that may be assessed against the board by regulatory agencies.

- (b) Holding tanks. No person shall discharge any holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the manager. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristic of the discharge. Such user shall pay any applicable charges or fees therefore, and shall comply with the conditions of the permit issued by the manager. No permit shall 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.
- (c) Fees for holding tank waste disposal permit. For each permit issued under the provisions of § 18-106, a service charge therefore shall be paid to the board to be set as specified in § 18-108.
- (d) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the manager. The possession within the city by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excrete disposal systems within the City of Tullahoma. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

# 18-106. <u>Applications for domestic wastewater discharge and industrial wastewater discharge permits</u>.

(1) Applications for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the manager for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the municipal sewer shall not be made until the application is received and approved by the manager, the building sewer is installed in accordance with § 18-105(3) of this chapter and an inspection has been performed by the manager or his representative.

The receipt by the board of a prospective customer's application for service shall not obligate the board to render the service. If the service applied for cannot be supplied in accordance with this chapter and the board's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the board to the applicant for such service,

except that conditional waivers for additional services may be granted by the manager for interim periods if compliance may be assured within a reasonable period of time.

- (2) <u>Industrial wastewater discharge permits</u>.
- (a) Individual wastewater discharge permit and general permit requirement. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the manager. The manager may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this chapter.
- (b) Permit application. Significant industrial users seeking a wastewater discharge permit or a general permit under § 18-106(2)(c) shall complete and file with the manager an application in the form prescribed by the manager, and accompanied by the applicable fees. The applicant shall be required to submit, in units and terms appropriate for evaluation, the following information.
  - (i) Identifying information. (A) The name and address of the facility including the name of the operator and owner.
  - (B) Contact information, description of activities, facilities, and plant production processes on the premises;
  - (ii) Environmental permits. A list of any environmental control permits held by or for the facility.
    - (iii) Description of operations. (A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
    - (B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
    - (C) Number and type of employees, hours of operation, and proposed or actual hours of operation;
    - (D) Type and amount of raw materials processed (average and maximum per day);
    - (E) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
    - (iv) Time and duration of discharges;

- (v) The location for monitoring all wastes covered by the permit.
- (vi) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 18-106(4) (Tennessee Rule 1200-4-14-.06(5))
  - (vii) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
  - (B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the manager, of regulated pollutants in the discharge from each regulated process.
  - (C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
  - (D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-107(l)(a) of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the manager or the applicable standards to determine compliance with the standard.
  - (E) Sampling must be performed in accordance with procedures set out in § 18-107(1)(c) of this chapter.
- (viii) Any request to be covered by a general permit based on § 18-106(2)(c).
- (ix) Any other information as may be deemed necessary by the manager to evaluate the permit application.
- (c) Wastewater discharge permitting: general permits.
- (i) At the discretion of the manager, the manager may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:
  - (A) Involve the same or substantially similar types of operations;
    - (B) Discharge the same types of wastes;
    - (C) Require the same effluent limitations;
    - (D) Require the same or similar monitoring; and

- (E) In the opinion of the manager, are more appropriately controlled under a general permit than under individual wastewater discharge permits.
- (ii) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, and any other information the POTW deems appropriate.
- (iii) The manager will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in part (c)(i) (A) thru (E) of this section and applicable state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.
- (iv) The manager may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for users whose limits are based on the combined waste stream formula or net/gross calculations.
- (d) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter an all other regulations, user charges and fees established by the board. The conditions of wastewater discharge permits shall be uniformly enforced by the board in accordance with this chapter, and applicable state and federal regulations. Permits must contain all items required by federal regulations; and further, may include but not necessarily be limited to the following:
  - (i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  - (ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
  - (iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
  - (iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW:
  - (v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

- (vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (vii) A statement that compliance with the individual wastewater discharge permit or the general permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit or the general permit; and
- (viii) Other conditions as deemed appropriate by the manager to ensure compliance with this chapter, and state and federal laws, rules, and regulations.
- (e) Duration of permits. An individual permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual permit or a general permit may be issued for a period less than five (5) years or may be stated to expire on a specific date. Each individual permit or general permit will indicate a specific date upon which it will expire. The terms and conditions of the permit may be subject to modification and changes by the board during the life of the permit as limitations or requirements as identified hereinbefore are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (f) Individual wastewater discharge permit and general permit reissuance. A user with an expiring individual permit or a general permit shall apply for permit reissuance by submitting a complete permit application, in accordance with part (k) of this section of the chapter, a minimum of thirty (30) days prior to the expiration of the user's existing individual wastewater discharge permit or general permit.
- (g) Transfer of a permit. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be re-assigned or transferred or sold to a new owner, new user, different premise, or a new or changed operation.
- (h) Permit modification. The manager may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
  - (i) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
  - (ii) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

- (iii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (iv) Information indicating that the permitted discharge poses a threat to the POTW, POTW personnel, or the receiving waters;
- (v) Violation of any terms or conditions of the individual wastewater discharge permit;
- (vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (vii) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13;
- (viii) To correct typographical or other errors in the individual wastewater discharge permit.
- (i) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to the following:
  - (i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.
  - (ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.
  - (iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
  - (iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.
- obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits, and monitoring programs, and from the manager's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made

available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

- (k) Application signatories and certifications. (i) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-107(2)(x).
- (ii) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the manager prior to or together with any reports to be signed by an authorized representative.
- (l) Individual wastewater permit and general permit content. An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. Individual wastewater discharge permits and general permits must contain:
  - (i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
  - (ii) Effluent limits based on applicable pretreatment standards;
  - (iii) Self monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.
  - (iv) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
  - (v) Requirements to control slug discharge, if determined by the manager to be necessary.
- (3) <u>Prohibitions and limitations on wastewater discharge</u>.

- (a) Requirements of wastewater permits. (i) No person shall discharge or cause to be discharged into the POTW any wastewater other than domestic sewage resulting from normal human habitation including food preparation activities unless he holds a wastewater discharge permit as defined in § 18-106(2). This section shall not apply to existing sources until they are notified of its requirement in writing.
- (ii) The board may waive the requirements for a wastewater discharge permit on a case-by-case basis for dischargers whose effluent does not violate the criteria for domestic sewage as established by the controlling agency and who, furthermore, are not categorical users. Notwithstanding the following, existing non-permitted dischargers or dischargers who have had the permit requirement waived may be required to obtain a discharge permit upon sixty (60) days notification by the controlling authority based on the observed character of the user's operations or his waste stream or suspected impact on the POTW or other factors which the board may define.
- In order to avoid wastewater influent to the treatment plant which creates adverse effects, or interferes with any wastewater treatment or collection processes, or creates any hazard in receiving waters or results in the board being in violation of applicable effluent standards, including sludge disposal standards, the board shall establish and amend wastewater effluent limits as deemed necessary. Limits for certain parameters are set as protection criteria for the POTW. Discharge limits for industrial users will be set in discharge permits as outlined in § 18-105 of this chapter. Such limits will be calculated based on the anticipated ability of the plant to absorb specific wastewater constituents without violation of its NPDES permit, safety of the public, and/or disruption of plant operations, including sludge disposal; not to exceed, however, federal limits where applicable. Prohibitions on wastewater discharge. (i)
- (b) Prohibitions on wastewater discharge. (i) General prohibitions. Regardless of permit status, no user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- (ii) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - (A) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to,

wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

- (B) Wastewater having a pH less than 5.0 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;
- (C) Solid or viscous substances in amounts which will or may cause obstruction of the flow in the POTW resulting in interference [but in no case solids greater than three inches (3") in any dimension];
- (D) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- (E) Wastewater having a temperature greater than 120 degrees F, (40 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
- (F) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (G) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (H) Trucked or hauled pollutants, except at discharge points designated by the POTW in accordance with § 18-105(5) of this chapter;
- (I) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (J) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the POTW's NPDES permit;
- (K) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

- (L) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the manager;
- (M) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
- (N) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l;
- (O) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter. In addition, no waste stream shall have a closed cup flashpoint of less than 140 degrees fahrenheit or 60 degrees celsius using the test method specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- (P) Improperly shredded garbage: garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewer.
- (Q) Excessive discharge rate: Wastewaters at a flow rate which is excessive relative to the capacity of the treatment works or which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewaters containing such concentrations or quantities of pollutants that their introduction into the treatment works over a relatively short time period (sometimes referred to as "slug" discharges) would cause a treatment process upset and subsequent loss of treatment efficiency.
- (R) Human hazard: Any wastewater which causes hazard to human life or creates a public nuisance.
- (S) Any substance which will or may cause operational problems or the failure of wastewater pumping equipment in the collection system or at the wastewater treatment plant.
- (c) Limitation on wastewater discharges. No person shall discharge or convey or cause to be discharged or conveyed to the public

sewer any wastewater containing pollutants of such character or quality that will:

- (i) Not be amenable to treatment or reduction by the wastewater treatment process employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (ii) Constitute a hazard to human or animal life or to the stream or water course receiving the treatment plant effluent.
- (iii) Exceed limits as set forth in the wastewater discharge permit or violate the federal pretreatment standards.
- (iv) Cause the treatment plant to violate its NPDES permit, pass through limits or other applicable receiving water standards, or cause interference with plant operations.
- (4) National categorical pretreatment dtandards. Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405-471. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standards, if more stringent than limitations imposed under the chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The manager shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.

When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the manager shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

- (5) <u>State pretreatment standards</u>. Users must comply with State of Tennessee pretreatment standards.
- (6) <u>Local limits</u>. The manager is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).
- (7) <u>The board's right of revision</u>. The board reserves the right to establish, by ordinance or in individual wastewater discharge permits or in general permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.
- (8) <u>Dilution</u>. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.
- (9) <u>Right to establish more restrictive criteria</u>. No statement in this chapter is intended or may be construed to prohibit the manager from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW

or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use of handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States EPA.

- (10) <u>Control of prohibited wastes</u>. (a) Regulatory actions. If wastewaters containing any substances in excess concentrations as described in § 18-105(3) of this chapter are discharged or proposed to be discharged into the sewer system of the board of public utilities of the City of Tullahoma, the board shall take action necessary to:
  - (i) Prohibit the discharge of such wastewater.
  - (ii) Require a discharger to demonstrate that in-plant modifications will eliminate the discharge of such substances to a degree as to be acceptable to the board.
  - (iii) Require pretreatment, including storage facilities or flow equalization, necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations of federal pretreatment standards and any other applicable requirements promulgated by the EPA in accordance with section 307 of the Clean Water Act of 1977.
  - (iv) Require the person or discharger making, causing, or allowing the discharge to pay any added cost of handling and treating excess loads imposed on the POTW. Nothing herein authorizes discharge, otherwise prohibited, upon payment of cost therefore.
  - (v) Discontinue sewer service to the discharge until such time as the problem is corrected.
  - (vi) Take such other remedial action provided by law as may be deemed to be desirable or necessary to achieve the requirements of this chapter.
- (b) Submission of plans. Where pretreatment or equalization of wastewater flows prior to discharge into any part of its POTW is required by the board; plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall be submitted to the board for review and approval in accordance with timetables established by the board. Approval shall in no way exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule or regulation of any governmental unit or the board. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to, and approval of, the

board. Plans must bear the properly executed stamp of an engineer licensed to practice in the State of Tennessee.

- (c) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-106(3) of this chapter within the time limitations specified by EPA, the state, or the manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the manager for review, and shall be acceptable to the manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.
  - (d) Additional pretreatment measures. (i) Whenever deemed necessary, the manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.
  - (ii) The manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or a general permit may be issued solely for flow equalization.
  - (iii) Grease, oil, and sand/grit interceptors shall be provided when, in the opinion of the manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, sand or grit. All interception units shall be of a type and capacity approved by the manager, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at their expense.
  - (iv) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
    - (v) Treatment bypasses. (A) Definitions.
      - (1) Bypass means the intentional diversion of wastestreams from any portion of an industrial user's facility.

- (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (B) A bypass is prohibited and the manager may take enforcement action against an industrial user for a bypass unless:
  - (1) The bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) There is no feasible alternative to the bypass, such as the use of auxiliary treatment or retention of the untreated wastewater or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
  - (3) The industrial user properly notifies the manager as described in paragraph (D) below.
- (C) The manager may approve an anticipated bypass, after considering its adverse effects, if the manager determines that it will meet the three conditions listed in paragraph (B) above.
- (D) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the manager, if possible at least ten (10) days before the date of the bypass. Industrial users must provide an oral notice to the manager upon discovery of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or

planned to reduce, eliminate, and prevent reoccurrence of the bypass. The manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- (E) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the system. These bypasses are not subject to the provisions of paragraphs (B) and (D) of this section.
- (e) Accidental discharge/slug discharge control plans. The manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The manager may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the manager may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
  - (i) Description of discharge practices, including non-routine batch discharges;
    - (ii) Description of stored chemicals;
  - (iii) Procedures for immediately notifying the manager of any accidental or slug discharges, as required by § 18-109(1)(a) of this chapter; and
  - (iv) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
  - (v) Significant industrial users are required to notify the manager immediately of any changes at its facility affecting the potential for a slug discharge.
- (f) Right of Entry. Agents of the board, the Tennessee Department of Environment and Conservation, and/or EPA upon presentation of credentials shall be permitted to enter all properties of the contributing industry for the purpose of inspection, observation, measurement, sampling, and testing.
  - (g) Reporting of hazardous waste discharge. (i) Industrial users shall notify the manager, EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of substances which, if otherwise

disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous water number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However notifications of changed conditions must be submitted under 40 CFR 403.120). The notification requirement in this section does not apply to pollutants already reported by the user subject to categorical pretreatment standards under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e).

- (ii) Dischargers are exempt from the requirements of paragraph (i), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (iii) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the manager, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (iv) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(v) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

## 18-107. <u>Industrial user monitoring, inspection reports, records and safety</u>. (1) <u>Wastewater sampling and analysis</u>.

- (a) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CPR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CPR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the manager or other parties approved by EPA.
- (b) Control manhole. When required by the board, the owner of any property serviced by a building sewer carrying industrial wastes 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 shall be accessibly and safely located, and shall be constructed in accordance with plans and specifications approved by the board. The manhole and monitoring facilities shall be installed by the user at his expense, and shall be operated and maintained and replaced as necessary by him so as to be safe and accessible and produce accurate measurements and data at all times. The board shall have access and use of the control manhole as may be required for their monitoring of the industrial discharge.

When, in the judgment of the manager, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the manager may require that separate monitoring facilities be installed for each separate source of discharge.

Whether constructed on public or private property, the control manhole(s) shall be constructed in accordance with the manager's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the manager, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within one hundred eighty (180) days

following written notification unless as extension is granted by the manager.

- (c) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
  - Except as indicated in part (ii) and (iii) below, the user must collect wastewater samples using twenty-four (24)-hour flow-proportional composite sampling techniques, time-proportional composite sampling or grab sampling is authorized by the manager. Where time-proportional composite sampling or grab sampling is authorized by the board, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures documented in approved EPA methodologies may be authorized by the board, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
  - (ii) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
  - (iii) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in § 18-107(2)(b) and (c) [Tennessee Rule 1200-4-14-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the manager may authorize a lower minimum. For the reports required by § 18-107(2)(a) (Tennessee Rule 1200- 4-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.
- (2) <u>Industrial self-monitoring requirements</u>. (a) Discharge monitoring reports. In order to effectively administer and enforce the provisions of these regulations, the board shall require discharge monitoring reports, including but not limited to questionnaires, technical reports, sampling

reports, test analyses, and periodical reports of wastewater discharge. Specific requirements and frequencies of discharge reports shall be included in the industrial user's wastewater discharge permit. At minimum, requirements shall be as stipulated in 40 CFR part 403.12(h), latest edition.

- (b) <u>Baseline monitoring reports</u>. (i) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the manager a report which contains the information listed in paragraph (ii), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that categorical industrial users subsequent promulgation of an applicable categorical standard, shall submit to the manager a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (ii) Users described above shall submit the information set forth below.
  - (A) All information required in §§ 18-106(2)(b)(i), 18-106(2)(b)(ii), 18-106(2)(b)(iii)(A), and 18-106(2)(b)(vi).
    - (B) Measurement of pollutants.
    - (1) The user shall provide the information required in § 18-106(2)(b)(vii)(A) thru 18-106(2)(b)(viii)(D).
    - (2) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.
    - Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Rule 1200-4-14-.06(5) to Tennessee evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been

- calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the board;
- (4) Sampling and analysis shall be performed in accordance with § 18-107(1)(a);
- (5) The manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- (6) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- (C) Compliance certification. A statement reviewed by the user's authorized representative as defined in § 18-104(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (D) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this ection must meet the requirements set out m paragraph (2)(d)(iv) of this section of this chapter.
- (E) Report certification. All baseline monitoring reports must be certified in accordance with part (2)(j) of this section of this chapter and signed by an authorized representative as defined in § 18-104(3).
- (c) Compliance date report categorical user. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and

maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(d) Periodic compliance report - categorical users. (i) Any categorical user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of new source, after commencement of the discharge into the POTW, shall submit to the manager during the months of June and December, unless required more frequently in the pretreatment standard or by the manager, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and the measured or estimated average and daily maximum flows for the reporting period.

At the discretion of the manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the manager may agree to alter the months during which the above reports are to be submitted.

- (ii) The manager may impose mass limitations on users where the imposition of mass limitations is appropriate. In such cases, the report required by part (iv) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.
- (iii) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the manager, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analyses shall be performed in accordance with procedures established by the approval authority pursuant to section 304(h) of the Act and contained in 40 CFR, part 136 and amendments thereto or with any other test procedures approved by the approval authority. Sampling shall be performed in accordance with the techniques approved by the approval authority. Analysis of these samples shall be conducted by an independent laboratory approved by the approval authority.
  - (iv) Compliance schedule progress reports. (A) A compliance schedule shall contain progress increments in

the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

- (B) No increment referred to above shall exceed nine (9) months;
- (C) The user shall submit a progress report to the manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (D) In no event shall more than nine (9) months elapse between such progress reports to the manager.
- (v) All requirements of this section shall conform to 40 CFR, part 403.12(e) and (f), latest edition.
- (e) Periodic compliance reports non-categorical significant industrial user.
  - (i) All significant industrial users must, at a frequency determined by the manager submit no less than twice per year (June and December [or on dates specified]) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period.
  - (ii) All periodic compliance reports must be signed and certified in accordance with part (2)(j) of this section of this chapter.
  - (f) Monitoring programs. (i) The board shall require of users such technical or monitoring programs, including the submission of periodic reports, as it deems necessary and as are required by law. The user shall pay all applicable charges for the monitoring program, in addition to the sewage disposal and other charges established by the board.
  - (ii) The monitoring program shall require the user to conduct a sampling and analysis program of a frequency and type specified by the board to demonstrate compliance with prescribed wastewater discharge limits. The user may either:
    - (A) Conduct his own sampling and analysis program provided he demonstrates to the board that he has

the necessary qualifications and facilities to perform the work; or,

- (B) Engage a private laboratory, approved by the board.
- (iii) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (iv) In the event that the board suspects that a violation of any part of this chapter or of the user's wastewater discharge permit is occurring, it may take samples for the purpose of monitoring the discharge. Should this monitoring verify that a violation is occurring, the costs of the monitoring and associated laboratory fees will be borne by the discharger. Should no violation be found, the costs will be at the expense of the board.
- (g) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the board, or where the user has been specifically notified of a longer retention period by the manager.
- (h) Notification of violations and repeated sampling and reporting. If sampling performed by an industrial user indicates a violation, the industrial user shall notify the manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the manager within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the board performs sampling at the user's facility at least once a month, or if the board performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the board receives the results of this sampling, or if the board has performed the sampling and analysis in lieu of the industrial user.

- (i) Reporting all analysis. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the manager using the procedures prescribed in paragraph (1)(c) of this section of this chapter, the results of this monitoring shall be included in the report.
- (j) Signature and certification. Certification of permit applications, user reports and initial monitoring waiver -- The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-106(2); users submitting baseline monitoring reports under § 18-107(2)(b)(ii)(E) [Note: See 40 CFR 403.12(l)]; users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-107(2)(d) [Note: See 40 CFR 403.12(d)]; users submitting periodic compliance reports required by § 18-107(2)(d) [Note: See 40 CFR 403.12(e) and (h)]. The following certification statement must be signed by an authorized representative as defined in § 18-104(3):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- (k) Reports of changed conditions. Each user must notify the manager of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.
  - (i) The manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-106(2) of this chapter.
  - (ii) The manager may issue an individual wastewater discharge permit or a general permit under § 18-106(2)(f) of this chapter or modify an existing wastewater discharge permit or a general permit under § 18-106(2)(h) of this chapter in response to changed conditions or anticipated changed conditions.

- (l) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to the manager as the manager may require. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)
- 18-108. Wastewater charges and fees. (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the board of public utilities which will enable it to comply with the revenue requirements of the Federal Water Pollution Control Act Amendments of 1972, PL 92-500. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program to ensure that sufficient revenues are collected to defray the board's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements, and depreciation.
- (2) <u>Classification of users</u>. All users are to be classified by the manager either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics, to provide an effective means of source control, and to establish a system of charges and fees which will insure an equitable recovery of the board's cost.
- (3) Type of charges and fees. The charges and fees as established in the board's schedule of charges and fees, may include, but not be limited to:
  - (a) User classification charges,
  - (b) Fees for monitoring, maintenance, and analysis,
  - (c) Fees for permits,
  - (d) Surcharge fees,
  - (e) Discharge permit fees.
- (4) <u>Basis for determination of charges</u>. The board shall establish monthly rates and charges for the use of the system and for the services supplied by the system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; water distribution; and debt service costs. Charges and fees may be based upon a minimum base charge for each premise, computed on the basis of "normal domestic wastewater."
- (5) <u>Computation and assessments</u>. The computation of and assessment of surcharge, monitoring charges, maintenance charges, and testing or analysis charges shall be subject to the appeals procedure provided in this chapter.
  - (6) <u>Industrial waste surcharge</u>. (a) In the event the user discharges industrial wastes to the public sewer having an average Biochemical Oxygen Demand (BOD) content in excess of 250 mg/l, and/or an average

Total Suspended Solids (TSS) content in excess of 250 mg/l, and/or an average Ammonia-Nitrogen content in excess of 25 mg/l, the user shall pay a surcharge based upon the excess strength of their wastes.

- (b) The surcharge rate in dollars per pound shall be set by the board and reviewed annually and adjusted if necessary.
- (7) <u>Annual notification</u>. Each user of the system will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to waste water treatment services. (1988 Code, Appendix F, as replaced by Ord. #1441, October 2013)
  - **18-109.** Enforcement. (1) Illegal discharges. (a) Notification of discharges. To enable countermeasures to be taken, users shall notify the manager (or his designated official) immediately upon discharging wastes in violation of this chapter. This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the discharge and the measures being taken to prevent future occurrence. Such notification will not relieve users of liability for any expense, loss, or damage to the sewer system treatment plant, or treatment process, or for any fines imposed on the board on account thereof under state and federal law.
  - (b) Notice to employees. In order that employees of users be informed of the board's requirements, users shall make available to their employees copies of this chapter together with such other wastewater information and notices which may be furnished by the manager from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of a discharge in violation of this chapter.
  - (c) Preventive measures. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system shall be eliminated.
  - (2) <u>Enforcement response</u>. (a) Following are the enforcement actions to be administered by the manager or his authorized agent:
    - (i) Notice of violation (NOV). Whenever the manager finds that any user has violated or is violating this chapter, or a discharge permit or order issued hereunder, the manager or his agent may serve upon said user a written notice of violation. Within fifteen (15) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the manager. Submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the notice of violation.

- (ii) Consent orders. The manager may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with the user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to paragraphs (2)(a)(v) and (vi) below and shall be judicially enforceable.
- (iii) Administrative Order (AO). When the manager finds that a user has violated the chapter or a permit or order issued thereunder, he may issue the order to the user responsible directing that, following a specified period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other relative appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional monitoring, and management practices.
- Show cause hearing. The manager may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 18-104(3) and required by § 18-106(2)(k). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
- (v) Compliance orders. When the manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other

related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

- (vi) Cease and desist orders. When the manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:
  - (A) Immediately comply with all requirements; and
  - (B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (vii) Penalties. Notwithstanding any other portions of this chapter, permits, or orders issued hereunder shall be assessed penalties in accordance with § 18-110 of this chapter. Such assessments may be added to the user's next scheduled sewer bill and the manager shall have such other collection remedies as he has to collect other service charges. Users desiring to dispute such charges must file a request for the manager to reconsider the penalty within the ten (10) days of being notified of the penalty. Where the manager believes a request has merit, he shall convene a hearing on the matter within ten (10) days of receiving the request from the user.
- (viii) Emergency suspensions. The manager may suspend service to a user when it is necessary to stop an actual or substantial endangerment to the health or welfare of person, the POTW, or the environment. In the event the user fails to voluntarily comply with the suspension order, the manager shall take such steps as deemed necessary, including immediate severance of the sewer connection. A user who is responsible, in

whole or in part, for imminent endangerment shall submit to the manager a detailed written report describing the causes of the event and the measures taken to prevent any further recurrence. The manager may allow the user to recommence discharge when the endangerment has passed.

- (ix) Termination of sewer service. Any user who violates the conditions of this chapter or a permit or order, or any applicable state or federal law is subject to permanent termination of service. Causes include, but are not limited to:
  - (A) Failure to obtain a discharge permit.
  - (B) Violation of permit conditions.
  - (C) Failure to accurately report wastewater constituents and discharge characteristics.
  - (D) Failure to report significant changes in operations or discharge.
    - (E) Illegal discharge.
  - (F) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
  - (G) Other actions which endanger the POTW processes, the health of individuals, or the environment.
- (x) Termination of water service. Any owner of property being served by a private wastewater disposal system who fails to abandon such private wastewater disposal system and make a direct connection to the public sewer after the same becomes available is subject to termination of water service.
  - (xi) Publication of users in significant noncompliance.
  - (A) The manager shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (D), (E) or (I) of this section and shall mean:
  - (B) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-104;

- (C) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-104 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (D) Any other violation of a pretreatment standard or requirement as defined by § 18-106 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the manager determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (E) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the manager's exercise of its emergency authority to halt or prevent such a discharge;
- (F) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (G) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - (H) Failure to accurately report noncompliance; or
- (I) Any other violation(s), which the manager determines will adversely affect the operation or implementation of the local pretreatment program.
- (b) Enforcement response plan. Whenever the manager finds that any person has violated this chapter or any prohibition, limitation or requirement contained in this chapter or permit or order issued hereunder, he will initiate the appropriate enforcement response as outlined in § 18-113.
  - (c) Hearing/appeals. (i) Except in those emergency situations as provided for in § 18-108(2)(a)(vii), the manager shall afford any user an opportunity for a hearing and shall provide not less than

forty-eight (48) hours notice thereof, before terminating services for any reason other than non-payment.

Any user, permit applicant, or permit holder effected by any decision, action or determination made by the manager interpreting or implementing the provisions of this chapter or in granting or refusing of any permit issued hereinunder, may file with the manager a written request for reconsideration within twenty (20) days of such decision, action, or determination setting forth in detail the facts supporting the user's request for reconsideration. The manager's decision, action or determination shall remain in full force and effect during such period of reconsideration and during the appeal therefrom, unless modified or suspended by the sewer regulation appeals board. If the ruling made by the manager is unsatisfactory to the person requesting reconsideration, he may with twenty (20) days after notification of the action, file a written appeal to the sewer regulation appeals board. The written appeal shall be heard within thirty (30) days from the date of filing, unless an extension of such time for a hearing is agreed upon by the manager and the appellant. The sewer regulation appeals board shall make a final decision of the appeal within thirty-five (35) days of the close of the meeting. Appeal from the decision of the sewer regulation appeals board shall be to the Board of Mayor and Aldermen of the City of Tullahoma. Such appeal shall be in writing and shall be filed at the office of the Tullahoma Utilities Board within thirty (30) days after receipt of the decision of the sewer regulation appeals board. Unless facts appear to the contrary, it will be presumed that the appellant received the decisions of the sewer regulation appeals board within three (3) working days of the date of the same. The decision, action or determination of the sewer regulation appeals board shall remain in effect during the pendency of any appeal unless modified or suspended by the board of mayor and aldermen. A decision of the board of mayor and aldermen shall remain in effect during the pendency of any appeal to the courts unless the same is modified or suspended by a court of competent jurisdiction after notice and an evidentiary hearing. An appeal of a decision of the board of mayor and alderman to a court of competent jurisdiction shall be made within sixty (60) days from the date of the decision of the board of mayor and aldermen. (1988 Code, Appendix F, as replaced by Ord. #1441, October 2013)

**18-110.** Penalties and abatements. (1) Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the manager as authorized by this chapter, is hereby declared a public

nuisance and shall be corrected or abated as directed by the manager. Any person creating a public nuisance shall be subject to the provisions of the City of Tullahoma codes or ordinances governing such nuisance. Any costs of emergency corrections incurred by the board shall be billed at actual cost to the user.

- (2) <u>Persons subject to penalties</u>. Any person discharging any wastes such that the Industrial User Discharge Permit (IUDP) limits are exceeded regardless of whether an interference, upset, or pass-through incident occurs at the POTW in excess of the NPDES limits, shall be subject to penalties as follows:
  - (a) Any person discharging loadings of compatible pollutants, including five (5) day BOD, ammonia or suspended solids such that the POTW capacity is not overloaded to the degree that an interference, upset, or pass-through incident occurs shall be assessed all applicable surcharges.
  - (b) Any person discharging loadings of compatible pollutants, including five (5) day BOD, ammonia or suspended solids such that the POTW capacity is overloaded to the degree that an interference, upset, or pass through incident occurs shall be assessed one thousand dollars (\$1,000.00) penalty; or, the amount of civil penalties and/or fines assessed against the board by state and/or federal regulatory agencies plus the costs incurred by the board in defending itself, including, but not limited to, reasonable attorney's fees, expert witness expenses and court reporter fees, against such charges arising from the IUDP/NPDES violation, whichever is greater. This amount shall be in addition to any and all surcharges which may be applicable for treating said waste. Each occurrence resulting in POTW violations of daily maximum, monthly average, or percent removal limits shall be considered separate violations.
  - (c) Any person who has a violation of the daily maximum limit or monthly average limit for incompatible pollutants such that no interference, upset, or pass through limits shall be subject to enforcement action in accordance with the following schedule and subject to the following conditions:
    - (i) For the first significant violation of any IUDP limit in any twelve (12) month period; or, for any violation of an IUDP limit that is not significant, the person shall be issued a Notice of Violation (NOV). A significant violation is defined for this sub-section only as a violation that exceeds an established IUDP limit by more than ten percent (10%).
    - (ii) For the second significant violation of any parameter during a period of one (1) year from the first significant violation of any parameter, the person shall be assessed a penalty of fifty dollars (\$50.00) for each multiple or fraction thereof by which the IUDP limit is exceeded.

- (iii) For each successive significant violation of a particular parameter during a period of one (1) year from the previous significant violation of that parameter, the penalty assessed for each multiple or fraction thereof by which the IUDP is exceeded shall be increased in fifty dollar (\$50.00) increments.
- (iv) In no event shall any penalty for a single parameter and/or a combination of penalties assessed for a violation of multiple parameters on a single effluent monitoring report exceed the sum of two thousand dollars (\$2,000.00).
- (v) If both the daily maximum and monthly average limit are exceeded for the same parameter on a single effluent monitoring report, or during the same month, the penalty assessed shall be the higher of the two, not both.
- (vi) Upon a finding of good cause, penalties under this sub-section may be waived or suspended for violations that occur while the user is timely meeting all requirements and conditions of an approved compliance schedule, provided the parameters violated are specified within the compliance schedule.
- (vii) Violations previous to the enactment of the provisions of this sub-section, as amended, shall not be used for the fifty dollar (\$50.00) incremental penalty increases set forth in sub-paragraph (b) above. However, to qualify for the provisions set forth in sub-paragraph (a) above, the user shall have had no significant violations of an IUDP limit within the previous twelve (12) months, regardless of the timing of the enactment of these provisions.
- (d) Any person violating the daily maximum limit for incompatible pollutants such that an interference, upset, or pass through does occur at the POTW to the extent that NPDES or pass through limits are exceeded, shall be assessed one thousand dollars (\$1,000.00) penalty; or the amount of civil penalties and/or fines assessed against the board by state and/or federal regulatory agencies plus any costs incurred by the city in defending itself, including, but not limited to, reasonable attorney's fees, expert witness expenses, and court reporter fees, against such charges arising from the IUDP/NPDES violation, whichever is greater.
- (e) Any person violating the maximum monthly average concentration for incompatible pollutants such that an interference, upset, or pass through incident occurs at the POTW to the extent that the NPDES or pass through limits has been exceeded, shall be assessed ten thousand dollars (\$10,000.00) penalty; or, the amount of civil penalties and/or fines assessed against the board by state and/or federal regulatory agencies, plus any costs incurred by the board in defending itself, including, but not limited to, reasonable attorney's fees, expert witness

expenses and court reporter fees, against such charges arising from the IUDP/NPDES violations, whichever is greater.

- (f) Any person discharging wastes such that sixty-six percent (66%) of the values obtained within a reporting period exceed the daily maximum limits or maximum monthly average by any amount, or thirty-three percent (33%) of the values obtained exceed the daily maximum limit or the maximum monthly average for compatible pollutants by forty percent (40%) or for incompatible pollutants by twenty percent (20%) shall be deemed a significant violation and notice of the same shall be published in the local newspaper. Additionally, such notice shall be published whenever an industrial user has been shown to have caused a POTW upset, to have discharged a material which has potential health hazards to persons in or around the treatment system and/or receiving stream, to have discharged without a permit in force, to have failed to file the required reports, or otherwise failed to conform to the requirements of the board with regard to pretreatment rules and policies.
- (3) <u>Basis for imposing penalties</u>. The basis for imposing penalties shall be as follows:
  - (a) Violations as reported to the board by the industry's self-monitoring.
  - (b) Violations as discovered by the board in performing verification and demand monitoring.
  - (c) Other monitoring activities which demonstrate non-compliance.
- (4) <u>POTW laboratory analyses</u>. The values obtained at the POTW laboratory for compatible incompatible pollutants shall be considered eligible to determine compliance with the industrial users discharge permit.

Whenever a value obtained by the POTW laboratory for an incompatible pollutant indicates that a violation has occurred, the industry involved may challenge the POTW analysis. Whenever a value obtained by the POTW laboratory is challenged by the industrial user, a sample shall be sent to a commercial laboratory for analysis. In the event that the value obtained by the laboratory indicates no violation has occurred, the board shall concur that no violation has occurred, and the cost of the additional analysis by the laboratory shall be borne by the board. In the event the value obtained by the laboratory indicates that a violation has occurred, the industrial user shall be assessed an amount equal to twice the amount invoiced by the laboratory to recover the costs of sampling and analysis, plus the amount of the penalty(s) and/or costs specified in the provisions of this chapter.

(5) <u>Analytical values at or near detection limits</u>. To prevent penalties from being imposed as a result of inherent analytical imprecision, the penalties specified in this section shall only be imposed whenever any limit is exceeded, and the value obtained is at least 1.5 times the analytical detection limit for the method employed to obtain the value, except when this limit is not met but the

POTW has been assessed penalties by state and/or federal agencies as a result of the industrial discharge, in which case the amount of civil penalties and/or fines assessed against the board by state and/or federal regulatory agencies plus any costs incurred by the board in defending itself, including, but not limited to, reasonable attorney's fees, against such charges arising from the IUDP/NPDES violation, whichever is greater shall be applicable.

- (6) <u>Separate offense for each day a violation occurs</u>. Each day in which any such violation continues shall be deemed a separate offense. Any fine provided for in this section shall be in addition to damages to which the board may be entitled to pursuant to other provisions of this chapter and as may otherwise be provided by law.
- (7) <u>Penalties resulting from failure to comply</u>. The issuance of a notice of violation, administrative order, or compliance schedule shall not relieve the recipient of any penalties that result from failure to comply with the provisions of this chapter.
- (8) <u>Liability for loss or damage</u>. Any person violating any of the provisions of this chapter shall become liable to the board for any expense, loss or damage occasioned the board by reason of such violation including court costs, and reasonable attorney's fees, expert witness expenses, and court reporter fees, or in addition to any other penalty, fine, charge or assessment.
- (9) <u>Injunctive relief.</u> When the manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the manager may petition the chancery or circuit court through the board's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit or general permit order, or other requirement imposed by this chapter on activities of the user. The manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.
- (10) <u>Civil penalties</u>. A user who has violated, or continues to violate, any provisions of this chapter, an individual wastewater discharge permit or a general permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum penalty of one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

The manager may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the board.

(11) <u>Criminal prosecution</u>. A user who willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, a

general permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor punishable by a penalty of at least one thousand dollars (\$1,000.00) a day for each violation of pretreatment standards and requirements. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

- **18-111.** <u>Sewer regulation appeals board</u>. (1) <u>Members</u>. The board of public utilities shall serve as the sewer regulation appeals board.
- (2) <u>Powers of the board</u>. The sewer regulation appeals board shall have the following powers:
  - (a) To conduct hearings on appeals from decisions of the manager in actions taken under the pursuant to this chapter.
  - (b) The board shall have the power to issue subpoenas requiring attendance and testimony of witnesses and production of evidence relevant to any matter involved in hearings before the board. This power may be exercised by the board on its own initiative or upon application of the parties.
  - (c) The chairman, vice-chairman or chairman pro temp shall be authorized to administer oaths. All testimony before the board shall be under oath.
  - (d) To prescribe such rules and regulations for the convening of the board, the conduct of hearings and all matters pertaining to and in furtherance of the authority and powers herein granted. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)
  - **18-112.** <u>Miscellaneous provisions</u>. (1) <u>Power and authority of inspectors</u>. (a) Right of entry: inspection and sampling. The manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
    - (i) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.
    - (ii) The manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

- (iii) The manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated monthly to ensure their accuracy.
- (iv) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the manager and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (v) Unreasonable delays in allowing the manager access to the user's premises shall be a violation of this chapter.
- (b) Safety. While performing the necessary work on private properties referred to in the above paragraph, the manager or duly authorized employees of the board shall observe all safety rules applicable to the premises established by the company, the board employees and the board shall indemnify the company against loss or damage to its property by board employees and against liability claims and demands for personal injury or property damage asserted against the company and 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.
- (c) Easement. The manager and other duly authorized employees of the board bearing proper credentials and identification shall be permitted to enter all private properties through which the board holds a duly negotiated easement for the purposes of inspection, observation, measurement, 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 pertaining to the private property involved. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

## 18-113. Enforcement response guide. (1) There is hereby established an enforcement response guide as follows:

NONCOMPLIANCE			
CATEGORY	NATURE OF VIOLATION	ENFORCEMENT RESPONSE	ACTION BY
1. Failure to file for permit	IU unaware of requirement, No harm to POTW/Environment	Phone Call: NOV with application	Pretreatment Coordinator (PC)
	IU unaware of requirement, Harm to POTW/Environment	AO with Penalty	Manager (M)
	Failure to apply after notice by POTW	Terminate Service; civil action or criminal investigation	Manager Attorney (A)
2. Failure to renew	IU has no submitted renewal application within 10 days of due date	Phone Call: NOV	PC
3. Exceeded limit; No harm to POTW and no violation of NPDES or Pass-Through limits	Not significant, no more than 10% over limit	Phone Call: NOV	PC
NOTES: Penalty not to exceed \$2,000 for any single event or effluent monitory report under this category (#3).	First significant violation of any parameter in 12 month period or greater	Phone Call: NOV	PC
Upon finding of good cause, penalties under this section may be suspended for violations that occur while the User is timely meeting all requirements and conditions of an approved Compliance Schedule, provided the parameters violated are specified within the Compliance Schedule.			
	Second significant violation of	NOV with Penalty; \$50 per	PC, M

Second significant violation of any parameter within 12

months of first

multiple or fraction over limit

		First significant violation of a particular parameter within the 12 month time period of a significant violation of any other parameter.	NOV with Penalty; \$50 per multiple or fraction over limit	PC, M
		Each additional significant violation of previously violated parameter within 12 months of any significant violation.	NOV with Penalty; increase penalty multiplier by \$50 for each additional significant violation of same parameter	PC, M
4.	Exceeded limit; caused harm at POTW and/or caused violation of NPDES and/or Pass-Through limits	Isolated	AO with Penalty; Show Cause; Civil Action	PC, M, A
Per on	OTE: nalties to be determined based conditions stated in 8-109(2).	Recurring	AO with Penalty; Show Cause: Terminate Service: Civil or Criminal investigation	PC, M, A
5.	Reporting violation	Isolated, not significant	Phone call; NOV	PC
		Recurring, not significant	AO; Show Cause	PC, M
		Failure to report, inaccurate report, falsification	AO; Show Cause: Terminate Service: Civil or Criminal investigation	PC, M, A
5.	Compliance Schedule	Failure to meet milestone by less than 30 days	AO; Show Cause	PC, M
		Failure to meet milestone by more than 30 days	AO; Show Cause; Terminate service	PC, M, A
6.	Illegal discharge	Initial violation, dilution in lieu of treatment, discharge of unpermitted substances, failure to operate pretreatment facility, no harm to POTW/Environ.	AO; Show Cause	PC, M
		Recurring, evidence of intent or negligence, or harm to POTW/Environment	AO; Show Cause; Terminate Service: Civil or Criminal investigation	PC, M, A

7.	Entry denial	Entry denied or consent withdrawn, copies of records denied	AO; Show Cause; Terminate Service	PC, M, A
8.	Improper action	Incorrect sampling or procedures when self-monitoring, incomplete records, failure to report additional monitoring; no evidence of intent	Phone Call, NOV	PC
		Recurring or evidence of intent	AO; Show Cause; Civil or Criminal investigation	PC, M, A
9.	Failure to connect	Failure to abandon private wastewater disposal system and make a direct connection to public sewer	Cease and Desist Order; Termination of water service; penalty; civil action	M, A

(2) <u>Time frame for response</u>. Initial enforcement responses involving contact with the industrial user and requiring information on corrective or preventative action will occur within fifteen (15) days of violation detection. Significant noncompliance will be addressed with an enforceable order within thirty (30) days of identification of non compliance. Follow up actions, including actions taken for continuing or recurring violations will occur within sixty (60) days of the initial enforcement response. For all continuing violations the response will include a compliance schedule. Violations that threaten health, property or environmental quality are considered emergencies and will evoke immediate responses such as halting the discharge and terminating service. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

#### **CHAPTER 2**

## **STORMWATER MANAGEMENT**

### SECTION

- 18-201. General provisions.
- 18-202. Definitions.
- 18-203. Land disturbance and stormwater protection permits.
- 18-204. Stormwater system design and management standards.
- 18-205. Post construction.
- 18-206. Existing locations and developments.
- 18-207. Illicit discharges.
- 18-208. Priority areas.
- 18-209. General prohibitions.
- 18-210. Enforcement.
- 18-211. Penalties.
- 18-212. Appeals.
- 18-213. Funding mechanisms.
- 18-214. Fee schedule.
- 18-215. Floodway/floodway fringe requirements.

# **18-201.** <u>General provisions</u>. (1) <u>Purpose</u>. It is the purpose of this chapter to:

- (a) Protect, maintain, and enhance the environment of the City of Tullahoma 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 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 Tullahoma 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 Tullahoma to exercise the powers granted in <u>Tennessee Code Annotated</u>, § 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, and 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 statute, including the adoption of a system of fees for services and permits;

- (iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
- (iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial/industrial developments;
- (v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
- (vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- (vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- (viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.
- (2) <u>Administering entity</u>. The Tullahoma Department of Public Works shall administer the provisions of this chapter.
- (3) Right of entry. The City of Tullahoma, or it's designees or agents, shall have the lawful right of entry onto any project for the purpose of determining compliance with the provisions of this chapter. Determining compliance with the provisions of this chapter may include inspection of construction, commercial, or industrial facilities, inspection of post construction stormwater controls or other stormwater control structures, investigation of stormwater related complaints, investigation of potential illicit discharges, or any other reasonable purpose that is deemed necessary for the enforcement of this chapter. Right of entry shall not include entry into any buildings on a property without the permission of the building's owner or occupants.
- (4) Right to correct violations. It is imperative to the stormwater system and to the quality of the receiving streams that illicit discharges, unacceptable non-stormwater discharges, and other stormwater quality violations be eliminated in a timely manner. If after reasonable notice from the department of public works, a violation has not been corrected by the owner of the property or facility from which the violation is originating, then the department of public works may take the necessary measures to have the violation eliminated. All costs associated with the elimination of the violation will be billed back to the owner of the violating property or facility. These costs shall include direct and indirect costs associated with the corrective work. (as replaced by Ord. #1433, Sept. 2013)
- **18-202.** <u>Definitions.</u> 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 have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) "As built plans" means drawings depicting conditions as they were actually constructed.
- (2) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year (the 100-year flood).
- (3) "Base flood elevation" means the water-surface elevation associated with the base flood.
- (4) "Best Management Practices" or "BMPs" are physical, structural, and/or managerial practices that, used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Tullahoma, and that have been incorporated by reference into this chapter as if fully set out therein.
- (5) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (6) "Chronic violator" means any person that violates the provisions of the stormwater management ordinance at least three (3) times in a one (1) year period. The violations do not have to appear on the same project but do have to be of a similar nature.
- (7) "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 Tullahoma.
- (8) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
- (9) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.
  - (10) "Director" means the director of the department of public works.
- (11) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
- (12) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.
- (13) "Equivalent Residential Unit" or "ERU" shall be the base unit of measure for the establishment of stormwater user's fees. One (1) ERU shall be equal to the average square footage of a detached single-family residential property within the City of Tullahoma.

- (14) "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.
- (15) "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.
- (16) "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.
- (17) "Floodway fringe" means the area between the floodway boundary and the 100-year floodplain boundary.
- (18) "Governing body" means the Tullahoma Board of Mayor and Aldermen.
- (19) "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.
- (20) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 18-207(2).
- (21) "Land disturbance and stormwater protection permit" means a permit issued by the department of public works to allow land disturbing activity as defined below.
- (22) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (23) "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.
- (24) "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.
- (25) "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 channel, and storm drains.
- (26) "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.

- (27) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (28) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (29) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (30) "Person" means any and all persons, 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.
- (31) "Priority area" means an area where land use or activities have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
- (32) "Priority construction" means construction that occurs in a "priority area" as previously defined.
- (33) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.
- (34) "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.
- (35) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.
- (36) "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.
- (37) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (38) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (39) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- (40) "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.
- (41) "Stormwater management plan" means the set of drawings and other documents that compiles all of 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.

- (42) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.
- (43) "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.
- (44) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.
- (45) "TDEC" means the Tennessee Department of Environment and Conservation, Division of Water Pollution Control.
- (46) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (47) "Watershed" means all the land area that contributes runoff to a particular watercourse. (as added by Ord. #1433, Sept. 2013)

## 18-203. Land disturbance and stormwater protection permits.

- (1) <u>When required</u>. Every person will be required to obtain a land disturbance and stormwater protection permit from the Tullahoma Department of Public Works in the following cases:
  - (a) Land disturbing activity disturbs one (1) or more acres of land;
  - (b) Land disturbing activity of less than one (1) acre if such activity is part of a larger common plan of development or sale that affects one (1) or more acres of land;
  - (c) Land disturbing activity of less than one (1) acre of land, if in the discretion of the public works department such activity poses a potential threat to the MS4 or waters of the state.
- (2) <u>Building permit</u>. No building permit shall be issued until the applicant has obtained a land disturbance and stormwater protection permit where the same is required by this chapter.
- (3) <u>Exemptions</u>. The following activities are exempt from the permit requirement:
  - (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - (b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (4) Application for a land disturbance and stormwater protection permit. Each application for a land disturbance and stormwater protection permit shall contain the following:
  - (a) Name of applicant; The applicant shall be the owner of the property on which the project is located. The permit may be issued to a designated agent of the property owner, but the designated agent must provide proof of permission from the property owner that the agent may sign application and obtain the permit on the owner's behalf.
    - (b) Business or residence address of applicant;

- (c) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
- (d) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
- (e) Name, address and telephone number of the contractor and any subcontractors who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
- (f) 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.
  - (g) Each application shall be accompanied by:
  - (i) A stormwater management plan providing for stormwater management during construction and after construction has been completed.
  - (ii) A copy of Notice of Intent (NOI) submitted to Tennessee Department of Environment and Conservation for coverage under general stormwater permit for construction activity, if required.
  - (iii) Permit review and inspection fees, as set by this chapter.
- (5) Review and approval of application. The department of public works will review each application for a land disturbance and stormwater protection permit to determine its conformance with the provisions of this chapter. Within five (5) work days after receiving a complete application, the department shall provide one (1) of the following responses in writing:
  - (a) Approval of the permit application;
  - (b) Approval of the permit application with conditions; subject to such reasonable conditions as may be necessary to secure substantially the objectives of this chapter, and issue the permit subject to these conditions; or
  - (c) Denial of the permit application, indicating the reason(s) for the denial.

If the department of public works has granted approval of the permit with conditions, the applicant shall submit a revised plan that conforms to the conditions established by the department, within seven (7) days of receipt of the conditional approval. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to the conditions established by the department.

No development plans (or building permit, if required) will be released until the land disturbance and stormwater protection permit has been approved.

(6) <u>Permit duration</u>. Every land disturbance and stormwater protection permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance. The work authorized by such permit shall not be

suspended or abandoned at any time after the work is commenced but shall be carried through to completion. A suspension of work for one hundred eighty (180) calendar days, without prior notification and approval, may result in the nullification of the permit and potential forfeiture of bonds. In any event the permittee is responsible for stabilization of any land disturbance activities if the permit is nullified due to extended suspension of work. Once the permit is nullified, the permittee will be required to submit a new application to be able to complete the project, and may be subject to additional permit application fees.

- (7) <u>Pre-construction conference</u>. A pre-construction conference will be mandatory for all priority construction activities. Priority construction activities will include the following:
  - (a) Construction activities discharging directly into, or immediately upstream of, waters the state recognizes as impaired (for siltation) or high quality;
  - (b) Construction activities that will result in the disturbance of five (5) acres or more of property;
    - (c) All non-residential construction activities;
- (d) Any other construction activities that the department of public works deems should be considered a priority construction activity. The department of public works may, at its discretion, require a pre-construction conference for any construction activity, regardless of whether or not the activity is classified as a priority construction activity.
- (8) Notice of construction. The applicant must notify the department of public works ten (10) days in advance of the commencement of construction. Regular inspections of the stormwater management system shall be conducted by the department of public works. All inspections shall be documented and written reports prepared that contain the following information:
  - (a) The date and location of the inspection;
  - (b) Whether construction is in compliance with the approved erosion and sediment control plan and/or stormwater management plan;
    - (c) Variations from the approved construction specifications;
    - (d) Any violations that may exist.

Copies of the inspection reports will be maintained at the department of public works.

(9) Performance bonds. The department of public works shall 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 performance bond shall be the total estimated construction cost of the structural BMPs and permanent infrastructure approved under the permit plus any reasonably foreseeable additional related costs. The department may also require the submittal of a performance bond at any point during construction in an amount sufficient to cover all remaining items that have not yet been constructed. The performance bond shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The

applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the department of public works. The department shall have the right to calculate the estimated cost of construction for the purpose of determining the required performance bond amount.

The performance bond shall be released in full only upon submission of as-built plans (if requested) and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMPs and infrastructure have been installed in accordance with the approved plan and other applicable provisions of this chapter. Partial releases of the performance bond, based on the completion of various stages of construction, can be made at the discretion of the department of public works. (as added by Ord. #1433, Sept. 2013)

## 18-204. Stormwater system design and management standards.

- (1) <u>Stormwater Design and BMP Manual</u>. The City of Tullahoma adopts as its stormwater design and best management practices (BMP) manual the following publications, which are incorporated by reference in this chapter as if fully set out herein:
  - (a) TDEC Sediment and Erosion Control Handbook, latest edition.
    - (b) TDEC Manual for Post Construction, latest edition.
- (2) <u>General performance criteria for stormwater management</u>. Unless judged by the department of public works to be exempt, 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 design storms specified in this chapter or in the BMP manual and reduce the generation of post construction stormwater runoff to preconstruction 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., shellfish beds, endangered species, swimming beaches, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices, at the discretion of the department of public works.
  - (d) Stormwater discharges from "priority areas" 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 and stormwater protection permits shall consult with the department of public works to determine if they are subject to additional stormwater design requirements.
- (f) The permanent hydrologic data for each sub-area including total land area, appropriate runoff co-efficient, time of concentrations as calculated using the SCS-TR-55 method or approved equal, total runoff for the two (2), five (5), twenty-five (25), and one hundred (100) year storm events for each area using the SCS-TR-55 method for drainage areas greater than one hundred (100) acres or rational method for drainage areas up to one hundred (100) acres. Nashville Tennessee intensity-duration-frequency curves shall be used for runoff calculations if local data is not available.
- (g) Hydraulic capacity of existing and proposed stormwater conveyance structures and channels located on the site and off-site (two (2) structures downstream) using Mannings Formula. Each structure or channel shall be capable of passing the referenced event without surcharge:
  - (i) Twenty-five (25) year design storm Residential areas, minor street culverts.
  - (ii) Fifty (50) year design storm Major drainage channels (existing "blueline" or intermittent streams), collector and minor arterial street culverts.
  - (iii) One hundred (100) year design storm Major arterial street culverts.

Each drainage structure and/or channel shall be designed to not cause flooding of any structure during the one-hundred year event.

- (h) Erosion control calculations for slopes having a grade of twenty percent (20%) or greater and a length longer than twenty feet (20') for the applicable design storm event.
- (i) Net pre-construction and post construction runoff exiting the site resulting from the two (2), five (5), twenty-five (25), and one hundred (100) year storm events using the SCS-TR-55 method for drainage areas greater than one hundred (100) acres or rational method for drainage areas up to one hundred (100) acres. Runoff velocities shall also be determined.
- (j) Detention pond inflow/outflow calculations for the two (2), five (5), twenty-five (25), and one hundred (100) years storm events. Detention calculations shall include stage-storage calculations, elevation-discharge calculations, inflow hydrograph development, routing calculations, and discharge calculations. A one foot (1') minimum freeboard shall be maintained for each design storm event in the detention basin design. The design shall ensure post-development discharge rates do not exceed pre-development discharge rates for the two (2), five (5), and twenty-five (25) year storm events. The design shall ensure that the post-development discharge for the one hundred (100)

year design storm can be managed safely by the detention facility, incorporating spillways as necessary, but not necessarily equaling pre-development discharge rates.

- (k) If sediment escapes the construction site, off-site accumulations of sediment that have not reached a stream must be removed at a frequency sufficient to minimize offsite impacts (e.g., fugitive sediment that has escaped the construction site and has collected in street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain and/or so that it does not pose a safety hazard to users of public streets). Sediment that has reached a stream shall be reported to the department of public works as soon as it is discovered. No attempts to remove sediment from a stream shall be made without prior approval. Appropriate arrangements will need to be made to enter private property for the purpose of removing sediment accumulations.
- (l) 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%).
- (m) Offsite material storage areas (including overburden and stockpiles of dirt) used solely by the permitted project are considered a part of the project and shall be addressed in the stormwater management plan.
- (n) Pre-construction vegetative ground cover shall not be destroyed, removed, or disturbed more than twenty (20) calendar days prior to grading or earth moving unless the area is seeded and/or mulched or other temporary cover is installed.
- (o) Clearing and grubbing must be held to a minimum necessary for grading and equipment operation.
- (p) Erosion and sediment control measures must be in place and functional before earth moving operations begin, and must be constructed and maintained throughout the construction period. Temporary measures that may hamper construction activity may be removed at the beginning of the work day, but must be replaced at the end of the work day.
- (q) All criteria and requirements of the Tennessee General Permit for Stormwater Discharges from Construction Activities not specifically addressed in this chapter shall be required by this chapter. If a requirement of this chapter conflicts with a requirement of the Tennessee General Permit, the more stringent of the two (2) requirements shall apply.
- (3) <u>Stormwater management plan requirements</u>. The stormwater management plan shall include sufficient information to allow the department of public works 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 topographic base map of the site, at appropriate scale, which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:
  - (i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
  - (ii) Current land use including all existing structures, locations of utilities, roads, and easements;
  - (iii) All other existing significant natural and artificial features;
  - (iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;
    - (v) Proposed structural BMPs;
  - (vi) A written description of the site plan and justification of proposed changes in natural conditions may also be required.
- (b) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in § 18-204(2) of this chapter will be required. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the 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 capabilities;
    - (vii) Flow velocities;
  - (viii) Data on the increase in rate and volume of runoff for the design storms referenced in § 18-204(2); and
  - (ix) Documentation of sources for all computational methods and field test results.
- (c) Soils information. If a stormwater management control measure depends on the hydrologic properties of soils, 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.

- (d) 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 may be required to be identified in the plans to assist in the periodic inspection of the facility.
- (e) Landscaping plan. Where the management of adequate vegetation is required by the BMP, the applicant must present a detailed plan for the post-construction management of vegetation, including who will be responsible and what methods will be employed to ensure that adequate cover is preserved. At the discretion of the department of public works, it may be required that this plan be prepared by a registered landscape architect licensed in Tennessee.
- (f) 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 land record.
  - (g) Maintenance agreement. (i) The department of public works may require the owner of property to be served by an on-site stormwater management facility to execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.
    - (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 chapter. 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 department of public works. 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: removal of silt, litter and other debris, the cutting of grass, the replacement of landscape vegetation, and all 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 department of public works.
- (E) Provide that if the property is not maintained or repaired within the prescribed schedule, the department of public works shall perform the maintenance and repair at its expense, and bill the same to the property owner.
- (iii) The governing body, upon recommendation of the department of public works, shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this chapter, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.
- (iv) In general, a maintenance agreement will be required for stormwater structures constructed in conjunction with commercial and industrial developments. The acceptance of dedication of stormwater facilities will generally be limited to structures associated with residential developments. The director of the department of public works may require the public dedication of any structure or require a maintenance agreement for any structure, subject to final acceptance by the governing body.
- (h) Sediment and erosion control plans. The applicant must prepare a sediment and erosion control plan for all construction activities that complies with (4) below. It is anticipated that the sediment and erosion control plan and the stormwater pollution prevention plan required by the Tennessee General Permit will, in most cases, be the same plan.
- (4) 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 conform to the requirements found in the BMP manual and the Tennessee Construction General Permit, 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 streams and wet-weather conveyances. Include any designated floodways or flood plains.
  - (d) A general description of existing land cover.
- (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 trees to be planted.
  - (f) Approximate limits of proposed clearing, grading, and filling.
- (g) Approximate flows 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) Proposed drainage network.
  - (k) Proposed drain tile or waterway sizes.
- (l) Approximate flows leaving the site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- (m) 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 detention/retention facilities or any other structural BMPs. Pre-construction vegetative ground cover shall not be disturbed more

than twenty (20) calendar days prior to grading or earth moving unless the area is seeded and mulched or other temporary cover is installed.

- (n) 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.
- (o) Proposed structures; location and identification of any proposed additional buildings, structures or development on the site.
- The erosion control plan shall identify water quality buffer zones that must be established adjacent to all streams, including intermittent streams. The water quality buffer zone shall consist of a setback from the top of the water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The purpose of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Buffer width will be determined based on the size of the drainage area. Streams or other waters with drainage areas of less than one (1) square mile will require a minimum buffer width of thirty feet (30'). Streams or other waters with drainage areas greater than one (1) square mile will require a minimum buffer width of sixty feet (60'). Drainage areas will be calculated for the lowest point of the stream adjacent to the site. In addition, streams or other waters that are listed by TDEC as impaired or high quality will require a minimum buffer width of sixty feet (60'), regardless of the size of the drainage area. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. Water quality buffer zones are not sedimentation control measures and shall not be relied on as such. Any construction that must take place within the buffer zone, such as a utility or roadway crossing, must be approved in writing by the department of public works prior to commencement of the project. Approval of construction within the buffer zone will be extremely limited to those uses that are commonly necessary within these areas and that are not extremely intrusive to the area, such as utilities, roadways, footpaths, etc.

In subdivision developments, buffer zones shall be designated as open space rather than be made a part of any individual residential lot. For non-subdivision developments, such as commercial developments, a drainage easement shall be established for the buffer zone. The easement will stipulate that no disturbance can take place without applying for and receiving written approval from the department of public works.

(5) Amendments to the stormwater management plan and/or erosion and sedimentation control plan. Significant changes to a permitted stormwater management plan and/or erosion and sedimentation control plan after approval of the same shall require approval by the department of public works. Work shall not continue on any portion of the plan pending approval of plan amendment. Work that is not related to the modifications being made may continue during the amendment process. Any work performed that is not in accordance with the approved plans is performed at the contractor's risk.

Significant plan changes do not include the location of temporary sedimentation controls. Adjustment to the exact location of temporary sedimentation controls, to better comply with the intent of the erosion and sedimentation control plan, does not require prior approval or resubmittal of plans. Significant changes include, but are not limited to, those that would change the runoff calculations, those that would require changes to the permanent stormwater structures or controls, and those that would require additional permanent stormwater structures or controls. All changes contemplated by the permit holder should be brought to the attention of the department of public works as early as possible to avoid construction delays due to the process. (as added by Ord. #1433, Sept. 2013)

- 18-205. <u>Post construction</u>. (1) <u>As built plans</u>. Applicants may be required to submit as built plans for any structures located on-site after final construction is completed. When required, the plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the department of public works is required before the final portion of performance bond will be released.
- (2) <u>Stabilization requirements</u>. Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the department of public works. The following criteria shall apply to revegetative efforts:
  - (a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
  - (b) Replanting with native woody 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.
  - (c) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

- (d) Disturbed areas shall be stabilized with vegetation and/or seed and straw mulch within fifteen (15) days of finish grading, as required by the Tennessee Construction Stormwater Permit. Between the dates of November 15<sup>th</sup> and March 1<sup>st</sup>, a bond may be issued for the completion of stabilization work if weather conditions are such that the work cannot be completed. The bond must be issued by the contractor that is permitted for the construction of the project.
- (e) Sedimentation controls must be maintained until stabilization efforts have been completed (seeding and mulching, sodding, paving, or gravelling). When sedimentation controls must be removed for temporary installations of stabilization or constructions activities, they must be reinstalled at the end of the day if the stabilization efforts are not completed by the end of the day. Where a bond is issued for stabilization efforts, sedimentation controls must be maintained until the stabilization efforts are completed.
- (3) 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 five (5) years. These records shall be made available to the department of public works during inspection of the facility and at other reasonable times upon request.
- (4) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the department of public works, 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 department of public works shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible party shall effect maintenance and repair of the facility in an approved manner in a time period set by the department of public works. In the event that corrective action is not undertaken within that time, the department of public works may take necessary corrective action. The cost of any action taken by the department of public works under this section shall be charged to the responsible party.
- (5) <u>Termination of permit</u>. Once construction has been completed and the site has been stabilized, the permit holder shall request a final inspection from the department of public works. If the department determines that the project is indeed complete, then bonds shall be returned and the codes department will be notified that the project is eligible for a certificate of occupancy from a stormwater perspective. If the department determines that the project is not yet complete, then the permittee will be notified of what corrective measures need to be taken to terminate permit coverage. Bonds will

not be released and a certificate of occupancy will not be issued until this process has been completed. For projects that are covered by the state construction stormwater permit, a copy of the notice of termination that is submitted to the state shall be submitted to the department as well. Acceptance of a notice of termination by the state in no way relieves the permittee from any additional corrective measures required by the department. (as added by Ord. #1433, Sept. 2013)

- 18-206. Existing locations and developments. Adoption of this chapter shall in no way relieve the owners of existing stormwater structures of their responsibilities under previous grading or stormwater ordinances. Existing locations and developments shall comply with the provisions of this chapter to the extent necessary to protect the existing stormwater system and waters of the state. The department of public works shall have the right to require owners of existing stormwater structures to comply with the post construction maintenance and repair provisions of this chapter, or any other provisions as may be deemed necessary to maintain the integrity of the stormwater system. (as added by Ord. #1433, Sept. 2013)
- **18-207.** <u>Illicit discharges.</u> (1) <u>Scope</u>. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.
- (2) <u>Prohibition of illicit discharges</u>. 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, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as follows:
  - (a) Water line flushing or other potable water sources;
  - (b) Landscape irrigation or lawn watering with potable water;
  - (c) Rising ground water;
  - (d) Groundwater infiltration to storm drains;
  - (e) Pumped groundwater;
  - (f) Foundation or footing drains;
  - (g) Crawl space pumps:
  - (h) Air conditioning condensation;
  - (i) Springs:
  - (j) Non-commercial washing of vehicles;
  - (k) Natural riparian habitat or wetland flows;
  - (l) Swimming pools (if dechlorinated to less than one PPM chlorine):
    - (m) Fire fighting activities, and
  - (n) Any other uncontaminated water source specifically approved by TDEC.
  - (o) Discharges specified in writing by the department of public works as being necessary to protect public health and safety.

- (3) <u>Prohibition of illicit connections</u>. The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (4) Reduction of stormwater pollutants by use of best management practices. Any person responsible for a property, 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 pennit 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 or the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and clean-up of such release. The department of public works shall be notified of the release within twenty-four (24) hours of the discovery of the release. A written explanation of what caused the release and the actions that were taken to minimize the impacts of the release to the stormwater system and waters of the state shall be submitted to the department of public works within five (5) days of the discovery of the release. (as added by Ord. #1433, Sept. 2013)
- 18-208. Priority areas. (1) <u>Defined</u>. Priority areas are those areas where land use or activities have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. It shall be a violation of this chapter for priority areas to contaminate stormwater runoff in any manner that would violate any water quality standards existing within this chapter or within any state and/or federal documents or regulations. Priority areas may include industrial facilities, certain commercial facilities, large commercial parking areas, and other facilities designated by the department of public works as having the potential to contaminate stormwater runoff from their ongoing activities. Certain priority areas will be regulated by the Tullahoma Department of Public Works as described below.
- (2) <u>Industrial and commercial properties</u>. All industrial and commercial properties within Tullahoma shall be prohibited from introducing contaminants into the stormwater system or into waters of the state. To achieve compliance with this requirement, industrial and commercial properties must comply with all applicable local, state, and federal stormwater permitting

requirements. For industrial activities this means compliance with the Tennessee Multi Sector Industrial Permit and all of its provisions, including the development and maintenance of a site specific Stormwater Pollution Prevention Plan (SWPPP) and all monitoring requirements. If the industrial activity is eligible for the NoExposure Certification rather than permit coverage, due to not having any industrial activities exposed to stormwater, then that certification must be obtained and kept current.

- (3) Restaurant and grocery store requirements. (a) Written management plan.
  - (i) Restaurants, grocery stores, and other food preparation facilities shall prepare a written plan outlining the best management practices that will be utilized to minimize impacts from their establishment to the quality or quantity of waters discharged to the Tullahoma MS4.
  - (ii) For existing facilities, the written plan shall be submitted to the department of public works within ninety (90) days of notification by the department of the necessity of the plan. For new facilities, the plan shall be submitted to the department of public works as part of the initial stormwater management plan. The plan shall be maintained on file at the establishment.
  - (iii) At a minimum, the plan shall address the following topics:
    - (A) Methods used to minimize the amount of liquid placed in dumpsters or compactors.
    - (B) Methods used to keep rain water out of dumpsters.
    - (C) Methods used to keep leaks and other wastewaters from dumpsters and compactors from entering the storm sewer system.
    - (D) Procedure used to make sure all waste is contained in dumpsters and compactors.
    - (E) Schedule for inspection of dumpsters and compactors for leaks or stains and inspection of dumpster and compactor area for litter.
    - (F) Provisions for the immediate replacement of leaking dumpsters and compactors.
    - (G) Methods used to keep all washwaters from equipment cleaning areas from entering the storm sewer system.
- (b) Best management plan implementation. Within one hundred eighty (180) days of the completion of the written plan, all best management practices required to eliminate impacts to the stormwater system shall be in place and fully implemented.
- (c) Training. Within sixty (60) days of the completion of the written plan, all employees shall be trained on the requirements of the

plan and the proper procedures for complying with the plan. Training shall be repeated at least annually or anytime significant changes are made to the plan. Training records that indicate the topics covered and the individuals who were trained shall be maintained at the facility as a part of the written plan.

- (d) Sanitary sewer connections. New or additional sanitary sewer connections that are needed to comply with the requirements of this chapter shall be installed under the approval and direction of the Tullahoma Utility Board.
- (4) <u>Auto repair and supply shop requirements</u>. (a) Written management plan.
  - (i) Auto repair shops, auto supply shops, and other auto related facilities that use or collect oils or other automobile fluids shall prepare a written plan outlining the best management practices that will be utilized to minimize impacts from their establishment to the quality or quantity of waters discharged to the Tullahoma MS4.
  - (ii) The written plan shall be submitted to the department of public works within ninety (90) days of notification by the department of the necessity of the plan. The plan shall be maintained on file at the establishment.
  - (iii) At a minimum, the plan shall address the following topics:
    - (A) Methods used to minimize the amount of liquids and greases placed in dumpsters or compactors.
    - (B) Methods used to keep rain water out of dumpsters.
    - (C) Methods used to keep leaks and other wastewaters from dumpsters and compactors from entering the storm sewer system.
    - (D) Procedures used to contain all automotive fluids prior to use or disposal.
    - (E) Schedule for inspection of dumpsters, compactors, and oil/fluid storage areas for leaks or stains and inspection of dumpster and compactor area for litter.
    - (F) Provisions for the immediate replacement of leaking dumpsters, compactors, or fluid storage containers.
    - (G) Details of contracts or arrangements with outside vendors who collect waste oils or other fluids for disposal. Details shall include the name of the vendor, the final disposal or treatment location for the fluids, the method of disposal or treatment of the fluids, and the frequency of pick-up from the facility.
- (b) Best management plan implementation. Within one hundred eighty (180) days of the completion of the written plan, all best

management practices required to eliminate impacts to the stormwater system shall be in place and fully implemented.

- (c) Training. Within sixty (60) days of the completion of the written plan, all employees shall be trained on the requirements of the plan and the proper procedures for complying with the plan. Training shall be repeated at least annually or anytime significant changes are made to the plan. Training records that indicate the topics covered and the individuals who were trained shall be maintained at the facility as a part of the written plan.
- (d) Sanitary sewer connections. New or additional sanitary sewer connections that are needed to comply with the requirements of this chapter shall be installed under the approval and direction of the Tullahoma Utility Board Wastewater Department. (as added by Ord. #1433, Sept. 2013)
- 18-209. General prohibitions. (1) Blockage of watercourses or drains. It shall be unlawful for any person to dump refuse of any nature (including, but not limited to, grass clippings, leaves, brush, garbage, scrap, or any other refuse) into a stream, ditch, storm sewer, or any other drain within the city or to place such refuse or cause such refuse to be placed in a manner in which it is likely to enter into any stream, ditch, storm sewer, or other drain either by natural or other means. It shall be unlawful for any person to cause or allow the obstruction of any watercourse or flow of water either by natural or manmade means. It shall be unlawful to block a watercourse or drain by constructing a fence over the drain in any manner that restricts flow or that can catch debris, thus restricting flow.
- (2) <u>Alteration of watercourses or drains</u>. It shall be unlawful for any person to cause, permit, or allow the alteration of any stream, ditch, storm sewer or any other drain without written approval from the department of public works and the acquisition of any state permits that may be necessary for the performance of the alterations. Alterations may include, but not be limited to, a change in direction of flow, the addition of a structure such as a culvert or a bridge, or a change in size of a channel or pipe.
- (3) <u>Unpermitted discharge</u>. It shall be unlawful for any person to discharge stormwater to any stream, ditch, storm sewer or any other storm drain within the city without first obtaining the required state permit coverage as described below:
  - (i) Construction sites that disturb one (1) acre of land or more or are part of a larger common plan of development must apply for coverage under the Tennessee General Permit for Stormwater Discharges from Construction Activity.
  - (ii) Industrial facilities must apply for coverage under the Tennessee Stormwater Multi-Sector General Permit for Industrial Activities.

- (4) <u>Contamination of stormwater</u>. It shall be unlawful for any industrial, commercial, or residential properties, including but not limited to restaurants, auto repair shops, auto supply shops, and large commercial parking areas, to contaminate stormwater runoff. All numerical or visual effluent limitations set by state permits or regulations shall apply under the provisions of this chapter.
- (5) <u>Construction site waste</u>. It shall be unlawful for construction site operators to discard waste, including building materials, concrete truck washout, chemicals, litter, sanitary waste, or any other potential pollutants in a manner that may cause adverse impacts to water quality.
- (6) <u>Dumping</u>. It shall be unlawful for any person to dump any liquid waste into any stream, ditch, storm sewer, or any other drain or in any location where it is likely to enter any stream, ditch, storm sewer, or other drain either by natural or other means. Liquid waste may include automotive fluids, wash waters, cleaning fluids, solvents, or any other liquids that could be toxic or otherwise detrimental to the receiving stream or storm sewer system. (as added by Ord. #1433, Sept. 2013)
- **18-210.** Enforcement. (1) Enforcement authority. The director of the department of public works or his designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.
  - (2) <u>Notification of violation</u>. (a) Written notice of violation. Whenever the director of the department of public works finds that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the director may serve upon such person written notice of the violation.

Within a time specified in the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director. Submission of this plan, as required, in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this chapter, the city is authorized to issue a notice of violation that requires construction activity to stop immediately so as to prevent further or continuing violations or adverse effects. This notice of violation will serve as a stop work order. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply therewith. The city may also undertake or cause to be undertaken, any necessary or advisable protective measures so as to prevent violations of this chapter or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the

work is being done and the responsibility of any person carrying out or participating in the work, and such cost shall be a lien upon the property.

- (b) Administrative orders. Whenever the director finds that any permittee or other person discharging stormwater has violated this chapter and has failed to respond appropriately to a notice of violation, an administrative order shall be issued as a progressive form of enforcement. The administrative order may include a compliance schedule set by the director and may or may not include a civil penalty. In cases of gross violations of this chapter or a permit issued hereunder, the director may deem it appropriate to issue an administrative order as the initial notice of violation.
- (c) Show cause hearing. The director may order any person who violates this chapter or a permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the hearing, the proposed enforcement action and the reasons for such actions, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Failure of the violator to show up at the hearing shall result in the initiation of the proposed enforcement action. (as added by Ord. #1433, Sept. 2013)
- **18-211.** Penalties. (1) <u>Violations</u>. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the department of public works, shall be guilty of a civil offense.
- (2) <u>Penalties</u>. Under the authority provided in <u>Tennessee Code Annotated</u>, § 68-221-1106, the municipality declares that any person violating the provisions of this chapter may be assessed a civil penalty by the department of public works of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (3) <u>Measuring civil penalties</u>. In assessing a civil penalty, the director will follow the provisions of the Enforcement Response Plan (ERP) and will utilize the scoring system outlined in the ERP to set the dollar amount of the penalty. As outlined in the ERP, the director may consider the following factors when determining the amount of the penalty:
  - (a) The harm done to 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, if any, gained by the violator;

- (d) The amount of effort put forth by the violator to remedy the violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
- (4) Recovery of damages and costs. In addition to the civil penalty, the municipality may recover all damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
- (5) <u>Remedies cumulative</u>. 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.
- (6) <u>Chronic violators</u>. The ERP may provide separate categories for chronic violators. (as added by Ord. #1433, Sept. 2013)
- 18-212. <u>Appeals.</u> Pursuant to <u>Tennessee Code Annotated</u>, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the stormwater board of appeals.
  - Stormwater board of appeals. (a) There is hereby established a Stormwater Board of Appeals (SWBA) and the board of zoning appeals shall serve as the Stormwater Board of Appeals (SWBA). All meetings of the SWBA shall be open to the public. The time of the meetings shall be announced to the public. A special meeting of the SWBA may be called by its chairman, provided reasonable notice to each board member is given. A record of the proceedings of all meetings of the SWBA shall be kept. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions before the board; a copy of each such motion or resolution presented; and the vote of each member thereon. The attendance of at least a majority of the members of the SWBA shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted.
  - (b) The SWBA is hereby authorized to hear and decide appeals of any order, decision or ruling of the director of public works or his designee issued pursuant to these regulations. Following the hearing on an application for appeal, the SWBA may affirm, reverse, modify, or remand for more information, the order, decision or ruling of the director of public works or his designee. In no event shall the SWBA issue a decision that in any way conflicts or contradicts these regulations or any other federal, state, or local laws or regulations relating to stormwater, wastewater, zoning, or planning.

- (2) <u>Appeals to be in writing</u>. The appeal shall be in writing and filed with the director of public works within thirty (30) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- (3) <u>Public hearing</u>. Upon receipt of an appeal, the stormwater board of appeals shall hold a public hearing within thirty (30) days. At least ten (10) days prior notice of the time, date, and location of said hearing shall be published in a newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the stormwater board of appeals shall be final.
- (4) <u>Appealing decisions of the stormwater board of appeals.</u> Any alleged violator may appeal a decision of the stormwater board of appeals pursuant to the provisions of <u>Tennessee Code Annotated</u>, title 27, chapter 8. (as added by Ord. #1433, Sept. 2013, and amended by Ord. #1446, Dec. 2014)
- **18-213.** <u>Funding mechanisms</u>. Funding for the stormwater management activities described in this chapter may include, but not be limited to, the following:
  - (1) Stormwater user's fees;
  - (2) Civil penalties and damage assessments;
  - (3) Permit and inspection fees;
- (4) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986 (<u>Tennessee Code Annotated</u>, title 9, chapter 21).

To the extent that the above listed revenues are insufficient to construct needed stormwater drainage facilities, the cost of the same may be paid from such city funds as may be determined by the municipality's governing body. (as added by Ord. #1433, Sept. 2013)

**18-214.** <u>Fee schedule</u>. (1) <u>Permit review and inspection fees</u>. A fee shall be assessed for each land disturbance and stormwater protection permit as set forth in the following table:

DISTURBED ACREAGE	RESIDENTIAL	COMMERCIAL/INDUSTRIAL
0.01 - 0.99	\$100	\$250
1.00 - 4.99	\$150	\$350
5.00 - 14.99	\$250	\$500
15.00 - 29.99	\$400	\$800
30.00 or more	\$750	\$1,500

The review and inspection fees are based on acreage to be disturbed during the construction of the project. If a proposed acreage of disturbance is not provided, the fee will be based on the total project acreage.

(2) Stormwater user's fee. The governing body shall have the authority to impose, by resolution, on each and every developed property in the city a stormwater user's fee. Prior to establishing or amending user's fees, the municipality shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the city at least thirty (30) days in advance of the meeting of the municipality's governing body which shall consider the adoption of the fee or its amendment.

If the governing body chooses to impose a stormwater user's fee, it shall be based on the establishment of an Equivalent Residential Unit (ERU). The ERU shall be the average square footage of a detached single-family residential property. The city board shall have the discretion to determine the source of the data from which the ERU is established.

- (a) Property classifications. For purposes of determining the stormwater user's fee, all properties in the city are classified into one of the following classes:
  - (i) Single-family residential property;
  - (ii) Other developed property;
- (b) Single family residential fee. The municipality's governing body finds that the intensity of development of most parcels of real property in the municipality classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single family residential properties in the city shall be charged a flat stormwater management fee, equal the base rate, regardless of the size of the parcel or the improvements.
- (c) Other developed property fee. The fee for other developed property (non-single family residential property) in the municipality shall be set by dividing the total square footage of impervious area of the property by one ERU and then multiplying that factor by the base rate for one ERU. The impervious surface area for other developed property is the square footage for the buildings and other improvements on the property. The minimum stormwater management fee for other developed property shall equal the base rate for single-family residential property.
- (d) Base rate. The governing body of the municipality shall establish the base rate for one ERU. The base rate shall be calculated to insure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the city. The base rate will be calculated by dividing the necessary annual revenues for funding the program by the total number of ERUs, as determined by the department, and then dividing by twelve (12) months to make the base rate a monthly value.

- (e) Adjustments to stormwater user's fee. The department shall have the right on its own initiative to adjust upward or downward the stormwater user's fee with respect to any property, based on the approximate percentage on any significant variation in the volume or rate of stormwater, or any significant variation in the quality of stormwater, emanating from the property, compared to other similar properties. In making determinations of the similarity of property, the department shall take into consideration the location, geography, size, use, impervious area, stormwater facilities on the property, and any other factors that have a bearing on the variation. Under no circumstances shall a stormwater fee be adjusted to the point that it is below the base rate for one ERU unless the person requesting the adjustment can demonstrate that they do not discharge any stormwater to the MS4 system, in which case the stormwater fee shall be waived.
- (f) Property owner to pay stormwater user's fee. For each property for which a stormwater fee is assessed, the stormwater fee shall be paid by the owner of the property. This person shall be designated as the user of the stormwater system.
- (g) Stormwater user's fee payment. Payment of the stormwater user's fee shall be made in person or by mail along with the bill to which it is attached. The due date of the stormwater fee shall be as indicated on the bill. The municipality shall be entitled to recover legal fees incurred in collecting delinquent stormwater fees.
- (h) Appeal of fees. Any person who disagrees with the calculation of the stormwater user's fee, as provided in this chapter, or who seeks a stormwater user's fee adjustment based upon stormwater management practices, may appeal such fee determination to the director of the department of public works. The appeal shall be filed in writing and shall state the grounds for the appeal. The director may request additional information from the appealing party. Based upon the information provided by the department and the appealing party, the director shall make a final calculation of the stormwater user's fee. The director shall notify the appealing party, in writing, of its decision. (as added by Ord. #1433, Sept. 2013)
- **18-215.** <u>Floodway/floodway fringe requiremnents.</u> (1) <u>Purpose.</u> It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This section is designed to:
  - (a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which cause damaging increases in erosion, flood heights, or flow velocities;
  - (b) Control filling, grading, dredging and other development which may increase erosion or flood damage;

- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate flood waters:
- (d) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards.
- (2) <u>Flood districts</u>. The City of Tullahoma shall recognize two (2) distinct flood districts within the boundaries of the municipality. The two (2) flood districts are described as follows:
  - (a) Floodway district. The floodway shall be described as that area including 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. The floodway district shall be defined in one (1) of the two (2) following ways:
    - (i) Most streams within the City of Tullahoma have been mapped by the Federal Emergency Management Agency (FEMA) to show the floodway and other flood districts. Where FEMA has established the floodway on official Community Panel Maps, then the city shall use the floodway designation provided by FEMA.
    - (ii) Not all streams have been mapped by FEMA to show floodway areas. For those streams where the floodway has not been mapped by FEMA, the floodway shall be defined as an area on each side of the stream that is equal to two widths of the stream. The floodway area shall be measured from the edge of water when the stream is at normal flow conditions.
  - (b) Floodway fringe district. The floodway fringe district shall be described as the area between the floodway boundary and the one hundred (100) year floodplain boundary. The flood fringe district shall be defined in one (1) of the two (2) following ways:
    - (i) Most streams within the City of Tullahoma have been mapped by FEMA to show the one hundred (100) year floodplain boundary and the floodway. Where FEMA has established the one hundred (100) year floodplain boundary on official community panel maps, then the city shall use the flood fringe designation provided by FEMA.
    - (ii) Not all streams have been mapped by FEMA to show the one hundred (100) year floodplain areas. Areas designated as Zone A on the community panel maps are an approximation of the one hundred (100) year floodplain boundary, but no base flood elevation has been established. For those areas designated on the community panel maps as Zone A, the one hundred (100) year floodplain shall be designated as an area that extends one hundred feet (100'), in every direction, beyond the Zone A area shown.

The area designated as floodway fringe on unmapped streams may be challenged by the applicant for any land disturbance and stormwater protection permit. The applicant may choose to determine a base flood elevation for the area using one of the methods described in FEMA Manual 265, titled "Managing Floodplain Development in Approximate Zone A Areas - A Guide for Obtaining and Developing Base Flood Elevations," dated April 1995. All data utilized to obtain the base flood elevation shall be submitted to the department of public works for review and approval.

- (3) <u>Generally acceptable uses in flood prone districts</u>. All land disturbing activities require that a permit application be submitted to the department of public works, but in general, the following types of activities will be considered for approval within flood prone districts:
  - (a) Floodway district. Land use activities are highly restricted within floodway districts. Only land use activities that do not result in a restriction to the flows of the floodway will be accepted. Typical uses that can be approved within the floodway district include projects such as sidewalks, underground utilities, and certain types of recreational facilities. Land disturbance activities that fall within the buffer zone requirements of § 18-204(4)(p) of this chapter must receive a buffer zone variance to develop property within the buffer zone.
  - (b) Flood fringe district. Land disturbance activities are much less restricted within the flood fringe district but will require that certain conditions be met as a part of the development. Land use activities in the flood fringe district can include the construction of structures, including those that are intended for housing purposes.
- (4) <u>Permit requirements</u>. All proposed land disturbance activities within either of the flood districts will require that a land disturbance and stormwater protection permit be issued prior to the start of construction. In addition to the requirements of § 18-204(3) of this chapter, the following information shall be provided with the permit application:
  - (a) Floodway district. For proposed developments within the floodway district to be considered, the application must satisfactorily demonstrate that the project will have no effect on the base flood elevations of the floodway either during or after construction. Developments that include above ground structures or fill material will not generally be accepted.
  - (b) Flood fringe district. For proposed developments within the flood fringe district, the application shall demonstrate how the following conditions will be met:
    - (i) All fill material that is placed in the flood fringe at or below the base flood elevation must be offset by an equal volume of cut material removed from the same elevation as the fill and must be removed from the flood fringe area completely.
    - (ii) No building or structure shall be erected and no existing building or structure shall be extended or moved unless the main floor of said building or structure is placed at least one

- foot (1') above the base flood elevation. An elevation certificate shall be submitted and approved. No basement floor or other floor shall be constructed below or at a lower elevation than the main floor. Foundations of all structures shall be designed and constructed to withstand flood conditions at the site.
- (iii) Fill material placed for a structure shall extend twenty-five feet (25') beyond the limits of any structure erected thereon. Minimum fill elevation shall be to at least the base flood elevation. Fill shall consist of soil or rock materials only and shall be thoroughly compacted to prevent excessive settlement and shall be protected from erosion. Fill slopes shall not be steeper than one foot (1') vertical to two feet (2') horizontal unless steeper slopes are justified and approved by the department of public works. (as added by Ord. #1433, Sept. 2013)

#### **CHAPTER 3**

# CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.1

#### SECTION

- 18-301. Definitions.
- 18-302. Regulations.
- 18-303. Cross connection prohibited.
- 18-304. Statement required.
- 18-305. Inspection.
- 18-306. Right of entry.
- 18-307. Correction time designated.
- 18-308. Protective device required.
- 18-309. Labeling.
- 18-310. Enforcement.
- 18-311. Violation; penalty.
- **18-301.** <u>**Definitions**</u>. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:
- (1) "Public water supply." The waterworks system furnishing water to the City of Tullahoma, Tennessee, for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.
- (2) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.
- (3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.
- (4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.
- (5) "Interconnection." Any system of piping or other arrangement whereby the public water supply 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 supply.
- (6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation

<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

organized or existing under the laws of this or any other state or country. (1988 Code, § 8-501)

- 18-302. <u>Regulations</u>. The Tullahoma, Tennessee Public Water Supply is to comply with <u>Tennessee Code Annotated</u>, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1988 Code, § 8-502)
- 18-303. <u>Cross connection prohibited</u>. 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, bypass or interconnection is at all times under the direct supervision of the Manager of the Tullahoma Utilities Board of the City of Tullahoma, Tennessee. (1988 Code, § 8-503)
- 18-304. <u>Statement required</u>. 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 Manager of the Tullahoma Utilities Board a statement of the non-existence of unapproved or unauthorized auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1988 Code, § 8-504)
- 18-305. <u>Inspection</u>. It shall be the duty of the Tullahoma, Tennessee Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved shall be established by the Manager of the Tullahoma Utilities Board of the Tullahoma, Tennessee Public Water Supply and as approved by the Tennessee Department of Health. (1988 Code, § 8-505)
- 18-306. <u>Right of entry</u>. The Manager of the Tullahoma Utilities Board or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Tullahoma Public Water Supply for the purpose of inspecting the piping system or systems thereof for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping 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 cross connections. (1988 Code, § 8-506)

**18-307.** Correction time designated. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Manager of the Tullahoma Utilities Board of the Tullahoma, Tennessee Public Water Supply. 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 Tullahoma, Tennessee Public Water Supply, 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 shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the manager of the utility 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 supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1988 Code, § 8-507)

**18-308. Protective device required**. Where the nature of use of the water supplied a premises by the water department 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 system, or his designated representative, that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water supply.
- (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, the Manager of the Tullahoma Utilities Board of Tullahoma, Tennessee Public Water Supply, 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 device shall be a 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 Manager of the Tullahoma Utilities Board Public Water Supply 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 Tullahoma, Tennessee Public Water Supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the Manager of the Tullahoma Utilities Board 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 Manager of the Tullahoma Utilities Board 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 supply 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 Manager of the Tullahoma Utilities Board of the Tullahoma, Tennessee Public Water Supply.

If necessary, water service shall be discontinued (following legal notification) for failure to maintain backflow prevention devices in proper working order. Likewise, the removal, bypassing, or altering of 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 Tullahoma, Tennessee Public Water Supply. (1988 Code, § 8-508)

**18-309.** <u>Labeling</u>. The potable water supply made available to premises served by the public water supply 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 sign shall have black letters at least one-inch high located on a red background. (1988 Code, § 8-509)

- 18-310. Enforcement. The requirements contained herein shall apply to all premises served by the Tullahoma, Tennessee 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 the 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 Tennessee corporate limits. (1988 Code, § 8-510)
- **18-311.** Violation; penalty. 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 therefor, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and each day of continued violation after conviction shall constitute a separate offense. (1988 Code, § 8-511)

# **WATER**

# **SECTION**

18-401. Fluoridation of water supply authorized; cost.

**18-401.** Fluoridation of water supply authorized; cost. The water department of the city is hereby authorized and instructed to fluoridate the water supply of the city. The cost of such fluoridation will be borne by the revenues of the water department of the city. (1988 Code, § 13-201)

# WATER WELLS AND SPRINGS

- 18-501. Purpose.
- 18-502. Policy.
- 18-503. Definitions.
- 18-504. Applications.
- 18-505. Permits required.
- 18-506. Well driller.
- 18-507. Construction.
- 18-508. Siting.
- 18-509. Testing of water wells.
- 18-510. Construction materials.
- 18-511. Inspection.
- 18-512. Sampling.
- 18-513. Monitoring not required.
- 18-514. Abandonment.
- 18-515. Appeals and variances
- 18-516. Appeal procedure and authority.
- 18-517. Enforcement.
- 18-518. Penalties.
- **18-501.** Purpose. This chapter is created to establish uniform standards for the orderly development of private water wells and the use of springs for drinking water purposes and to prevent the use of wells or springs that might produce contaminated water. (as added by Ord. #1489, July 2017)
- 18-502. <u>Policy</u>. When exercising the provisions of this chapter the general policy shall be as follows:
- (1) Groundwater to be used from water wells or from springs for use as drinking water shall be of such character that the water meets or can be treated to meet applicable drinking water criteria as defined by the State of Tennessee.
- (2) Any new water well or new use of a spring as a drinking water source within a restricted area shall conform to this chapter, related regulations, and other ordinances, and it is intended that these regulations supplement and facilitate the enforcement of the provisions and standards contained in the ordinances and regulations of the City of Tullahoma.
- (3) A new water well shall not be placed in service within the restricted area, unless the property owner can demonstrate to the public works department ("department")

- (a) That the water meets or can be treated to meet the criteria for domestic water supply, as set forth in Tennessee Rule chapter 0400-40-3-.03(1), and
  - (b) That no other source of drinking water is available.
- (4) A spring shall not be placed in service as a drinking water source within the restricted area, unless the property owner can demonstrate to the Department
  - (a) That the water meets or can be treated to meet the criteria for domestic water supply, as set forth in Tennessee Rule chapter 0400-40-3-.03(1), and
    - (b) That no other source of drinking water is available.
- (5) These water well and spring ordinance shall apply to all parcels of land contained within the boundaries of the restricted area, as defined herein. (as added by Ord. #1489, July 2017)
- **18-503.** <u>Definitions</u>. Unless a provision explicitly states otherwise, the following terms and phrases, used in this chapter, shall have the meanings hereinafter designated.
  - (1) "Board." City of Tullahoma Board of Zoning Appeals.
- (2) "Commercial well or spring." A well, constructed, or a spring, used, for the purpose of providing groundwater to a commercial business or public facility for use as a potable water supply when a public water supply or a quasi-public water supply is not available; for air conditioning, and other heat exchange systems; sprinkler systems for landscaping and other land beautification uses; nurseries; filling and retaining levels of lakes in subdivisions, apartment complexes, and similar multiple dwelling facilities; and any other such commercial uses.
- (3) "Contamination." Alteration of the physical, chemical, or biological quality of the water so that it is harmful or potentially dangerous to the health of the users or for the intended use of the water, or to the extent it poses a danger of polluting the groundwater aquifers.
  - (4) "Department." The City of Tullahoma Public Works Department.
- (5) "Domestic well or spring." A well, constructed, or spring, used, for the primary purpose of providing a source of drinking water to a single family residence.
- (6) Emergency." Unforeseen circumstances that exist beyond the control of the applicant.
- (7) "Justifiable need." A genuine need for a private water supply as determined by the department and, which need is based upon the lack of availability of an adequate water supply to the premise whether from a public source or from an existing spring or well that can produce the needed volume of water.
- (8) "Owner." Any person or that person's legal representative, agent, or assign who owns, leases, operates, or controls any parcel of land where a well is or may be located.

- (9) "Permit." An official document issued by the department granting the specific activity set forth in the document.
- (10) "Person." Any individual, firm, association, organization, partnership, business, institution, enterprise, municipality, commission, political subdivision or duly established entity, trust, corporation, company, contractor, supplier, installer, user or owner, or any federal, state or local government agency or public district or any officer or employee thereof.
- (11) "Potable water supply." Any source of water that is satisfactory for drinking, culinary, and domestic purposes, and meets the requirements of the department.
  - (12) "Premise." A tract of land with the buildings thereon.
- (13) "Public water supply." Any publicly or privately owned water system operating as a public utility or authority that operates fifteen (15) or more connections or regularly serves twenty-five (25) people, sixty (60) or more days per year.
- (14) "Quasi-public water supply." A water supply used or made available by a person to employees, tenants, members, or guests for drinking; or in connection with the manufacturing or handling of ice, foods, or drinks, such as candy, ice cream, milk, ice bottled drinks, and any other food or drink products. The source of quasi-public water supply may be a private well or the public water supply.
- (15) "Repair." Any modification, replacement, or other alteration of any well, or pumping equipment which requires a breaking or opening of the well seal or any waterlines up to and including the pressure tank and any coupling appurtenant thereto.
- (16) "Restricted area." The designated area as identified and established from time to time by resolution of the Tullahoma Board of Mayor and Aldermen.
- (17) "Site." Any one (1) legal unit of a subdivision, parcel of land, or location where drilling activities are to take place.
- (18) "Spring." A place where ground water flows naturally from a rock or the soil onto the land surface or into a body of surface water.
- (19) "Water well." A well that is constructed and so equipped with casings, screens, pumps, fittings, etc., that has been developed for the primary purpose of producing a supply of water regardless of the intended usage for said supply. (as added by Ord. #1489, July 2017)
- 18-504. <u>Applications</u>. (1) Any person requesting to use a spring as a drinking water source for new residential or commercial construction or requiring the installation of water wells within the restricted area of the City of Tullahoma shall make application for permit to the department.
- (2) A permit may be obtained from the department, and if granted, such permit shall be in force and in effect for one hundred-eighty (180) days from the date of its issuance. If work has not commenced within one hundred-eighty (180) days of issuance, an extension may be granted by the department upon request by the applicant. In addition, the Tennessee Water

- Well Act (<u>Tennessee Code Annotated</u>, § 69-10-101 <u>et seq</u>.) requires that a Notice of Intent (NOI) be submitted to the Tennessee Department of Environment and Conservation, Division of Water Resources, Water Well Program. A copy of the NOI shall be included with the well application to the department.
- (3) The department shall issue a notice of rejection whenever it determines that an application for a permit fails to meet the requirements of this chapter, or any rules, order, regulation, or standard adopted pursuant thereto; or, if it is determined by the department that an adequate water supply is otherwise available to the premise without the need to construct a well or use a spring; or, if it is determined by the department that the applicant fails to show justifiable need. (as added by Ord. #1489, July 2017)
- **18-505.** <u>Permits required</u>. (1) A permit shall be obtained from the department prior to beginning the installation of a water well or use of a spring for residential or commercial purposes within the restricted area of the City of Tullahoma.
- (2) If an application is approved by the department, the applicant shall be issued a permit. Receipt of the permit shall constitute permission to begin construction.
- (3) Such permits may be revoked by the department upon the violation by the holder of any terms of the permit or this chapter or in any emergency when, in the judgment of the department, the continued operation of the water supply for any reason shall constitute a health hazard. The holder of such permit, after such revocation, shall have the right of appeal. (as added by Ord. #1489, July 2017)
- **18-506.** Well driller. (1) All water wells to be constructed in the City of Tullahoma shall be constructed only by persons having a valid license under the Tennessee Department of Environment and Conservation, Division of Water Resources.
- (2) It shall be the well driller's duty to inform persons requesting the services of the company to the requirements of this chapter. (as added by Ord. #1489, July 2017)
- 18-507. Construction. All wells shall be constructed in a manner that will guard against contamination of the groundwater aquifers underlying the City of Tullahoma and must, at a minimum, comply with the standards as established in the Rules of the Tennessee Department of Environment and Conservation, Division of Water Resources, chapter 0400-45-09, entitled, Water Well Licensing Regulations and Well Construction Standards. When deemed necessary, the department may require standards and specifications to be more stringent than those required by the State of Tennessee. (as added by Ord. #1489, July 2017)

- 18-508. <u>Siting</u>. A water well cannot be sited or placed in service within designated restricted areas, unless the property owner can demonstrate to the department that the water meets or can be treated to meet applicable drinking water quality criteria (i.e., the criteria for domestic water supply, as set forth in Tennessee Rule section 0400-40-03-.03(1) and that no other source of drinking water is available. (as added by Ord. #1489, July 2017)
- **18-509.** Testing of water wells. (1) If a new water well is installed within the restricted area, the well owner shall conduct laboratory analytical testing. Upon completion, disinfection of the water well shall be performed in accordance with Tennessee Water Well Licensing Regulations and Well Construction Standards (section 0400-45-09-.12). After disinfection, all water in the well and supply system shall be pumped free of residual chlorine and a sample of fresh water from the well shall be collected. The sample shall be collected at the well head prior to any treatment (e.g., carbon filter, sand filter, UV, ozone, etc.). The water sample shall be tested by an analytical laboratory approved by the State of Tennessee for bacteriological, Volatile Organic Compounds (VOCs), and other analysis designated by the department. The result shall be required to meet applicable water quality criteria for coliform bacteria, VOCs, and other parameters designated by the department analyzed prior to putting the well into service. A well shall not be used as a drinking water source until a sample has been collected that produces acceptable results and/or the property owner has been informed that treatment is required to meet applicable drinking water quality criteria (See Tennessee Rule 0400-40-09-.12).
- (2) The new water well shall be provided with a faucet or tap on the well discharge line at or near the well head, prior to treatment equipment, for the collection of water samples. The faucet shall be labeled "Test Port Not for Use." (as added by Ord. #1489, July 2017)
- 18-510. <u>Construction materials</u>. All materials, components, parts, etc. used in the installation of a water well or any other type of well, such as the casing, screen, pumping equipment, pressure tank, wiring, pipe, and any other such components, must comply with the standards as established in the Rules of the Tennessee Department of Environment and Conservation, Division of Water Resources, chapter 0400-45-09, entitled, Water Well Licensing Regulations and Well Construction Standards. When deemed necessary, the Department may require standards and specifications to be more stringent than those required by the State of Tennessee. (as added by Ord. #1489, July 2017)
- **18-511.** <u>Inspection.</u> During the construction, modification, repair, or abandonment of any well the department may, but is not required to, conduct such periodic inspections as it deems necessary to insure conformity with applicable standards. Duly authorized representatives of the department may, at reasonable times, enter upon and shall be given access to any premise for the purpose of such inspection. (as added by Ord. #1489, July 2017)

- **18-512.** <u>Sampling</u>. All private water supplies may be subject to inspection by the department and when deemed necessary, said supplies shall be made available for the collection of samples in order to determine the quality of the supply. (as added by Ord. #1489, July 2017)
- **18-513.** <u>Monitoring not required</u>. Nothing in this chapter shall require ongoing testing or monitoring of private water supplies by the department. (as added by Ord. #1489, July 2017)
- 18-514. <u>Abandonment</u>. Water wells shall be abandoned in accordance with standards as established in the Rules of the Tennessee Department of Environment and Conservation, Division of Water Resources, chapter 0400-45-09, entitled, Water Well Licensing Regulations and Well Construction Standards. (as added by Ord. #1489, July 2017)
- **18-515.** Appeals and variances. Any person who feels aggrieved by an order of the department issued pursuant to these regulations shall be entitled to a hearing before the board of zoning appeals (board) upon written request. The Tennessee Department of Environment Conservation shall be notified prior to the hearing and may submit information with regard to the appeal or variance. (as added by Ord. #1489, July 2017)
- 18-516. Appeal procedure and authority. The board shall have and exercise the power, duty, and responsibility to hear and decide all matters concerning a variance to or an exception taken with regard to this chapter to any decision, ruling, requirement, rule, regulations, or order of the department. Such appeal shall be made within fifteen (15) days after receiving notice of such decision, ruling, requirement, rule, regulation, or order by filing a written notice of appeal to the department specifying the grounds thereof, including justifiable need, and the relief requested. Such an appeal shall act as a stay of decision, ruling, requirement, rule, regulation, or order in question until the board has taken formal action on the appeal, except when the department has determined that a health hazard exists. The department shall, not less than thirty (30) days after the date of the receipt of the notice of appeal, set a date for the hearing and shall give notice thereof by certified mail to the interested parties. (as added by Ord. #1489, July 2017)
- **18-517.** Enforcement. (1) If the department determines that the holder of any permit issued pursuant to these regulations has violated any provisions of this chapter, or any regulation adopted pursuant thereto, the department may suspend or revoke any such permit. The department may place on probation a well driller or property owner whose permit has been suspended.
- (2) The department may petition a court of competent jurisdiction for injunctions or other appropriate relief to enforce the provisions of this chapter.

The attorney for the city shall represent the department when requested to do so.

- (3) Any person who willfully violates any of the provisions of this chapter shall be penalized as specified in § 18-518.
- (4) Any well owner who knowingly causes or permits a hazardous or potentially hazardous condition to exist due to well construction or any other reasons as outlined in this chapter that could cause deterioration of groundwater aquifers in the system shall forfeit the well owner's right to an approved, certified permit. The well owner shall also be liable to enforcement action. (as added by Ord. #1489, July 2017)
- **18-518.** Penalties. The well driller or any other person who fails to comply with this chapter or the rules and regulations promulgated hereunder may be subject to a fine of a minimum of twenty-five dollars (\$25.00) per day or a maximum of five hundred dollars (\$500.00) per day and each day such violation of this chapter occur shall constitute a separate offense. (as added by Ord. #1489, July 2017)

# **TITLE 19**

# ELECTRICITY AND GAS

# [RESERVED FOR FUTURE USE]

### **TITLE 20**

# **MISCELLANEOUS**

### **CHAPTER**

- 1. CONSTRUCTION OF FENCES.
- 2. FAIR HOUSING CODE.
- 3. CITY CEMETERIES.
- 4. PUBLIC PROPERTY, REAL AND PERSONAL.
- 5. TREES.
- 6. EMERGENCY MANAGEMENT.
- 7. LOCAL GOVERNMENT EMERGENCY ASSISTANCE POLICIES.
- 8. EMERGENCY RESCUE SQUAD.
- 9. BURGLARY AND ROBBERY ALARMS.
- 10. COMPREHENSIVE SCHEDULE OF FEES AND CHARGES.
- 11. ARTS COUNCIL.
- 12. DELETED.

#### **CHAPTER 1**

#### CONSTRUCTION OF FENCES

- 20-101. Location and placement of a fence.
- 20-102. Fences--obstruction from minimum sight distance.
- 20-103. Fences-requirement for private swimming pools.
- 20-104. Livestock fences.
- 20-105. Unsafe and dilapidated fences.
- **20-101.** Location and placement of a fence. Fences shall be erected entirely within the confines of the property boundary line of the property to which it is to serve and shall not extend or overhang onto an adjoining property or public property or right-of-way. Fences shall be placed securely within the ground to minimize damage to structures within the fence enclosure and adjoining property(ies) that may result from high wind forces. (ord. 1095(1) Jan. 1994)
- **20-102.** Fences—obstruction from minimum sight distance. The erection of a fence shall not obstruct the minimum sight distance of 200 feet required to adequately egress the property to which the fence shall serve nor an adjoining property owner. The minimum sight distance is measured from a point four and one-half (4½) feet above the center line of the driveway surface to a point four (4) inches above the center line of roadway surface the distance specified above or as determine by the department of public works in the case of major collector and arterial streets, whichever is greater distance. (ord. 1095, Jan. 1994)

- **20-103.** Fences—requirement for private swimming pools. All private swimming pools shall have a fence erected around the perimeter of the pool that shall include one (1) access gate. The fence shall be a minimum of four (4) feet in height. The fence shall be constructed of suitable materials and in such a manner as to not permit the passage of a 6-inch (152 mm) diameter sphere through any opening in the fence including the access gate. (ord. 1095, Jan. 1994)
- **20-104.** <u>Livestock fences</u>. Property utilized for the raising of livestock shall be permitted to utilize barbed wire alone or in combination with other metal fencing materials as well as electrified fencing to prevent the escape of livestock from the premises. The installation of an electrified livestock fence directly adjoining a residential subdivision shall include the placement of warning signage at intervals not to exceed one hundred fifty (150) feet along the common property line between the livestock area and the residential subdivision. The warning signage shall be installed prior to the electrical service being connected to the electric fence.
- **20-105.** <u>Unsafe and dilapidated fences</u>. (1) Any fence that has any of the following conditions, such that the life, health, property or safety of the property owner and/or tenant or the general public are endangered:
  - (a) The stress in any material, member or portion thereof, due to all imposed loads including dead load exceeds the stresses allowed in recognized construction practices and standards and specifications.
  - (b) The fence or a portion thereof has been damaged due to flood, wind or other cause to the extent that the structural integrity of the fence is less than it was prior to the damage and is less that the minimum requirement established in recognized construction practices and standards and specifications for new fences.
  - (c) Any portion of fence is not securely fastened, attached or anchored such that it is capable of resisting wind or similar loads.
  - (d) The fence or portion thereof as a result of decay, insect infestation, deterioration or dilapidation is likely to fully or partially collapse.
- (2) The code administrator shall inspect or cause to be inspected any fence which is or may be unsafe. After the code administrator has inspected or caused to be inspected a fence or portion thereof and has determined that such fence or portion thereof is unsafe, he shall initiate through proper notification and cause the abatement of the unsafe condition(s) in the fence by repair, replacement, demolition, or combination thereof.
- (3) It shall be the responsibility of the property owner and/or tenant to make all necessary repairs to correct those deficiencies identified by the code administrator in making the determination that the fence is unsafe within a reasonable time period specified by the code administrator. (ord. 1095, Jan. 1994)

# **FAIR HOUSING CODE**

- 20-201. Definitions.
- 20-202. Unlawful acts.
- 20-203. Exception.
- 20-204. Application to real estate services, organizations, etc.
- 20-205. Creation of housing discrimination committee; duties.
- 20-206. Filing of complaint; procedure.
- 20-207. Violation; penalty.
- 20-208. Right to seek remedial relief.
- **20-201.** <u>Definitions</u>. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:
- (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location of any such building.
  - (2) "Family" includes a single individual.
- (3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trust unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.
- (4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (1988 Code, § 4-1301)
- **20-202.** <u>Unlawful acts</u>. Subject to the exceptions hereinafter set out, it shall be unlawful for any person to do any of the following acts:
- (1) To refuse to sell or rent after the making of a bona fide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, national origin, or sex.
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, or sex.
- (3) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, or national origin, or sex.

- (4) To represent to any person because of race, color, religion, national origin or sex that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin or sex. (1988 Code, § 4-1302)
- **20-203.** Exception. Nothing is this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or from giving a preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or sex. (1988 Code, § 4-1303)
- **20-204.** Application to real estate services, organizations, etc. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin or sex. (1988 Code, § 4-1304)
- 20-205. Creation of housing discrimination committee; duties. By resolution of the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, there is created hereunder a housing discrimination committee, which is authorized and directed to undertake such educational and conciliatory activities as in its judgement will further the purposes of this chapter. It may call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and the committee's suggested means of implementing it. The committee shall further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate city officials on matters of enforcement. The committee may issue reports on such conferences and consultations as it deems appropriate. (1988 Code, § 4-1305)
- **20-206.** Filing of complaint; procedure. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the chairman of said committee. A complaint shall be filed within one hundred eighty (180) days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the said committee. Upon receipt of a complaint, the committee shall promptly investigate it and shall complete its investigation within fifteen (15) days. If a majority of the

committee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with violation of this chapter refuses to furnish information to said committee, the committee may request the city attorney to prosecute an action in the city court against the person charged in the complaint. Such request shall be in writing. Upon receiving such written request and with the assistance of the aggrieved person and said committee, within fifteen (15) days after receiving such request, the city attorney shall be prepared to prosecute an action in the city court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (1988 Code, § 4-1306)

- **20-207.** <u>Violation; penalty</u>. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of not more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (1988 Code, § 4-1307)
- **20-208.** Right to seek remedial relief. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein; nor prevent any such person from seeking relief at any time under the Federal Civil Rights Act or other applicable legal provisions. (1988 Code, § 4-1308)

# **CITY CEMETERIES**

- 20-301. Burial permit required.
- 20-302. Provisions to be incorporated into deeds to lots.
- 20-303. City recorder and city administrator to execute deeds; alienation; records.
- 20-304. Lot prices.
- 20-305. Lot maintenance by owner.
- 20-306. Lot maintenance by city.
- 20-307. Unlawful acts.
- 20-308. Rules and regulations.
- 20-301. <u>Burial permit required</u>. It shall be unlawful for any person to dig or cause to be dug a grave in city cemeteries without first having applied for and received a burial permit which shall be issued by the city recorder or designee of the city recorder. Such a permit must be applied for at least 24 hours prior to any burial activity being conducted at a grave site. A representative of the city shall approve and verify the location at which said burial will be conducted prior to issuance of such a permit. A charge of \$25.00 is hereby imposed for each permit issued under this section which charge must be paid at such time as application for permit is made. In issuing a burial permit, the applicant and the appropriate city official shall first determine that the title to the grave lot for which permit is requested is vested in deceased or some member of the family of the deceased. (1988 Code, § 12-701)
- **20-302.** Provisions to be incorporated into deeds to lots. The terms and provisions of this chapter shall be incorporated into all cemetery lot deeds by reference. (1988 Code, § 12-702)
- 20-303. City recorder and city administrator to execute deeds; alienation; records. The city recorder and city administrator are hereby authorized and empowered to execute deeds of conveyance to purchasers of lots in the city cemeteries upon payment of the price set forth in this chapter. Said deeds shall by appropriate words prohibit the transfer or alienation of title to lots so conveyed except to the city. It shall be the duty of the city recorder or the designee of the city recorder to keep an accurate record of all cemetery lots sold, giving the name and address of the purchaser, the lot number, the date of the deed and the amount received. (1988 Code, § 12-703)
- **20-304.** Lot prices. The price of lots in the Oakwood and Maplewood and Evergreen Cemeteries shall be as established by the board of mayor and aldermen from time to time for each grave unit. (1988 Code, § 12-704, modified)

- **20-305.** Lot maintenance by owner. Lots in the city cemeteries shall be maintained, kept and attended in a proper manner by cutting grass, removing debris and doing other acts necessary to keep the cemetery neat and clean in appearance, and free from dangerous defects, such as sunken graves and leaning or tilting headstones or grave markers. (1988 Code, § 12-705)
- **20-306.** Lot maintenance by city. Owners of lots in city cemeteries who do not desire the city to mow and maintain their lots shall so advise the city by giving written notice to the city recorder on or before the first day of March of each year. Said notice shall contain the name of the lot. In the event a lot owner fails to give this notice or fails to maintain his lot in accordance with the terms and provisions of this chapter, the city reserves the right to enter upon such lot and take the necessary steps incident to proper maintenance and it will incur no liability to the lot owner for so doing. (1988 Code, § 12-706)
- **20-307.** <u>Unlawful acts</u>. (1) <u>Dirt</u>. It shall be unlawful for any person to dig a grave in the city cemeteries without providing a canvas or other receptacle to throw the dirt on, so as to keep such dirt off of the ground surrounding the grave, and without removing the surplus dirt left after re-filling the grave, within ten (10) days to some spot in the cemetery designated for that purpose.
- (2) <u>Debris</u>. It shall be unlawful for any person to leave in any city cemetery for a longer period than ten (10) days after completion of the work, any debris left from burial, the construction of vaults, the erection of monuments, coping, fencing, or left from any other work done in the cemetery.
- (3) <u>Depredations</u>. It shall be unlawful for any one to leave the cemetery gate open, or to pluck flowers, remove vases, or other private property, or commit any waste or depredations in the cemetery.
- (4) <u>Permits</u>. It shall be unlawful for anyone to commence to dig a grave without applying for a permit as provided in § 20-301, above.
- (5) Anyone who shall violate any of the provisions of this chapter shall be liable under the general penalty provisions provided for in the Code of Ordinances of the City of Tullahoma. (1988 Code, § 12-707)
- **20-308.** Rules and regulations. The board of mayor and aldermen, by official action from time to time, shall be empowered to establish rules and regulations supplementary to the provisions of this chapter regarding use of cemetery property, activities thereon and other matters related thereto. Said rules and regulations shall be posted in a conspicuous place on the main entrance to each cemetery of the City of Tullahoma. Further, a copy of the rules and regulations shall be given to all persons purchasing cemetery lots from the City of Tullahoma after the enactment hereof. (1988 Code, § 12-708)

#### PUBLIC PROPERTY, REAL AND PERSONAL

### **SECTION**

20-401. Disposal and/or sale of real property.

20-402. Disposition of net proceeds of sale of public real property.

**20-401.** Disposal and/or sale of real property. From time to time the board of mayor and aldermen of the City of Tullahoma, Tennessee, may, by majority vote after due deliberation, declare certain real property owned, or held or claimed or apparently owned by the City of Tullahoma, Tennessee, and/or its agencies on behalf of the City of Tullahoma, Tennessee, to be surplus and may direct the disposition thereof upon such terms and conditions as the board may, from time to time, prescribe either by action properly taken or by ordinance. If said declaration of property as being surplus involves a public street or road, same shall be closed by ordinance. Pursuant to the provisions hereof any property declared to be surplus and disposed of pursuant hereto shall be conveyed to the purchaser/conveyee pursuant to the sales and/or disposition provisions established from time to time by the board.

Prior to any real property being declared surplus property by the board of mayor and aldermen, the board of mayor and aldermen shall refer the consideration of such matter to the planning commission, and upon receiving a report from said commission shall publish a notice for a public hearing for the consideration of the declaration of that certain property as surplus property at which time interested citizens may speak on the subject. Said notice must be published in a newspaper of general circulation in the City of Tullahoma at least fifteen days prior to the public hearing. Adjoining property owners shall be notified of said proposed action in writing by certified mail, return receipt requested, prior to said public hearing.

The board of mayor and aldermen shall not vote to purchase, lease or change the use of real property without first reviewing the recommendation of the planning commission. This prohibition extends to any type of document or instrument that comtemplates the potential purchase, lease or change of use of real property. Subsequent to the planning commission initial review, any change in the property boundary or to the previously contemplated purchase, lease or change of use of real property, shall be resubmitted to the planning commission for further recommendation.

The board of mayor and aldermen shall not vote to sell real property prior to the planning commission reviewing the property for surplus. This prohibition extends to any type of document or instrument that contemplates the potential sale of real property. Any additions of real property to that initially contemplated for surplus shall be re-submitted to the planning commission for surplus recommendation. No vote shall be taken by the board of mayor and aldermen to sell real property that has not been reviewed by the planning commission for surplus.

When voting to sell, purchase or lease real property, the board of mayor and aldermen shall set an offer termination date. The offer termination date will identify a date certain for the completion of all paperwork and payment required to enter into the transaction. The offer termination shall be forty-five (45) days, but can be extended in thirty (30) day increments, by a majority vote of the board of mayor and aldermen. In the event the required transactions and/or payments are not completed by the offer termination date, the offer to sell, purchase or lease shall be considered withdrawn. (1988 Code, § 12-501, as amended by Ord. #1197, April 1998, Ord. #1210, Nov. 1998, and Ord. #1361, Nov. 2007)

# 20-402. <u>Disposition of net proceeds of sale of public real property</u>.

At any such time as any surplus real property owned by the City of Tullahoma, Tennessee, shall be disposed of as is provided for in § 20-401 of this chapter, then the net proceeds derived from the sale thereof, after payment of any and all costs attendant to the sale thereof, including attorney fees, publication costs, etc., may be deposited by the city and held by the Finance Director of the City of Tullahoma in a reserve where said sum shall be maintained for the acquisition of other real property by the City of Tullahoma from time to time, or at the option of the board of mayor and aldermen be utilized for other purposes deemed appropriate. (1988 Code, § 12-502, modified)

#### TREES

- 20-501. Purpose and intent.
- 20-502. Definitions.
- 20-503. Administration.
- 20-504. Tree policy.
- 20-505. Jurisdiction--oversight of activities and practices.
- 20-506. Hazardous trees.
- 20-507. Tree planting and replacement.
- 20-508. Protection of trees
- 20-509. Official tree designation.
- 20-510. Historical, memorial, honorary and other special trees.
- 20-511. Community development.
- 20-512. Violations and enforcement.
- 20-513. Appeals.
- 20-514. Citations.
- 20-515. Consultants.
- 20-516. Miscellaneous.
- 20-517. Severability.
- **20-501.** <u>Purpose and intent</u>. This chapter establishes policies, regulations and standards necessary to ensure that the city will continue to realize the benefits provided by its urban forest. The provisions of this chapter are enacted to:
- (1) Establish and maintain the maximum sustainable amount of tree canopy on city land;
- (2) Maintain city trees in a healthy and non-hazardous condition through the use of recommended arboricultural practices;
- (3) Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest. (1988 Code, § 12-301, as replaced by Ord. #1237, Jan. 2001, and Ord. #1432, Nov. 2012)
- **20-502.** <u>Definitions</u>. (1) "Caliper Inches (CI)." The quantity in inches of the diameter of supplemental and replacement trees measured at the height of six inches (6") above the ground for trees four inches (4") in trunk diameter and under, and twelve inches (12") above the ground for trees over four inches (4") in trunk diameter. (Caliper inches shall be used in measuring newly planted material.)
  - (2) "City." The City of Tullahoma, Tennessee.
  - (3) "Coniferous tree." Any tree bearing cones.
- (4) "Density Units (DU)." The number value resulting from the tree value factor times the actual measured inches (DBH) of trees times the total number of trees in each respective category of trees.

- (5) "Deciduous tree." Any tree that sheds its leaves in fall or winter.
- (6) "Development sites." Any public or private project which will alter the current physical characteristics and/or usage of land within the city.
- (7) "Diameter at Breast Height (DBH)." The diameter in inches of a tree measured at four and one-half feet (4 1/2') above the existing grade. DBH shall be used to measure existing trees to remain after clearing land of other trees.
- (8) "Drip line." A vertical line extending from the outermost portion of the tree canopy to the ground.
- (9) "Endangered species." Those trees that are under the protection of state and/or federal law.
- (10) "Evergreen tree." Any broad-leaf and conifer tree that does not shed its leaves in fall or winter.
- (11) "Heritage tree." A tree of significant age or stature that constitutes a unique asset to the community.
- (12) "Minimum standard." The basic standard for tree retention would be twenty-five percent (25%) or twenty-five (25) trees per acre, whichever is greater. All trees six inches (6") in diameter or larger would be inventoried, with the exception of those already in critical areas, critical area buffers, or in native growth protection easements.
- (13) "Overstory trees." Trees that compose the top layer or canopy of vegetation.
- (14) "Pruning." The removal of living or dead parts of a tree, especially branches, to reduce size, to maintain natural shape, health, and flowering, or to regulate growth.
- (15) "Public tree." A tree located within public right-of-way or public lands owned by or under the jurisdiction of the city.
- (16) "Replacement planting." The planting of trees on a site that before its development had more than the minimum standard of trees per acre, but less than the minimum after development.
- (17) "Shrub." A woody plant that is never tree-like in habit and produces branches or shoots from or near the base.
- (18) "Supplemental planting." The planting of trees on a site that before development had less than the minimum standard of trees per acre.
- (19) "Topping." The arbitrary removal of parts of the tree above a certain height, with no regard for the natural structure or growth pattern of the tree.
- (20) "Tree." A woody plant characteristically having one (1) main stem at least twelve to fifteen feet (12' to 15') tall, and having a distinct head in most cases.
- (21) "Tree protection zone." The area around a tree corresponding to the drip line or ten feet (10') in all directions from the trunk.
- (22) "Tree value factor." The numerical value assigned to each tree category that represents the importance of that category of trees with respect to visual screening, growth characteristics, native species and aesthetics.

- (23) "Understory trees." Those trees that grow beneath the overstory trees. (1988 Code, § 12-302, as replaced by Ord. #1237, Jan. 2001, and Ord. #1432, Nov. 2012)
- **20-503.** <u>Administration</u>. The city tree program shall be administered by the city forester under the direction of the parks and recreation department director. Specific areas of responsibility are assigned as follows:
- (1) <u>Parks and recreation department</u>. Provide administration and enforcement of this chapter through the director of parks and recreation and the city forester, the tree board and/or such other persons designated by the city administrator.
  - (2) <u>City forester</u>. (a) Review all development site plans in accordance with the provisions of this chapter as part of the review process of the development advisory committee.
  - (b) Provide inspection of development sites to ensure compliance with grading and tree protection recommendations.
  - (3) <u>Tullahoma Tree Board</u>. (a) The Tullahoma Tree Board shall be composed of seven (7) members, appointed by the mayor. The members shall serve for a two (2) year term and may be reappointed.
  - (b) The chairperson of the tree board shall be elected from the members of the tree board by a majority vote of the membership for a one (1) year term. This election shall be made during the third quarterly meeting. Regular business may be conducted with a quorum with actions approved by a majority vote of the members present.
  - (c) The mission of the Tullahoma Tree Board is to maintain, protect and enhance the urban forest of Tullahoma for both present and future generations through policy advocacy and community education.
    - (d) Specific activities of the tree board include:
    - (i) Meet quarterly, or as needed, upon the call of the chairperson or the chairperson's designee.
    - (ii) Provide community guidance and recommendations concerning public trees and tree programs.
    - (iii) Recognize groups, businesses and individuals that promote, protect, maintain, nurture, plant and use trees in accordance with established and accepted arboricultural standards.
    - (iv) Coordinate the donation of trees or funds to purchase and plant memorial and honorary trees on public property. The price to be paid by the donor will be set by the tree board and may be changed from time to time.
    - (v) Evaluate and recommend to the board of mayor and aldermen trees to be submitted as candidates to be included in the Tennessee Landmark and Historic Tree Register.
    - (vi) Perform other tree-related activities as requested by the board of mayor and aldermen consistent with the intent of this chapter.

- (vii) Advise and notify the city forester of trees that may require removal and to recommend replacement trees.
- (viii) Recommend actions to be taken by the city forester, for potential violations of this chapter.
- (ix) Recommend to the city enforcement proceedings in compliance with the objectives of this chapter.
- (x) Provide community education and sponsor events on the care and benefit of trees.
- (xi) Designate memorial and honorary trees and their locations.
- (4) <u>Board of mayor and aldermen</u>. (a) Provide general policy direction to the tree board.
- (b) Provide funding, as appropriate, for tree program activities. (as added by Ord. #1432, Nov. 2012)
- **20-504.** Tree policy. Tree planting shall be a required activity on public areas applicable to this chapter. For the purposes of this chapter, public areas shall be defined as land owned by the City of Tullahoma. A planting program shall be developed by the tree board for all public areas and shall be conducted in a systematic manner to support diversity of age and species. The city forester and tree board may provide advice and information to city residents for private trees.

The following policies will be used:

- (1) <u>Species selection</u>. All trees planted on public property shall be of a species referenced on the city's recommended tree list or approved by the tree board.
  - (2) <u>Size and grade</u>. (a) For the purpose of this chapter, trees reaching up to twenty-five feet (25') in height at maturity are defined as small trees. Medium trees will mature at twenty-five to fifty feet (25' to 50'). Large trees will mature at heights greater than fifty feet (50').
  - (b) All planted trees shall be free of insects, diseases, or mechanical injuries and have straight trunk(s) and forms characteristic of the species.
  - (3) Protection of utilities. (a) No public trees other than those with a mature height of less than twenty-five feet (25') in height shall be planted within ten feet (10') of any overhead utility line.
  - (b) No public tree shall be planted over or within ten (10) lateral feet of any underground water, gas or sewer line, buried fiber optic line, broadband, power cable, television cable, telephone cable transmission line or other utility lines.
  - (4) <u>Location requirements</u>. (a) No public tree shall be planted within recognized visibility standards or sight triangles and specifications for driveway and street intersections.
  - (b) Public trees proposed to be planted within four feet (4') of sidewalks or curbs must be approved by the city forester. (as added by Ord. #1432, Nov. 2012)

- **20-505.** <u>Jurisdiction—oversight of activities and practices</u>. The city may initiate maintenance activities needed to keep public trees healthy and to minimize the risk of injury to people or property. Tree maintenance may include removal, pruning, fertilization, watering, and insect and disease control.
- (1) No person or entity, shall plant, prune, remove, replace or otherwise disturb any public tree without obtaining approval from the city forester. Utility boards or companies may prune trees as part of their line maintenance program within their easements or public right-of-way but shall coordinate such work with the city forester.
- (2) The practice of tree topping is expressly prohibited for all public trees, and is discouraged as a tree care practice for private trees. A tree severely damaged by storms or other causes, oi- trees under wires or other obstructions where other pruning methods are impractical shall be removed and replaced, with approval of the city forester.
- (3) All pruning should be done in accordance with the International Society of Arboriculture (ISA) standards as described in the ANSI A300 Tree Maintenance.
- (4) Tree pruning shall be performed in a manner that protects the public. All trees growing along streets and sidewalks as it matures must be pruned free of limbs to a height of eight feet (8') for sidewalks and fourteen feet (14') for streets, with no lateral growth permitted onto the sidewalk or street below this height. Tree limbs shall not obstruct the view of any street lamp, street sign, stop sign or traffic light. Likewise, tree limbs shall not obstruct any street intersection and shall be pruned such that the driver has a clear line of vision of traffic coming from all directions. (as added by Ord. #1432, Nov. 2012, and replaced by Ord. #1555, May 2021 *Ch11\_08-08-22*)
  - **20-506.** <u>Hazardous trees</u>. (1) <u>Public trees</u>. (a) Dead or mortally damaged public trees that may pose a safety or health risk to the public or to other trees shall be removed in a systematic manner. The city forester shall make a risk determination on public trees and prioritize pruning or removal.
  - (b) No public trees may be removed or modified in any manner before first submitting a written request to and obtaining written permission from the city forester. The city forester may refer the request to the tree board. Approvals may include specific requirements for removal and replacement.
  - (c) All stumps of public trees shall be removed below the surface of the ground (grade) by grinding or other methods and refilled with soil mounded four inches (4") above grade.
  - (d) The removal of hazardous trees that pose an immediate danger to the public may be approved at the discretion of the responding emergency services personnel. Said removal should be reported to the city forester as soon as practicable.
  - (2) <u>Private trees</u>. (a) The city has the right to cause the removal and pruning of any dead, diseased, or structurally damaged trees on private

property when such trees constitute a hazard to life and property within public property.

- (b) The city forester shall evaluate the tree as to the degree that safety has been compromised. The evaluation and accompanying recommendations will be acted upon in one of the following ways:
  - (i) The city forester will notify the owner via certified mail of such tree(s), except in cases of immediate urgency. Otherwise, removal or pruning as directed shall be done by said owners at their own expense within thirty (30) days of the date of notification. If the property owner cannot be contacted or refuses to remove the hazard, the city may initiate action to remove said hazard and charge the property owner for the costs incurred for its removal. If the property owner does not pay this charge within thirty (30) days, the city will place a lien on the property and add same to the city property taxes to be collected accordingly.
  - (ii) An evaluation of potentially dangerous means that a hazard will exist in the near future. The property owner will be notified via certified mail of existing problems and options for abating the hazard. (as added by Ord. #1432, Nov. 2012)
- **20-507.** Tree planting and replacement. All trees planted by the city shall meet the standard established for planting stock by the American Association of Nurserymen's American Standard for Nursery Stock. Planting or replanting of trees at a public project construction site shall be included in the cost of construction.
- (1) Unless the city forester or tree board determine otherwise, trees that are removed because of construction requirements will be replaced in an appropriate number, using "minimum standard" as a guideline, to create an equivalent tree canopy at maturity and of a size and at location(s) as prescribed by the city forester. The city forester will provide the property owner with a list of tree species that may be used.
- (2) Any tree that dies will be replaced by the person or agency that originally planted the tree unless mortality was caused by unintentional acts of human interference or by environmental events such as a late spring freeze or ice storm.
- (3) Whenever a person, entity, or city agency obtains written permission to remove a tree from any city-owned land for the purpose of construction or for any other reason, such person, entity, or city agency shall subsequently replace the tree within one (1) year of removal, in a location to be determined by the tree board at the expense of the person, entity, or city agency that obtained such permission.
- (4) Whenever it is necessary to remove a tree from a public right-ofway in conjunction with the paving of a sidewalk or widening of a street, the city shall replace such tree. If conditions prevent planting in the right-of-way, this requirement may be satisfied by planting on the adjoining property if the

property owner grants a landscape easement to the city, or by planting a replacement tree on other public property within the corporate limits.

- (5) All trees planted on public property will be appropriately maintained.
  - (6) When planting balled and burlapped trees:
    - (a) Twine and other ties must be removed;
  - (b) The planting hole should be the depth of the root ball and two (2) times as wide as the root ball. The hole shall be excavated precisely to this depth. Refilling a hole that was too deeply dug is unacceptable since the root ball will settle and result in the top of the root ball being below grade--a primary cause of death for transplanted trees.
  - (c) After lowering the tree into the hole, burlap shall be pushed down below grade and not removed. If left above grade, burlap will act as a wick and cause desiccation of the root ball. Burlap supports the root ball, will disintegrate over time, will support the root ball in the initial phase, and will allow root growth through the burlap. If wire support baskets contain the root ball, said wire will be bent to below grade.
  - (d) No fertilizer should be used at the time of planting; soil amendments shall not be used; mulch should be used to cover the circumference of the planting hole with a depth of two inches to four inches (2" to 4"), leaving a clear space of two inches (2") around the trunk of the tree;
  - (e) Trees shall be watered as required during the first year after planting, never allowing the soil in the root ball area to become dry.
- (7) Replacement trees shall meet the standards of size, species and cultivar, placement specified by the city forester. Trees shall be inspected before planting by the city forester, to ensure tree health and quality, and to confirm identity of the received plant to be the required species and cultivar. Whenever any person is required to replace a tree pursuant to this chapter, all the aforementioned conditions will apply. (as added by Ord. #1432, Nov. 2012)
- **20-508.** Protection of trees. (1) Unless specifically authorized in writing by the city forester or the tree board, no person, entity, or city agency shall intentionally damage, cut, carve, transplant, prune, nor remove any tree on city property; nor attach rope, wire, nails, advertising posters or other contrivance to any tree; nor allow any gas, liquid or solid substance which is harmful to any tree to come into contact with it; nor set fire or permit any fire to burn when such fire or heat thereof will injure any portion of a public tree.
- (2) No person, entity, or city agency shall deposit, place, store or maintain upon any public place of the city any stone, brick, sand, impermeable concrete or any other material which may impede the free passage of water, fertilizer and air to the roots of trees within the drip line area.
- (3) The city forester shall be contacted before excavating tunnels, ditches, or trenches or the laying of pavement within the tree protection zone.

- (4) All construction and utility activities shall be conducted using techniques which minimize damage to and enhance survivability of all public trees. (as added by Ord. #1432, Nov. 2012)
- **20-509.** <u>Official tree designation</u>. The tree board may recommend to the board of mayor and aldermen the designation of an official tree for the City of Tullahoma. (as added by Ord. #1432, Nov. 2012)
- **20-510.** Historical, memorial, honorary and other special trees. A tree can constitute a unique asset to the community and may be given special protection and care. Upon the recommendation of the tree board the board of mayor and aldermen may designate a unique specimen as a Tullahoma Heritage Tree. The Tullahoma Tree Board may designate memorial and honorary trees. A tree so designated will be given special protection, maintenance and/or recognition as the situation warrants. (as added by Ord. #1432, Nov. 2012)
- **20-511.** Community development. Development within the city shall include the preservation of existing trees whenever possible.
- (1) Adequate protection should be given to trees scheduled to be preserved on a construction site. Appropriate measures, including the erection of protective barriers at the outer edge of the tree protection zone are to be installed around public and private trees identified to be preserved.
- (2) Trees scheduled for planting should be high quality specimens whose physical site requirements are compatible with the intended development project. These trees shall be maintained with mulch and watering for two (2) years after planting, and any trees that die during that time shall be replaced.
- (3) In residential subdivisions, the developer is encouraged to protect all trees that can be preserved and to plant trees according to the minimum standard. Replacement trees should be evenly distributed throughout the subdivision. (as added by Ord. #1432, Nov. 2012)
- 20-512. Violations and enforcement. The city forester has the authority to enforce this chapter and may issue citations to the entities allegedly violating this chapter. These citations shall be made to the city court. Any entity or person or agency found violating this chapter may be deemed guilty of a misdemeanor, according to the laws of the State of Tennessee, and may be fined accordingly, and/or civil penalties may be levied and enforced by the city judge. These penalties include but are not limited to the assessment of any cost incurred by the city in enforcing the provisions hereunder, or in remediating any actions causing pecuniary loss to the city and its trees. The city shall also have the authority to take appropriate civil action against any violator of the provisions hereof, and/or may attach any costs incurred by the city in remediating any damages caused by said violator to the property taxes of the violator, assessed against the property upon or adjacent to which said violation occurred, and same shall be collected as other property taxes and assessments. Each day that any violation of this chapter continues unabated shall constitute

a separate offense and shall be dealt with accordingly. (as added by Ord. #1432, Nov. 2012)

- **20-513. Appeals**. (1) Any person dissatisfied with any decision rendered relative to the enforcement of this chapter by the city court shall have the right to appeal that decision from the city court to the circuit court only in the manner prescribed by law.
- (2) Any person dissatisfied with a decision issued relative to the application or interpretation of this chapter by the city forester shall have the right to appeal that decision in the following progression:
  - (a) Tree board;
  - (b) City administrator;
  - (c) Board of mayor and aldermen.
- (3) The chairperson of the tree board may call a special meeting, upon proper notice to all members and the appealing party, to consider any appeals of such non-penal matters. All rulings by the tree board shall be recorded and transmitted in writing to the appealing party and to the city administrator. If an appeal is made to the city administrator he shall consider the written record and render a decision in writing and furnish it to the appealing party and the tree board. If an appeal of a decision by the city administrator is made to the board of mayor and aldermen, the appealing party and chairman of the tree board must be given an opportunity, upon reasonable notice, to present to the board of mayor and aldermen any facts, evidence or justification to aid said board in making a final decision. All appeals must be made within ten (10) working days of the rendering of any decision. (as added by Ord. #1432, Nov. 2012)
- **20-514.** <u>Citations</u>. All citations for violations issued pursuant to this chapter shall be by certified mail, receipt requested, or by direct service upon the addressee. (as added by Ord. #1432, Nov. 2012)
- **20-515.** Consultants. The tree board, with the prior approval of the city administrator, may engage the services of professional arborists or other experts to aid it in the performance of its duties. (as added by Ord. #1432, Nov. 2012)
- **20-516.** <u>Miscellaneous</u>. All municipal code chapters that contain references to trees are hereby incorporated by reference into this chapter. (as added by Ord. #1432, Nov. 2012)
- **20-517.** Severability. Should any part or provision of this chapter be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the chapter as a whole or any part thereof other than the part held to be invalid. (as added by Ord. #1432, Nov. 2012)

# **EMERGENCY MANAGEMENT**

- 20-601. Establishment of emergency management agency.
- 20-602. Definitions.
- 20-603. Creation of office of coordinator.
- 20-604. Emergency management agency.
- 20-605. Mayor's responsibility, line of authority.
- 20-606. Coordinator responsibility.
- 20-607. Cooperation by agencies.
- 20-608. Volunteer appointees.
- 20-609. City employees' status.
- 20-610. Immunity from liability.
- 20-611. Violations.
- 20-601. Establishment of emergency management agency. There is established an organization, to be known as the Tullahoma Emergency Management Agency, that will insure the complete and efficient utilization of all the city facilities to cope with emergencies from man-made or natural disaster. The agency will be the coordinating agency for all activity in connection with emergency management. It will be the instrument through which the Tullahoma Board of Mayor and Aldermen shall exercise its authority under the laws of this state during an emergency in this city or any part of the state. This chapter will not relieve any Tullahoma city agency or department of the normal responsibilities or authority given to it by general law or local ordinance, nor will it affect the work of the American Red Cross or other volunteer agencies organized for relief in natural disaster. (1988 Code, § 1-1401)
- **20-602. Definitions**. The following definitions shall pertain to this chapter:
- (1) "Emergency." A disaster occurrence or a situation which seriously threatens loss of life and damage to property. It usually develops suddenly and unexpectedly and demands immediate, coordinated, and effective response by government and private sector organizations to protect lives and limit damage to property.
- (2) "Emergency management." Refers to programs and capabilities designed to prepare for, respond to, recover from, and mitigate the effects of all hazards. Emergency management represents the broadest and most useful designation for this program.
- (3) "Disaster." An occurrence of a severity and magnitude that normally results in deaths, injuries, and property damage, and that cannot be managed through the routine procedures and resources of government. It usually develops suddenly and unexpectedly and requires immediate,

coordinated, and effective response by government and private sector organizations to meet human needs and speed recovery.

- (4) "Volunteer." Any person contributing service, equipment, or facilities to the emergency management organizations without remuneration or without formal agreement or contract of hire. While engaged in such services they shall have the same immunities as personnel and employees of the city performing similar duties.
- (5) "Coordinator." The person selected to coordinate the Tullahoma Emergency Management Agency.
- (6) "Emergency operations center." An area designated by the board of mayor and aldermen to provide adequate working space for emergency operations, to include: Communications to local operating forces as well as to higher level and adjacent E.O.C.'s; maps, charts and supplies necessary to permit the board of mayor and aldermen to function efficiently. This facility may be a joint use area under normal conditions.
- (7) "Emergency support services." The departments of local government that have the capability to respond to emergencies 24 hours a day. They include police, fire/rescue, and public works. They may also be referred to as emergency response personnel or emergency operating forces. (1988 Code, § 1-1402)
- 20-603. Creation of office of coordinator. There is hereby created the office of Coordinator of the Tullahoma Emergency Management Agency, who shall be responsible for directing the day-to-day operations of the agency and supporting the activities of the various city agencies and departments during a period of emergency. The coordinator shall be appointed by the mayor and approved by the board. The coordinator shall be empowered and required to coordinate and render assistance to city officials in the development of plans for the use of all facilities, equipment, manpower and other resources of the city for the purpose of minimizing or preventing damage to persons or property in emergency situations. City department heads shall include in such plans the restoration of governmental services and public utilities necessary for the public health, safety, and welfare. The coordinator shall further assist the city administrator in directing the efforts of the city emergency management agency in the implementation of the provisions of this chapter. (1988 Code, § 1-1403)
- **20-604.** Emergency management agency. All city officials and employees together with those volunteer forces enrolled to aid them during emergencies and persons who may by agreement or operation of law be charged with duties incident to the protection of life and property in the city during times of emergency shall constitute the Tullahoma Emergency Management Agency. The city administrator shall direct this agency with the assistance of the coordinator. (1988 Code, § 1-1404)
- **20-605.** <u>Mayor's responsibility, line of authority</u>. The mayor shall be responsible for meeting the problems and dangers to the city and its residents

resulting from emergencies of any origin and may issue proclamations and regulations concerning disaster relief and related matters which during an emergency situation shall have the full force and effect of law. If for any reason, the mayor is not available, the line of authority and responsibility shall be: mayor pro tem, city administrator, police chief. Each department head shall establish and include as part of the emergency operations plan, a line of succession for his department.

A state of emergency may be declared by the mayor by proclamation if he finds a disaster has occurred, or that the threat thereof is imminent, and extraordinary measures are deemed necessary to cope with the existing or anticipated situation. Once declared, the state of emergency shall continue until terminated by proclamation of the city board. All proclamations issued pursuant to this section shall indicate the nature of the emergency in the area or areas affected by the proclamation, the conditions which required the proclamation of emergency and the conditions under which it will be terminated.

In addition to any other powers conferred by law, the mayor may, under the provisions of this chapter:

- (1) Suspend existing laws and regulations prescribing the procedures for conduct of city business if strict compliance with the provisions of any statute, order, rule or regulations would in any way prevent, hinder or delay necessary action in coping with the emergency;
- (2) Utilize all available resources of city government as reasonably necessary to cope with an emergency;
- (3) Transfer the direction, personnel or functions of city departments and agencies or units thereof for purposes of facilitating or performing emergency services as necessary or desirable;
- (4) Compel performance by elected and appointed city government officials and employees of the duties and functions assigned in the city disaster plan;
- (5) Contract, requisition and compensate for goods and services from private sources;
- (6) Direct and compel evacuation of all or part of the population from any striken or threatened area within the city if such action is deemed necessary for the protection of life or other disaster mitigation, response or recovery;
- (7) Prescribe routes, modes of transportation and destinations in connection with evacuation;
- (8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;
- (9) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles;
  - (10) Make provisions for the availability and use of temporary housing;
- (11) Suspend or limit non-emergency activities; prohibit public assemblies; and impose a curfew;
- (12) Delegate to the city administrator and/or coordinator any or all powers granted under this chapter. (1988 Code, § 1-1405, modified)

**20-606.** <u>Coordinator responsibility</u>. The coordinator shall maintain liaison with the state and federal authorities, and the coordinators of other nearby political subdivisions, so as to insure the most effective operation of the emergency plan. He shall be accountable for all funds and property placed in his care.

His duties include, but shall not be limited to, the following:

- (1) Development and maintenance of an emergency operations center and publication of emergency plans in conformity with state emergency plans for the immediate use of all facilities, equipment, manpower and other resources of the city for the purpose of minimizing or preventing damage to persons or property and protecting and restoring the usefulness of governmental services and public utilities necessary for the public health, safety and welfare.
- (2) Control any necessary record-keeping for funds and property which may be made available from the federal, state, county and city governments.
- (3) Submission of annual budget requirements to the city, state and federal governments.
- (4) Signing such documents as are necessary in the administration of the city emergency management program to include project applications and billings for purchases under project applications.
- (5) Coordinating the recruitment and training of volunteer personnel and agencies to augment the personnel and facilities of the city for emergency management purposes.
- (6) Through public information programs, educating the civil population as to the actions necessary and required for the protection of their persons and property in case of emergency.
- (7) Conducting simulated exercises and public practice alerts to insure efficient operations of the emergency management agency and to familiarize residents of the city with emergency regulations, procedures and operations.
- (8) Coordinating the activity of all other public and private agencies engaged in any emergency management programs.
- (9) Negotiating with owners or persons in control of buildings or other property for the use of such buildings or property for emergency purposes, and designating suitable buildings as public shelters.
- (10) Develop a community shelter plan which will have as its ultimate goal an assigned shelter space for every citizen of the city.
- (11) Conduct such activity as may be necessary to promote and execute the emergency operation plan. (1988 Code, § 1-1406)
- **20-607.** Cooperation by agencies. (1) All employees of departments, commissions, boards, committees and other agencies of the city, designated as emergency support services, shall cooperate with the coordinator in the formulation of the city emergency operations plan, and shall comply with the orders of the city administrator and/or mayor when such orders are issued pursuant to the provisions of this chapter.
- (2) All such emergency support services shall notify the city administrator and/or mayor of conditions in the city resulting from man-made

or natural disaster, and they shall inform them of any conditions threatening to reach the proportions of a disaster as defined herein. Failure to notify the mayor and/or administrator, however, shall not prevent the coordinator from exercising any authority assigned to him by this chapter. (1988 Code, § 1-1407)

- **20-608.** <u>Volunteer appointees</u>. (1) Department heads may at any time appoint or authorize the appointment of volunteer citizens to augment the personnel of their departments in time of civil emergency. Such volunteer citizens shall be enrolled as emergency management volunteers, and they shall be subject to the rules and regulations set forth by the department head for such volunteers.
- (2) The coordinator may appoint volunteer citizens to form the personnel of an emergency management service for which the city has no counterpart. He may also appoint volunteer citizens as public shelter managers who, when directed by the mayor, shall open public shelters and take charge of all stocks of food, water and other supplies and equipment stored in the shelter, admit the public according to the community shelter plan and take whatever control measures necessary for the protection and safety of the occupants. The coordinator may also appoint volunteer citizens to man and operate the emergency operations center. (1988 Code, § 1-1408)
- **20-609.** <u>City employees' status</u>. Municipal employees assigned to duty as a part of the emergency support services pursuant to the provisions of this chapter shall retain all the rights, privileges, and immunities of employees, and shall receive the compensation incident to their employment. (1988 Code, § 1-1409)
- **20-610.** <u>Immunity from liability</u>. (1) This chapter is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety, and the city or agents and representatives of the city, or any individual, receiver firm, partnership, corporation, association or trustee, or any of the agents thereof in good faith carrying out, complying with, or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of the chapter shall not be liable for any damage sustained to persons or property as a result of such activity.
- (2) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the city the right to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or threatened emergency, or during an authorized emergency management practice exercise, shall not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission, or for the loss of, or damage to, the property of such person. (1988 Code, § 1-1410)

**20-611.** <u>Violations</u>. It shall be unlawful for any person to violate any of the provisions of this chapter or the regulations issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the civil emergency organization in the enforcement of the provisions of this act or any regulation issued thereunder. Violators shall be subject to the general penalty provisions set forth in the code of ordinances of the City of Tullahoma, Tennessee. (1988 Code, § 1-1411)

#### LOCAL GOVERNMENT EMERGENCY ASSISTANCE POLICIES

### **SECTION**

- 20-701. Emergency assistance policies and procedures for emergency assistance.
- 20-702. Definitions.
- 20-703. Requesting assistance.
- 20-704. Responding to a request for emergency assistance.
- **20-701.** Emergency assistance policies and procedures for emergency assistance. The Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, shall establish by ordinance, and may amend or alter by ordinance from time to time policies and procedures for emergency assistance. These policies and procedures will govern the City of Tullahoma in the process of requesting emergency assistance from another local government or in responding to the request of another local government for emergency assistance.

The following provisions are hereby adopted as guidelines which decisions and implementations will be made regarding emergency assistance. (1988 Code, § 1-1501)

- **20-702.** <u>Definitions</u>. (1) "Emergency assistance" as defined in the Local Government Emergency Assistance Act of 1987 shall mean fire fighting assistance, law enforcement assistance, public works assistance, emergency medical assistance, civil defense assistance, or other emergency assistance provided by local government or any combination or all of these requested by a local government in an emergency situation in which the resources of the requesting local government are not adequate to handle the emergency.
- (2) "Local government" shall mean any incorporated city or town, metropolitan government, county utility district, metropolitan airport authority, or other regional district or authority.
- (3) "Requesting party" means a local government which requests emergency assistance.
- (4) "Responding party" means a local government which responds to a request for emergency assistance.
- (5) "Appropriate senior officer" shall mean department head, fire chief, chief of police, or designated senior officer on duty. (1988 Code, § 1-1502)
- **20-703.** Requesting assistance. All requests for emergency assistance made on behalf of the City of Tullahoma shall be made or authorized by the fire chief or the chief of police. The City of Tullahoma, through its appropriate senior officer, in accordance with the provisions of the Local Government Emergency Assistance Act of 1987, will be in full command of its emergency as to strategy, tactics, and overall direction of the operation and shall direct the

actions of the responding party by relaying orders to the senior officer in command of the responding party.

The City of Tullahoma accepts liability for damages or injuries, as defined in <u>Tennessee Code Annotated</u>, § 29-20-101, <u>et seq.</u>, caused by the negligence of its employees or the employees (including authorized volunteers) of a responding party while under the command of the senior officer of the City of Tullahoma. However, the City of Tullahoma does not accept liability for damages to the equipment or personnel (including authorized volunteers) of a responding party, nor is the City of Tullahoma liable for any damages caused by the negligence of the personnel of the responding party while en route to or returning from the scene of the emergency.

The City of Tullahoma acknowledges that any party from whom assistance is requested has no duty to respond nor does it have any duty to stay at the scene of the emergency and may depart at its discretion. (1988 Code, § 1-1503)

**20-704.** Responding to a request for emergency assistance. The City of Tullahoma will respond to calls for emergency assistance only upon request for such assistance made by the appropriate senior officer on duty for the requesting city. All requests for emergency assistance shall be made only to the fire chief or chief of police or appropriate officer in charge at the time of the request.

Upon the receipt of a request for aid as provided for in the preceding paragraph the city is authorized to respond as follows:

- (1) The city is authorized to provide at least one (1) piece of equipment and one (1) person or crew from that particular service area from which emergency assistance is requested.
- (2) The greatest response that the City of Tullahoma will provide is 50% of the personnel and resources of that particular service for which emergency assistance is requested. The City of Tullahoma response shall be determined by the severity of the emergency in the requesting party's jurisdiction as senior officer of the requesting party.

The City of Tullahoma has no duty to respond to a request and will reject a request for emergency assistance or will depart from the scene of the emergency based upon the discretionary judgment of the appropriate senior officer in command at the scene of the emergency. However, the City of Tullahoma shall not be liable for any property damage or bodily injury at the actual scene of any emergency due to actions which are performed in responding to a request for emergency assistance.

The personnel of the City of Tullahoma shall have extended to any geographical area necessary as result of a request for emergency assistance the same jurisdiction, authority, rights, privileges, and immunities, including coverage under the worker's compensation laws, which they have in the City of Tullahoma.

Emergency assistance requests or responses will be made only with those local governments that have also adopted policies and procedures that govern their actions during such requests or responses. (1988 Code, § 1-1504)

#### **CHAPTER 8**

# **EMERGENCY RESCUE SQUAD**

#### **SECTION**

- 20-801. Established and created.
- 20-802. Function.
- 20-803. Supervision; organization.
- 20-804. Meetings.
- 20-805. Compensation prohibited.
- 20-806. Powers and authority when on duty.
- 20-807. Receipt and expenditure of funds.
- 20-808. Chief to assist civil defense director.
- 20-809. Rendition of service as needed.
- **20-801.** Established and created. There is hereby established and created an emergency rescue squad, to consist of the personnel as hereinafter stated, to be part of and to function with the civil defense organization of the city, and shall cooperate fully with and be under the appropriate county civil defense director for all activities conducted outside the city. (1988 Code, § 1-1601)
- **20-802.** <u>Function</u>. The function of said emergency rescue squad shall be primarily to render emergency rescue service which shall include the following:
- (1) Assist in the recovery of drowned persons in the area of and surrounding the city, in conjunction with the emergency rescue squad of the county, if any;
- (2) The releasing of persons who are trapped beneath debris or in damaged structures;
- (3) Rendering first aid during a period of release of victims or recovery of drowning or drowned persons, and subsequent transportation to the nearest safe location or hospital where they can be cared for or treated by litter bearer teams or first aid personnel;
- (4) The locating and recovery of persons lost in forest areas in and about the city;
- (5) To locate and recover and render assistance to persons marooned in boats or other watercraft;
- (6) To assist in the recovery and first aid treatment and transportation of persons in a dangerous situation, or a situation which is likely to or has damaged or injured such persons, especially in an emergency situation brought about by any calamity:
- (7) To maintain close coordination and cooperation with all other civil defense services, particularly the medical, fire, engineer and warden services, and all other civil services of the city, including the fire department, the police department and the sheriff's office of the county;

- (8) To cooperate with rescue organizations in Coffee County and in all adjoining counties of Coffee and with the rescue service of the civil defense department of the state. (1988 Code, § 1-1602)
- **20-803.** <u>Supervision</u>; <u>organization</u>. The emergency rescue service shall be under the direction and supervision of the director of civil defense of the city. It may by bylaws establish its own organization, rules and regulations, membership requirements, etc.; provided, however, said bylaws shall be approved by the director of civil defense of the city. (1988 Code, § 1-1603)
- **20-804.** <u>Meetings</u>. The rescue service shall meet at such place as designated by the chief, and as may be available, at least twice each month for training purposes and to transact such business as may be necessary by the rescue service. (1988 Code, § 1-1604)
- **20-805.** <u>Compensation prohibited</u>. All of the personnel of the rescue service shall be upon a voluntary basis and no compensation shall be paid to any of the personnel of said service for their services as such. (1988 Code, § 1-1605)
- **20-806.** Powers and authority when on duty. While on duty, in performing the functions of the rescue service, all personnel shall be under the direction and control of the director of civil defense, or his assistant, the chief of the rescue service, and shall be empowered to act with and have the same authority as a member of the civil defense organization of the city and pursuant to the laws of the state. (1988 Code, § 1-1606)
- 20-807. Receipt and expenditure of funds. The rescue service shall have the right to receive and expend such sums as may be appropriated by the board of mayor and aldermen, and to receive and expend such sums as may be donated by any private organization, club, association or person to it for the expenses of said rescue service and for the purchase of equipment or supplies in connection therewith, and said rescue service shall have the right to purchase such equipment as needed by it from or through the civil defense department of the state or the federal civil defense administration, as and a part of the civil defense organization of the city. (1988 Code, § 1-1607)
- **20-808.** Chief to assist civil defense director. The chief of the rescue service shall act as assistant to the director of civil defense of the city, in rescue matters. (1988 Code, § 1-1608)
- **20-809.** Rendition of service as needed. The service of the rescue unit shall be available, upon the need for the same, of any individual in the city, or upon the need of any other rescue service in Coffee County and adjoining counties; the service to be rendered upon authority and under the direction of the director of civil defense or his duly appointed assistant. (1988 Code, § 1-1609)

#### **CHAPTER 9**

## **BURGLARY AND ROBBERY ALARMS**

#### **SECTION**

- 20-901. Definitions.
- 20-902. Classification of alarm systems.
- 20-903. General provisions.
- 20-904. Alarm system requirements.
- 20-905. Permits required.
- 20-906. Issuance of permit and decal.
- 20-907. Permit fees.
- 20-908. Inspection of alarm system.
- 20-909. Current information required.
- 20-910. False alarm fees.
- **20-901.** <u>Definitions</u>. (1) "Alarm system" means a device or system of interconnected devices, including hardware and related appurtenances, mechanical or electrical, designed to give warning of activities indicative of felony and criminal conduct requiring urgent attention and to which the police department is expected to respond but does not include alarms installed in conveyances or fire alarms.
- (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 any alarm system is maintained.
- (3) "Communication center" means the Coffee County Consolidated Communication Center that provides communication service to the Tullahoma Police Department.
- (4) "False alarm" means any activation of an alarm system upon or following which communication is made to the department that an alarm has been triggered, except alarms resulting from one (1) of the following causes:
  - (a) Criminal activity or unauthorized entry.
  - (b) Earthquake causing structural damage to the protected premises.
  - (c) Tornado winds causing structural damage to the protected premises.
  - (d) Flooding of the protected premises due to the overflow of natural drainage.
  - (e) A lightning bolt causing physical damage to the protected premises.
  - (f) Fire causing structural damage to the protected premises verified by the fire department.
  - (g) Telephone line malfunction verified in writing to the department by at least a first line telephone company supervisor within seven (7) days of the occurrence.

If police units, responding to an alarm and checking the protected premises according to standard department operating procedure, do not discover any evidence of unauthorized entry or criminal activity, there shall be a rebuttable presumption that the alarm is false. Entries in the police department daily officer's log shall be prima facie evidence of the facts stated therein with regard to alarms and responses. (1988 Code, § 1-1801, as replaced by Ord. #1393, Nov. 2009)

- **20-902.** <u>Classification of alarm systems</u>. (1) <u>Class I</u>. An alarm system is one which incorporates a remote annunciator installed on the premises of the department or the communications center.
- (2) <u>Class II</u>. An alarm system incorporating an automatic dialer which directly or indirectly requires a response by the Tullahoma Police Department.
- (3) <u>Class III</u>. An alarm system in which the annunciator is an audible annunciator located at the protected premises, and which does not incorporate an automatic dialer. Class III alarms are exempt from the requirements of this chapter. (1988 Code, § 1-1802, as replaced by Ord. #1393, Nov. 2009)
- **20-903.** <u>General provisions</u>. Reserved by Ord. #889, § C. (1988 Code, § 1-1803, as replaced by Ord. #1393, Nov. 2009)
- **20-904.** Alarm system requirements. (1) No alarm system shall be installed, used or maintained in violation of any of the requirements of this code.
- (2) The alarm user shall be responsible for training and re-training all employees, family members and other persons who may make regular use of the protected premises and who may, in the normal course of their activities, be in a position to accidentally trigger a sensor.
- (3) The alarm user shall, at all times, be responsible for the proper maintenance and repair of the system.
- (4) In event of power failure or outage, only those systems with a power system back-up will be responded to. Others will be presumed to be set by loss of power. (1988 Code, § 1-1804, as replaced by Ord. #1393, Nov. 2009)
- **20-905.** Permits required. (1) It shall be unlawful for any person to use or maintain any alarm system without a current valid permit.
- (2) In the event police investigate an alarm, the permit holder or an agent shall cooperate by promptly coming to the premises upon request. Refusal shall constitute grounds for suspension or revocation of a permit.
- (3) If an alarm user has one (1) or more alarm systems protecting two (2) or more structures having different addresses, a separate permit will be required for each structure. (1988 Code, § 1-1805, as replaced by Ord. #1393, Nov. 2009)
- **20-906.** <u>Issuance of permit and decal</u>. (1) Upon receipt by the city recorder of the permit application and fee, if applicable, the chief of police or his

- designee shall undertake whatever investigation or inspection he deems necessary.
- (2) If the investigation by the chief of police is satisfactory, a decal with the alarm user's permit number will be issued with the permit. This decal must be permanently posted on or near the front entrance to the premises so that the information on the decal is visible from outside of the structure. (1988 Code, § 1-1806, as replaced by Ord. #1393, Nov. 2009)
- **20-907.** <u>Permit fees</u>. (1) <u>Class I</u> One hundred twenty dollars (\$120.00)--A one-time fee to be paid when the initial application for a permit hereunder is filed with the city.
- (2) <u>Class II</u> No fee -- however, persons with Class II alarm systems must obtain a permit. (1988 Code, § 1-1807, as replaced by Ord. #1393, Nov. 2009)
- **20-908.** <u>Inspection of alarm system</u>. Prior to issuing an alarm system permit, and at any time thereafter, the chief of police may inspect any alarm system for which a permit is required. Such inspection shall be for the purpose of ascertaining that information furnished by the applicant or permittee is correct, and that the system is maintained in conformation with the provisions of this chapter. (1988 Code, § 1-1808, as replaced by Ord. #1393, Nov. 2009)
- **20-909.** Current information required. Within ten (10) days following any change of circumstances which renders obsolete any of the information previously submitted, the alarm user shall file an amendment to his application setting forth the currently accurate information. Failure to comply with this section shall constitute grounds for revocation of the permit. (1988 Code, § 1-1809, as replaced by Ord. #1393, Nov. 2009)
- **20-910.** False alarm fees. (1) Whenever an alarm is activated in the city, thereby requiring an emergency response to the location by the police department, and the police department does respond, a police officer on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response is in fact required as indicated by the alarm system or whether in some way the alarm system malfunctions and thereby activated a false alarm.
- (2) Charges for false alarms received by the City of Tullahoma shall be twenty-five dollars (\$25.00) for each false alarm except for those caused by violent acts of nature, provided, however, that each alarm user with a valid permit shall not be charged for the first false alarm each calendar year. Said service charge for answering a false alarm incurred shall be billed and payment made within thirty (30) days from the date of receipt thereof. The penalty for monitoring alarm systems shall increase or decrease automatically in compliance with state law as codified in <u>Tennessee Code Annotated</u>, § 62-32-321(e). (1988 Code, § 1-1810, as replaced by Ord. #1393, Nov. 2009)

# **CHAPTER 10**

# COMPREHENSIVE SCHEDULE OF FEES AND CHARGES

# **SECTION**

Building and code administration fees.
Police and fire department fees.
Finance and administration fees.
Reserved.
Zoning and subdivision regulation fees.
Public works and solid waste fees.
Animal control and shelter fees.
[Deleted.]

# 20-1001. Building and code administration fees.

# (1) Building permit fees.

<u>Total Valuation</u>	<u>Fee</u>
\$1-\$50,000	\$30.00 up to the first \$1,000.00 plus \$5.00 for each additional \$1,000.00, or fraction thereof, up to and including \$50,000.00.
\$50,001-\$100,000	\$275.00 for the first \$51,000.00 plus \$4.00 for each additional \$1,000.00, or fraction thereof, up to and including \$100,000.00.
\$100,001-\$200,000	\$500.00 for the first \$ 101,000 plus \$3.00 for each additional \$1,000.00, or fraction thereof, up to and including \$200,000.00.
\$200,001-\$500,000	\$750.00 for the first \$201,000.00 plus \$3.00 for each additional \$1,000.00, or fraction thereof, up to and including \$500,000.00.
\$500,001 and up	\$1,500.00 for the first \$500,001 plus \$2.00 for each additional \$1,000.00 or fraction thereof.

- (2) <u>Calculation of valuation</u>. The valuation for new construction and additions shall be determined by the costs listed in the latest quarterly edition of the International Code Council data sheet.
  - (3) Code administration and related fees.
    - (a) Re-inspection fee \$25.00/building or structure.
  - (b) Plan review and permit processing. When the valuation of the proposed construction is equal to or greater than five hundred dollars (\$500.00), the applicant shall pay a plan review fee equivalent to one-half (50%) of the building permit fee.
  - (c) Failure to obtain a building permit. Any person who commences any work on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits, shall be subject to a penalty of one hundred percent (100%) of the usual permit fee in addition to the required permit fees (i.e. double permit fees).
  - (4) Plumbing permit and related fees.

(5)

<u>Type</u>	<u>Fee</u>
(a) Plumbing permit-single-family dwelling	\$75.00
(b) Plumbing permit - sprinkler system inspection fee	\$100.00 or \$1.00 per sprinkler head, whichever is greater; and subject to re-inspection fee of \$25.00
(c) Plumbing permit all other types	\$75.00
(d) Mechanical permit - one and two family	\$75.00
(e) Mechanical permit - all other types	\$75.00
Demolition permit.	
Type	Fee
(a) Residential	\$75.00
(b) Non-residential	\$150.00

- (6) Pool permit.
  - (a) All above-ground \$100.00 swimming pools
  - (b) All in-ground swimming \$200.00 pools
- (7) State electrical permit processing. \$25.00
- (8) <u>Publicly-owned property fee waivers</u>. Some fees for building permits, plan review and processing, plumbing permits, gas permits, and mechanical permits may be waived for public construction projects conducted upon publicly owned property, upon recommendation by staff and approval of the board of mayor and aldermen. (Ord. #1156, Oct. 1996, as replaced by Ord.#1369, June 2009, Ord.#1389, Sept. 2009, Ord. #1447, June 2015, and Ord. #1522, June 2019 *Ch10\_6-22-20*)

# 20-1002. Police and fire department fees.

<u>Type</u>		<u>Fee</u>
(1)	Police (accident and case) reports	\$0.15 per page
(2)	Police record check	\$5.00/individual
(3)	Special duty officer	\$26.59 per officer/hour
(4)	Reserve officer	\$12.00 per officer/hour
(5)	Fire incident reports	\$5.00 per report
(6)	Miscellaneous copies	\$0.15/page
(7)	Police department video	\$10.00
(8)	Hazmat clean-up	Cost plus 15%

(Ord. #1156, Oct. 1996, as amended by Ord. #1348, and replaced by Ord. #1369, June 2008, and Ord. #1447, June 2015)

# 20-1003. Finance and administration fees.

<u>Type</u>		$\underline{\text{Fee}}$
(1)	Copies (black and white)	\$0.15/page
(2)	Copies (color)	\$0.25/page
(3)	Solicitor permit	\$20.00
(4)	Business master file list	\$10.00
(5)	Background checks	\$50.00

(Ord. #1156, Oct. 1996, as replaced by Ord. #1369, June 2008, and Ord. #1447, June 2015)

**20-1004.** Reserved. (Ord. #1156, Oct. 1996, as replaced by Ord. #1369, June 2008, and Ord. #1447, June 2015)

# 20-1005. Planning and zoning fees.

	<u>Type</u>	_	<u>Fee</u>	
	(1)	Zoning amendments	\$300.00	
	(2)	Preliminary plat and		
		construction plan review fee	\$15.00 per lot	
	(3)	Subdivision construction plan	\$400.00	
	(4)	Site plan	\$250.00	
	(5)	Final plant	\$10.00 per lot	
	(6)	Planned unit	Residential:	
		Development and zero lot	1-15 dwelling units: \$150.00 per lot	
line development review fee Review fee		line development review fee	16 or more dwelling units: \$100.00 per lot	
		Review fee	Commercial:	
	Less than 5,000 sf of GFA: \$300 per 1,00			
Greater than 5,000 sf of GFA: \$200 per 1,00				
Mixed use:			Mixed use:	
			1-15 dwelling units: \$150.000 per lot	
			16 or more dwelling units: \$100 per lot	
			Less than 5,000 sf of GFA: \$300 per 1,000 sf	
			Greater than 5,000 sf of GFA: $$200 \text{ per } 1,000 \text{ sf}$	
	(7)	Temporary use permit	\$100.00	
	(8)	Conditional use permit	\$100.00	
	(9)	Variance review fee	\$200.00	
	(10)	Appeal review fee	\$200.00	
	1111 20	0 + 1000 1 11 (	0 1 44000 T 0000 O 1 44000 C 1	

(Ord. #1156, Oct. 1996, as replaced by Ord. #1369, June 2008, Ord. #1389, Sept. 2009, Ord. #1447, June 2015, and Ord. #1522, June 2019 *Ch10\_6-22-20*)

# 20-1006. Public works and solid waste fees.

<u>Type</u>		$\underline{\mathrm{Fee}}$
(1)	Solid waste fees	
	(a) Business dumpster	\$4.27/cy per dump
	(b) Business can	\$8.54/cart per month)
(2)	Roadway spill clean-up fee	\$100.00/hour
(Ord. #1156,	Oct. 1996, as replaced by Ord. #1369,	June 2008, and Ord. #1447,
June 2015)		

# 20-1007. Animal control and shelter fees.

<u>Type</u>		<u>Fee</u>
(1)	Pick-up fee	\$50.00/animal
(2)	Fine	\$25.00/animal
(3)	Maintenance of animals	\$15.00/animal per day
(4)	Quarantined animals	\$15.00/animal/per day
(5)	Adoption fee	\$100.00/animal
(6)	Unvaccinated animal fine	\$50.00

(Ord. #1156, Oct. 1996, as amended by Ord. #1348, Dec. 2006, replaced by Ord. #1369, June 2008, Ord. #1447, June 2015, and Ord. #1571, Feb. 2022  $Ch11\_08-08-22$ )

**20-1008.** [Deleted.] (Ord. #1156, Oct. 1996, as deleted by Ord. #1369, June 2008)

#### CHAPTER11

## ARTS COUNCIL

#### SECTION

20-1101. Created.

20-1102. Purpose.

20-1103. Composition.

- **20-1101.** Created. There is hereby created the Tullahoma Arts Council that is vested with the responsibility to promote the arts in the community of Tullahoma through awareness, appreciation, education and support thereby creating a connection between artists and audiences to enrich the quality of life for all and position Tullahoma as an arts rich community and regional arts destination. (as added by Ord. #1439, Aug. 2013)
- **20-1102.** Purpose. The arts council is formed to implement the mission statement through development of a unified arts calendar, improved communication among various arts groups and promotion of participation of professional artists, interested amateurs, educators, students and audiences. It is also responsible for the acquisition and maintenance of the city's public artwork collection, as well as to serve as advisors and advocates for the enhancement and integration of the arts in the community. The arts community includes artists and organizations that comprise the performing, cultural, visual and dramatic arts. (as added by Ord. #1439, Aug. 2013)
- **20-1103.** Composition. The Tullahoma Arts Council shall be comprised of no more than eleven (11) voting members, appointed by the board of mayor and aldermen. Members shall serve without compensation.
- (1) Members should be selected based upon interest and involvement in the various arts and represent a cross-section of the arts community. The arts council will be comprised of:
- One (1) representative from the community playhouse, appointed annually;
- One (1) representative from the South Jackson Civic Association, appointed annually;
- One (1) representative from the Tullahoma Fine Arts Center, appointed annually;
- One (1) representative from the Tullahoma High School, appointed annually;

Seven (7) at-large members, appointed for three (3) year terms.

- (2) The Tullahoma High School representative will be appointed with the recommendation of the Tullahoma High School principal.
- (3) Members shall be residents of the city or the urban growth boundary of Tullahoma.

- (4) At-large members will serve three (3) year terms. Terms will be staggered for organizational continuity.
- (5) The initial terms for the at-large members will be: two (2) members for three (3) years; two (2) members for two (2) years; and three (3) members for one (1) year. (as added by Ord. #1439, Aug. 2013)

# **CHAPTER 12**

(as added by Ord. #1496, Jan. 2018, and deleted by Ord. #1513, Oct. 2018  $\it Ch10\_6-22-20$ )

# ZONING ORDINANCE FOR THE CITY OF TULLAHOMA, TENNESSEE

Ord. #1392 Nov. 9, 2009

(Appendix A, and any amendments thereto, is maintained by the Planning and Codes Department of the City of Tullahoma and is available on their website)

# APPENDIX "B"

# STORMWATER MANAGEMENT ORDINANCE

This Appendix B was replaced by Ord. #1433, Sept. 2013 and can be found in Title 18, Chapter 2 of this municipal code.

# APPENDIX "C"

# COMPREHENSIVE SCHEDULE OF FEES AND CHARGES

This Appendix C was replaced by Ord. #1156, Oct. 1996, and amended by Ord. #1175, June 1997, and can be found in Title 20, Chapter 10 of this municipal code.

# APPENDIX D COMPREHENSIVE DEVELOPMENT PLAN

(Replaced by Ord. #1417, August 22, 2011 and is on file in the recorder's office)

#### APPENDIX E

#### ORDINANCE NO. 1242

AN ORDINANCE TO RENEW THE FRANCHISE HERETOFORE GRANTED TO RIFKIN/TENNESSEE, LTD., TO BUILD, CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF TULLAHOMA, TENNESSEE, AS SET FORTH IN ORDINANCE NO. 1044 OF THE CITY OF TULLAHOMA, TENNESSEE, PASSED ON THIRD READING ON JANUARY 19, 1992, PURSUANT TO THE RENEWAL PROVISIONS SET FORTH IN SECTION 15, THEREOF, AS SAID FRANCHISE WAS AMENDED PURSUANT TO THE PROVISIONS OF ORDINANCE NO. 1091 ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, ON NOVEMBER 8, 1993, AND AS FURTHER AMENDED BY ORDINANCE NO. 1092 ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, NOVEMBER 8, 1993, SAID FRANCHISE HAVING THEREAFTER BEEN TRANSFERRED FROM RIFKIN/TENNESSEE, LTD., TO CHARTER COMMUNICATIONS, INC., BY ORDINANCE NO. 1216, ENACTED ON JULY 26, 1999.

# BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, as follows:

WHEREAS, by the provisions of Ordinance No. 1044, enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on January 13, 1992, a franchise was granted to Rifkin/Tennessee, LTD., to build, construct, operate, and maintain a cable television system in the City of Tullahoma, Tennessee, and setting forth conditions accompanying the granting thereof, and to create therefor Appendix "E" to the Code of Ordinances of the City of Tullahoma, Tennessee, as amended by Ordinance No. 1091 enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on November 8, 1993, to implement the Customer Service Obligation Standards of the Cable Television Consumer Protection and Competition Act of 1992, to provide for a higher level of customer service by the cable operator than then currently provided in the original franchise agreement, and as further amended by Ordinance No. 1092 enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on November 8, 1993, which Ordinance created a Title 6, "Finance and Taxation," Chapter 1 "In General," entitled "A SECTION PROVIDING REGULATIONS GOVERNING RATES TO BE CHARGED FOR BASIC CABLE TELEVISION SERVICE AND EQUIPMENT," which section is entitled "Regulation of Basic Cable Television Service and Equipment," which franchise was by Ordinance No. 1216, transferred from Rifkin/Tennessee, LTD., to Charter Communications, Inc., enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on July 26, 1999.

WHEREAS, pursuant to Ordinance No. 1044 aforementioned, in Section 15 thereof, at the expiration of the initial term of said franchise which was for ten years, beginning February 1, 1992, and ending January 31, 2002, the franchise was granted the right to renew said franchise for two five-year renewals;

WHEREAS, the current franchisee is desirous of exercising its rights to so renew the franchise for the first five-year renewal period, and the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, is pleased to grant same renewal:

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that the franchise heretofore granted above in Ordinance No. 1044, as amended by Ord. #No. 1092, and Ordinance No. 1093, and assigned by the original franchisee to the current franshisee is hereby renewed for a term of five years commencing February 1, 2002, and ending January 31, 2007.

BE IT FURTHER ORDAINED that this Ordinance shall take effect and be in full force and effect from and after its passage, the public welfare requiring it.

CITY OF TULLAHOMA, TENNESSEE

	BY _	s/		
			MAYOR	
ATTEST:				
s/Patricia H. Williams CITY RECORDER				
PASSED ON FIRST READING	:	1-28-02		
PASSED ON SECOND READI	NG:	2-11-02		
PASSED ON THIRD READING	Ţ.	3-12-02		

## ORDINANCE NO. 1216

AN ORDINANCE GRANTING CONSENT BY THE CITY OF TULLAHOMA, TENNESSEE, TO A TRANSFER BY RIFKIN/TENNESSEE, LTD, A TENNESSEE LIMITED PARTNERSHIP, OF A FRANCHISE HERETOFORE GRANTED TO RIFKIN BY ORDINANCE NO. 1044, AS AMENDED, PURSUANT TO PROVISIONS THEREOF.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, as follows:

SECTION ONE: By the provisions of Ordinance No. 1044, the City of Tullahoma, Tennessee, by and through its board of mayor and aldermen granted a franchise to Rifkin/Tennessee, LTD, a Tennessee Limited Partnership ("Rifkin"), to build, construct, operate, and maintain a cable television system in the City of Tullahoma, Tennessee, and therein in Section 3 (c) thereof, provided that the franchise award shall not be assigned, etc., without the prior consent of the City of Tullahoma expressed by ordinance, and Rifkin has now sought said consent from city, which consent city is pleased to grant, pursuant to the terms hereof.

SECTION TWO: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that the City of Tullahoma, Tennessee does hereby grant its consent to the transfer by Rifkin (now known as Rifkin Acquisition Partners, L.L.L.P., a Colorado registered Limited Liability Limited Partnership which purportedly owns and operates this system established pursuant to the provisions of Ordinance Number 1044) pursuant to that CONSENT OR APPROVAL TO TRANSFER CONTROL OF CATV FRANCHISE (Consent) executed by the City of Tullahoma, Tennessee, on the 12<sup>th</sup> day of July , 1999.

SECTION THREE: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that said consent is hereby granted subject to the provisions that the transferee contemplated thereby shall assume and be liable for any and all obligations and/or liabilities of the transferor to the City of Tullahoma, Tennessee, pursuant to the provisions of the franchise, and/or pursuant to law, without releasing transferor from its obligations and/or liabilities to city.

SECTION FOUR: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that all ordinances in conflict herewith and all provisions in the Code of

Ordinances of the City of Tullahoma, in conflict herewith are hereby repealed in their entirety, to the extent of any conflicts.

SECTION FIVE: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that if any section, subsection, paragraph, sentence, item or clause of this ordinance shall for any reason be declared unconstitutional or invalid, such declaration shall not affect any other portion of this ordinance, it being the intent that the sections, subsections, paragraphs, sentences, items or clauses of the ordinance shall be treated as severable.

SECTION SIX: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that this ordinance shall take effect and be in full force and effect from and after its passage and from and after its caption being published one time in a newspaper of general circulation in Coffee County, Tennessee, the public welfare requiring it.

CITY OF TULLAHOMA, TENNESSEE

#### ORDINANCE NO. 1091

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF TULLAHOMA, TENNESSEE BY ADDING CERTAIN PROVISIONS THERETO IN APPENDIX "E" OF THE CODE OF ORDINANCES OF THE CITY OF TULLAHOMA, TENNESSEE, CREATED BY ORDINANCE NO. 1044 ENACTED DECEMBER 13, 1992, WHICH IS ENTITLED "THE TERMS AND CONDITIONS OF THE CABLE TELEVISION FRANCHISE", AND AN ORDINANCE TO AMEND THE CURRENT CATV FRANCHISE AND TO IMPLEMENT THE CUSTOMER SERVICE OBLIGATION STANDARDS OF THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992 ("CABLE ACT OF 1992") PROVIDING FOR A HIGHER LEVEL OF CUSTOMER SERVICE BY THE CABLE OPERATOR THAN CURRENTLY PROVIDED IN THE FRANCHISE AGREEMENT BETWEEN THE CITY OF TULLAHOMA, TENNESSEE AND RIFKIN/TENNESSEE, LTD. (THE CABLE OPERATOR).

SECTION ONE: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that Appendix "E" to the Code of Ordinances of the City of Tullahoma, Tennessee, which provides as follows:

See Exhibit "A" hereto for the text of the amendment.

SECTION TWO: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that all ordinances in conflict herewith and all provisions in the Code of Ordinances of the City of Tullahoma, in conflict herewith are hereby repealed in their entirety, to the extent of any conflicts.

SECTION THREE: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that if any section, subsection, paragraph, sentence, item or clause of this ordinance shall for any reason be declared unconstitutional or invalid, such declaration shall not affect any other portion of this ordinance, it being the intent that the sections, subsections, paragraphs, sentences, items or clauses of this ordinance shall be treated as severable.

SECTION FOUR: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that this ordinance shall take effect and be in full force and effect from and after its passage and from and after its caption being published one time in a newspaper of general circulation in Coffee County, Tennessee, and 90 (ninety)

days after the cable operator has received a copy of this ordinance, the public welfare requiring it.

# 

#### EXHIBIT "A"

WHEREAS, the CITY of Tullahoma, Tennessee determines that the level of service provided to the residents of the city would be greatly enhanced through the adoption of customer service standards provided by the Cable Act of 1992; and

WHEREAS, the CITY of Tullahoma, Tennessee hereby notifies the cable operator RIFKIN pursuant to the Cable Act of 1992 that it intends to adopt the customer service standards; which are as follows:

Section 1. In accordance with the Cable Television Consumer Protection and Competition Act of 1992, Section 76.309 subpart H, the following standards are incorporated into the existing CATV franchise:

## Cable system office hours and telephone availability:

- (1) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.
  - (a) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
  - (b) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
- (2) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.
- (3) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

- (4) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.
- (5) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:

- (1) Standard installations will be performed within seven (7) business days after an order has been places. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
- (2) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.
- (3) The "appointment window" alternatives for installations, service calls, and other installations activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)
- (4) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
- (5) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

Communications between cable operators and cable subscribers

(1) Notification to subscribers—

- (a) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:
  - (1) Products and services offered;
  - (2) Prices and options for programming services and conditions of subscription to programming and other services:
  - (3) Installation and service maintenance policies;
  - (4) Instructions on how to use the cable service;
  - (5) Channel positions programming carried on the system; and,
  - (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.
- (b) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

# (2) Billing-

- (a) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
- (b) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.
- (3) Refunds Refund checks will be issued promptly, but no later than either
  - (a) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

- (b) The return of the equipment supplied by the cable operator if service is terminated.
- (4) Credits Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

#### **Definitions**

- (1) "Normal business hours." The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.
- "Normal operating conditions." The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual whether conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
- (3) "Service interruption." The term "service interruption" means the loss of picture or sound on one or more cable channels.

#### Ordinance No. 1044

#### Cable Television Franchise

AN ORDINANCE granting a franchise to Rifkin/Tennessee, Ltd., a Tennessee Limited Partnership, to build, construct, operate and maintain a cable television system in the City of Tullahoma, Tennessee and setting forth conditions accompanying the granting of this franchise, and an ordinance to create therefor Appendix "E" to the Code of Ordinances of the City of Tullahoma, Tennessee.

Be it ordained by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, as follows:

Section 1 - Title. This Ordinance shall be known and may be cited as the terms and conditions of the cable television franchise.

<u>Section 2 – Definitions.</u> For the purpose of this ordinance, and when not inconsistent with the context, words used herein in the present tense include the future; words in plural include the singular, and vice versa. The word "shall" is always mandatory. The captions supplied herein for each section are for convenience only. Said captions have no force of law, are not part of the section and are not to be used in construing the language of the section. The following terms and phrases, as used herein, shall be given the meaning set forth below:

- (a) "City" or "Grantor" is the City of Tullahoma, Tennessee, a municipal corporation under the laws of the State of Tennessee, or any successor to the legislative powers of the present city.
- (b) "Grantee" or "Company" is Rifkin/Tennessee, Ltd., a limited partnership organized, existing under the laws of the State of Tennessee, and doing business as Tullahoma Cablevision, it is the grantee of rights under this franchise.
- (c) "Franchise" is the rights granted to any person by the City of Tullahoma under the terms of this and any agreement entered into by and between the City of Tullahoma, Tennessee, and such person according to the terms of this code.
- (d) "Governing body" is the governing legislative body of the City of Tullahoma, Tennessee.
- (e) "Person" is any person, firm partnership, association, corporation, company or organization of any kind.

- (f) "Cable system" or "Cable television system" means a system of coaxial cables or other electrical conductors, including optical transmission media, and equipment used or to be used primarily to receive or transmit television or radio signals originated directly or indirectly or taken off the air and to transmit them to the subscribers for a fee.
  - (g) "CATV system" shall mean cable system.
- (h) "Corporate limits" shall include all areas lying within the limits of the City of Tullahoma., Tennessee, as from time to time changed by annexation or other legal methods.
- (i) "Federal Communications Commission" or "FCC" is the Federal Commission or Agency created pursuant to the Communications Act of 1934 or its successor agency.
- (j) "Channels" shall mean a group of frequencies in the electromagnetic spectrum capable of carrying an audio-data or an audio-video television signal. Each channel is a block of frequencies containing a six MHz band width.
- (k) "Basic cable service" means any service tier which includes the retransmission of local television broadcast signals
- (l) "Gross annual receipts" shall mean all revenue derived directly by the grantee and its subsidiaries, from or in connection with the operation of the cable TV system pursuant to this ordinance; including, but not limited to, gross annual basic cable service receipts, gross annual premium channels receipts, all other service receipts, gross annual advertising receipts, gross annual receipts from use of commercial channels, installation and reconnection fees, and converter and other equipment rentals; provided, however, that this shall not include any taxes on services furnished by the grantee herein, imposed directly upon any subscriber or user by the state, city or other governmental entity and collected by the grantee on behalf of said governmental unit.
- (m) "City of Tullahoma" means the present municipal corporation of City of Tullahoma, together with any future annexation made pursuant to law. Also referred to as "City."
- (n) "Ordinance" or "Franchise ordinance" means this ordinance which grants a franchise and defines the specific rights and obligations of each party pursuant to the general authority, powers and restrictions of this ordinance.

- (o) "Streets" shall mean the surface of and all rights-of-way and the space above and below any public street, road, highway, bridge, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive, waterway, dock, wharf, pier, or easement now or hereafter held by the city for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the city which shall, within their proper use and meaning entitle the franchisee to the use thereof for the purposes of installing or transmitting cable television system transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable television system.
- (p) "Year" means the remaining portion of any calendar year in which a franchise is granted. Thereafter, "Year" means a full calendar year.

# Section 3 - Grant of authority.

- (a) The city warrants it has a right to issue a franchise and the grantee, by acceptance, acknowledges and accepts the right of the city to issue the same.
- (b) The city hereby grants to grantee, subject to the right of amendment as hereinafter provided, the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation in the city of a cable system for the interception, retransmission, sale, and distribution of television signals, radio, data, or other electronic signals as may be deemed appropriate by the grantee, upon the limitations, terms, and conditions in this ordinance contained, as the same may be from time to time amended.
- (c) This franchise award shall not be sublet, assigned or leased, nor shall any of the rights or privileges therein granted or authorized be transferred or assigned, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, title, interest or property therein pass to or vest in any person except the grantee, either by act of the grantee or by operation of law, without the prior consent of the City of Tullahoma expressed by ordinance, which consent will not be unreasonably withheld. The board of mayor and aldermen shall have forty-five (45) days to approve or disapprove any such assignment. If no action is taken by the board within 45 days, approval is automatically granted.

(d) The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive when granted by the City of Tullahoma.

# Section 4 – Compliance with applicable laws

- Unless otherwise prohibited by state and federal laws, or where jurisdiction has been or shall be conferred upon a state or federal commission, board or body, the City of Tullahoma reserves a right by ordinance or resolution to regulate such cable system as to attachment fees, if any; rates and charges to be paid by the subscribers for the service; the quality of service to be provided subscribers: the rate of construction of facilities so as to serve the territorial area referred to hereinafter; to promulgate rules and regulations and other necessary supervisory procedures to assure prompt completion of the system; to provide service for all citizens of the City of Tullahoma and its political jurisdiction wherever located; to set a schedule of construction that will attain the said completion of such system as hereinabove last stated; and to adopt such other rules and regulations it may now or hereafter lawfully impose in keeping with and not in conflict with applicable state or federal law, or the lawful rules and regulations heretofore or hereafter adopted by any federal commission, board or body; and/or any lawful state rules and/or regulations lawfully adopted by any state commission, board or body.
- (b) Grantee, its successors and assigns granted a franchise hereunder shall be subject to lawful regulations heretofore or hereafter adopted by the Federal Communications Commission and should it now be or hereafter become subject to the jurisdiction of any other commission then also to the lawful rules and regulations adopted by such commission and also to the lawful rules and regulations adopted by any similar federal commission or state regulatory body, having jurisdiction. If the grantee, its successors or assigns, shall fail to comply with any material federal and/or state statute, rules, regulations, orders or conditions lawfully vested under federal law in any federal regulatory body and/or rules, regulations, orders and conditions lawfully vested in any state regulatory body and/or rules regulations, orders and conditions lawfully vested in the City of Tullahoma, the City of Tullahoma shall have the right to terminate or cancel any franchise granted hereunder after written notice to the grantee to correct such failure or default and such failure or default shall continue for a period of time specified in such notice, not less than ninety (90) days.
- (c) Grantee shall be subject to all city resolutions, rules and regulations and grantee shall also be subject to all applicable rules and regulations which, from time to time, may be allowed and/or promulgated by the Federal Communications Commission for cable television systems.

(d) This franchise may be altered, amended or changed to comply with and reflect any change in any state or federal law, not in conflict with the cable act, as to any additional powers or rights given to the city with reference to the operation of the cable television system upon thirty (30) days written notice to the grantee prior to such amendment, alteration or change.

<u>Section 5 – Franchise and area.</u> Any franchise granted hereunder relates to the present limits of the City of Tullahoma and to any area hereafter added thereto during the term of any franchise granted hereunder.

<u>Section 6 – Distribution system.</u> Upon the effective date of this ordinance, the grantee will, to the best of its ability and within a reasonable time frame, undertake to replace and/or upgrade its exiting cable structures, lines and equipment such that the distribution system is capable of carrying in the forward direction at least thirty-five (35) television channels. All new, rebuilt, or upgraded distribution facilities will be capable of stereo sound and two-way transmission. The actual number of channels provided will be dependent upon the market demand of the customers of the cable television system, but not less than that number provided at the time of passage of this ordinance.

Such rebuilding, replacement and/or upgrading of the distribution system shall be completed in accordance with a schedule presented to and approved by the board of mayor and aldermen at the time of final reading of the franchise ordinance. Should the grantee request the board of mayor and aldermen to extend such schedule, justification for such extension shall be presented and substantiated to the board of mayor and aldermen. A request for such extension shall not be unreasonably denied, and any denial of such extension, in whole or in part, shall be accomplished in a written statement by the board of mayor and aldermen which shall set forth the reason for denial.

#### Section 7 – Technical standards

- (a) The cable television system shall be installed and remain capable of using all band equipment and of passing the entire VHF and FM spectrum and it shall have th further capability of converting UHF for the distribution to subscribers on the accepted cable transmission bands.
- (b) The cable television system shall be installed and remain capable of transmitting and passing the entire color television signal without the introduction of material degradation of color fidelity and intelligence.
- (c) The cable television system shall be installed and remain capable of twenty-four (24) hours per day continuous operation.

- (d) The cable television system shall be capable of and will produce a picture upon any subscriber's television screen in black and white or color (provided the subscriber's television set is capable of producing a color picture) that is materially undistorted and free from ghost images and accompanied by proper sound, assuming the standard production television set is in good repair and that the television broadcast signal transmission is receivable satisfactorily at the grantee's antenna site. In any event, the picture produced shall be as good as is generally accepted in the cable television industry.
- (e) The cable television system shall transmit or distribute signals of adequate strength to produce good pictures with good sound in all television receivers operating within the manufacturer's specifications of all subscribers without causing cross modulation in the cables or interference with other electrical or electronic systems.
- (f) Grantee shall not allow its cable or other operations to interfere with the television reception of persons not served by grantee, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents of the city. Should grantee discover or otherwise become aware of such interference, grantee shall respond with reasonable diligence to eliminate the interference, but in no event shall such elimination take more than two (2) days from the date of discovery.
- (g) Limit failures which leave five (5) or more subscribers with no cable service to a minimum by locating and correcting such malfunctions properly and promptly, but in no event longer than twenty-four (24) hours after notice unless prevented by an act of God.
- (h) Demonstrate by instruments or otherwise to subscribers that a signal of adequate strength and quality is bing delivered.

# <u>Section 8 – Public, educational and governmental access channels and emergency broadcast services required</u>

- A. The grantee shall provide and maintain an emergency audio alert system which will be compatible with existing warning devices and which can be accessed via a telephone or radio link, which will be furnished by the city. This system shall provide for immediate muting of the audio on all channels and the insertion of emergency messages via the access link. The city agrees to hold harmless the grantee from any penalties or damages resulting from use of this service.
- B. The grantee shall provide, upon implementation of this franchise, and maintain 1 (one) PEG channel which shall lie within all service tiers. This

channel shall have return line capability to allow program origination from the Tullahoma Municipal Building, and shall be under the direct control of city government. At such time that this channel is utilized for programming other than routine public service announcements at an average level of 80% during prime viewing times for a period of 30 days, a second PEG channel shall be made available as soon as it is technically feasible without removing any existing programming, unless an alternative procedure is mutually agreed on by the city and the grantee.

- C. Grantee shall provide, at no charge, full basic cable service to all fire halls, schools, community centers and municipal buildings that request this service.
- D. The grantee shall, through periodic contributions of equipment and/or money, participate in the operation of the PEG channel(s), in order to provide the best possible picture and sound quality. This participation may be negotiated separately and shall not be considered as a part of any taxes or fees due the city.

Section 9 – Indemnification. Grantee shall save the City of Tullahoma harmless from all loss sustained and all costs incurred by said city, including, but not limited to, reasonable attorney fees by the City of Tullahoma on account of any suit, judgment, execution, claim or demand whatsoever against the City of Tullahoma resulting from negligence on the part of grantee in the construction, operation or maintenance of its cable television system in the City of Tullahoma; and for this purpose grantee shall carry property damage and personal injury insurance with some responsible insurance company or companies qualified to do business in the State of Tennessee. The amounts of such insurance to be carried for liability due to property damage shall be \$250,000 to any one person and \$500,000 to two or more persons on any one occurrence; and against liability due to injury to or death of person, \$500,000 as to any one person and \$1,000,000 as to any one occurrence, and \$1,000,000 for all other types of liability. The insurance company must be "A" rated financially in Best's Guide for Property and Casualty Companies. The City of Tullahoma shall notify grantee, in writing, within (10) days after the presentation of any claim or demand, either by suit or otherwise, made against the City of Tullahoma on account of any negligence as aforesaid on the part of grantee. Where any such claim or demand against the City of Tullahoma is made by suit or other legal action, written notice thereof shall be given by the City of Tullahoma to grantee not less than five (5) days prior to the date upon which an answer to such legal action is due or within ten (10) days after the claim or demand is made upon the City of Tullahoma, whichever notice period yields grantee the larger amount of time within which to prepare an answer. All insurance shall be kept in full force and effect by grantee throughout the term

of this franchise and until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of the cable television system as defined in this franchise. In the event grantee shall fail to pay any liability insurance premium when due, the city at its option, may pay such premium and charge said amount back to franchise.

An insurance certificate obtained by grantee in compliance with this section shall be filed and maintained with the city recorder during the term of this franchise.

Neither the provision of this section nor any damages recovered by the city hereunder shall be construed as limiting the terms, obligations or liabilities imposed under any other section of this franchise.

If grantee fails to pay the city any compensation within the time fixed herein, or fails to repay the city within thirty (30) days of notice of the amount due, any damages, costs or expenses which the city is compelled to pay by reason of acts of default of grantee in connection with this franchise, or fails after thirty (30) days written notice by the city of grantee's failure to comply with any provision of this franchise which the city determines can be remedied by demand on the performance bond, the city may, subject to subsection D herein, demand payment of the amount thereof, with interest and any penalties, under the performance bond. Upon such demand for payment, the city shall notify grantee of the amount and the date thereof.

B. The grantee shall post with the city recorder a performance bond in the amount of \$100,000.00 or equal to the previous year's franchise fee, whichever is more. This shall be done within thirty (30) days of the date of passage of this ordinance and succeeding anniversary dates.

The rights reserved to the city with respect to the performance bond are in addition to all other rights by the city, whether reserved by negotiation with grantee or authorized by law, and no action, proceeding or exercise of a right with respect to such performance bond shall affect any other rights the city may have.

#### Section 10 – Construction and maintenance.

(a) All structures, lines and equipment erected by grantee within the City of Tullahoma shall be so located as to cause minimum interference with the proper use of streets, alleys, public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners.

Existing poles, posts, conduits, and other such structures of any electric power system, telephone company, or other public utility located in the City of Tullahoma shall be used to the extent practicable in order to minimize interference with travel and avoid unnecessary duplication of facilities. The City of Tullahoma shall actively assist grantee to the fullest extent necessary in obtaining reasonable joint pole or conduit use agreements from the owners of existing poles or conduits. To the extent that existing poles, posts, conduits, and other such structures are not available, or are not available under reasonable terms and conditions, including excessive cost or unreasonable limitation upon the use of grantee's cable television system, grantee shall have the right to purchase, lease, or in any other manner acquire land, rights-of-way, or public utility easements upon or under which to erect and maintain its own poles, conduits, and other such structures as may be necessary for the construction and maintenance of its cable television system.

- (b) Whenever in any place within the franchise area, all or any part of the electric and telephone utilities shall be located underground, it shall be the obligation of the grantee to locate or to cause its property to be located underground within such places. If the electric and telephone utilities shall be relocated underground in any place within the franchise area after grantee shall have previously installed its property, grantee shall, nevertheless, at the same time or in a timely manner thereafter, remove and relocate its property also underground in such places. Any facilities of grantee placed underground at the property owner's request, in an area where electric or telephone facilities are aerial, shall be installed with the additional expense being paid by the property owner.
- (c) In case of any disturbance by grantee of pavement, sidewalk, driveway or other surfacing, grantee shall, at its own cost and expense and in a manner approved by the City of Tullahoma, replace and restore all paving, sidewalk, driveway or surface so disturbed in as good condition as before said work was commenced and guarantee such repairs or replacement for one (1) year.
- (d) Grantee shall, on the request of any person holding a building moving permit issued by the City of Tullahoma, temporarily raise or lower its lines to permit the moving of the building. The expense of such temporary removal shall be paid by the person requesting the same, and grantee shall have the authority to require such payment in advance. Such permits shall require a minimum of 48 hours advanced notice before moving of any structure.
- (e) Grantee shall have the authority to trim trees upon and overhanging streets of the franchise area so as to prevent the branches of such trees from coming into contact with grantee's wires and cables. Grantee shall

obtain from the public works director, if required, a permit to conduct any such trimming and the same shall be conducted in strict compliance with all laws and ordinances and at the sole expense of the grantee.

- (f) All poles, lines, structures and other facilities of grantee in, on, over and under the streets, sidewalks, alleys, public utility easements and public grounds or place of the City of Tullahoma shall be kept by grantee at all times in a safe condition.
- (g) When the City of Tullahoma or the State of Tennessee undertakes any reconstruction, realignment or any other work on City of Tullahoma's streets which would require relocation or modification of grantee's poles, wires, or other facilities, City of Tullahoma shall notify grantee, and grantee shall be responsible for such relocations of grantee's facilities at grantee's expense.
- (h) Grantee shall, at all times, employ reasonable care and shall install and maintain devices or systems for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.
- (i) The cable television system shall at all times conform to the construction and maintenance standards as set forth by the Federal Communication Commission and/or the cable industry's accepted standards.

### Section 11 – Service extension

- (a) The cable television system as contemplated herein shall be installed and maintained in accordance with the highest accepted industry standards to the end that the subscriber may receive the most desirable form of service. The cable television system will be built in all areas of the city having a density of 25 occupied dwelling units per cable mile. Then number of miles will be calculated starting at the closest point of active distribution system and will continue until reaching within 250 feet of the dwelling unit.
- (b) Grantee agrees to extend its cables to provide additional service within the corporate limits of the City of Tullahoma under the following circumstances: Solely at the cost of the grantee, where the average cost to build does not exceed \$250 per new residential applicant for service connections to be connected to the proposed extension; if the average cost to build exceeds \$250 per residential applicant for service connections to be connected to the proposed extension, the new residential applicants will each pay, or "aid in construction," a pro-rated portion of the extension cost over \$250 average per new residential applicant, unless the new residential applicants will arrange with the grantee for the payment of all or part of the costs of the extension as may be acceptable

to the grantee. The average cost per new residential subscriber to extend service shall be calculated as:

\$Cost to extend services = Average cost per new residential applicant 
#New residential applicants

The pro-rated potion of the extension cost over \$250 per new residential subscriber shall be calculated as:

Average cost per new residential applicant minus \$250 = Pro-rated portion per new residential applicant.

The \$250 average cost per new residential applicant will be increased or decrease annually based on the Consumer Price Index applicable to the same twelve-month period with a \$400 maximum cost per residential hook-up. No party shall be considered a new residential applicant for a service connection within the meaning of this section unless such applicant (1) is an occupant of a residence to which service would be extended and (2) will sign a written contract with the grantee to pay the monthly service charge for one connection for a period of twelve months immediately following the date when service is available through the proposed extension.

Aid in construction agreements by the new residential applicants to the grantee must be made in advance of initiating the extension process; grantee subsequently will commence mapping, design and pole make-ready within sixty (60) days. Grantee will commence construction within sixty (60) days of receipt of all required licenses, permits and authorizations. Any monies paid in advance to the grantee as aid in construction but unused, will be refunded to the original new applicant on a pro-rated basis.

- (c) Nothing contained herein shall prevent the grantee from extending cables on a cost basis that is more favorable than the requirements of this section to the customers to be served by any extension.
- (d) Any extension of service to a commercial business will be negotiated between the said business operator and the grantee.

<u>Section 12 – Amendments and supplemental agreements.</u> It shall be the policy of the City of Tullahoma to amend the franchise upon application of the grantee, when necessary, to enable the grantee to take advantage of any development or developments in the field of transmission of television and radio signals which will afford it an opportunity to more efficiently, effectively or

economically serve its customers. Provided, however, that this section shall not be construed to require the City of Tullahoma to make any amendment.

Section 13 – Filings and communications with regulatory agencies. Copies of all petitions, applications, registrations, and responses to complaints submitted by the grantee to the Federal Communications Commission shall also be submitted simultaneously to the City of Tullahoma.

### Section 14 – Maps, plats and reports.

- (a) The grantee shall file with the mayor or his/her designee a true and accurate map or plat of all existing and proposed installations.
- (b) The grantee shall file annually with the City of Tullahoma, or its designee, not later than ninety (90) days after the end of the company's fiscal year, a detail of gross income, certified by the chief financial officer, applicable to the operations within the City of Tullahoma during the preceding twelve month period. Further, the city shall have the right to inspect the franchisee's records showing the annual gross receipts from which its franchise payments are computed. The right of audit and computation of any and all amounts paid under this franchise shall always be accorded to the city. Should the city notify franchisee in writing of its desire to inspect and/or audit franchisee's records, franchisee shall be obligated to produce such records and make them available to the city within twenty (20) working days of such notification.
- (c) The grantee shall at all times keep on file with the mayor a current list of its partners and stockholders with an interest of 10% or greater, its officers and directors and bond holders.
- <u>Section 15 Franchise term and renewal.</u> This franchise shall take effect and be in full force from <u>February 1, 1992</u> and after acceptance by grantee as provided in section 20, and the same shall continue in full force and effect for a term of ten (10) years, with two five-year renewals. Renewals shall be accomplished as provided for in federal law and regulations.

<u>Section 16 – Forfeiture.</u> If grantee should violate any material terms, conditions, or provisions of this franchise or if grantee should fail to comply with any material provisions of any ordinance of the City of Tullahoma regulating the use by grantee of the streets, alleys, public utility easements or public ways of the City of Tullahoma, and should grantee further continue to violate or fail to comply with the same for a period of thirty (30) days after grantee shall have been notified in writing by the City of Tullahoma to cease and desist from any such violation or failure to comply so specified, then grantee may be deemed to have forfeited and annulled and shall thereby forfeit and annul all the rights

and privileges granted by this franchise; provided, however, that such forfeiture shall be declared only by written decision of the board of mayor and aldermen after an appropriate public proceeding before the board of mayor and aldermen affording grantee due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply; and provided further that the board of mayor and aldermen may, in its discretion and upon a finding of violation or failure to comply, impose a lesser penalty than forfeiture of this franchise or excuse the violation or failure to comply upon a showing by grantee of mitigating circumstances. Grantee shall have the right to appeal any finding of violation or failure to comply with any resultant penalty to any court of competent jurisdiction. In the event that forfeiture is imposed upon grantee, it shall be afforded a period of six (6) months within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this six (6) month period, which shall run from the effective date of the final order or decision imposing forfeiture, including any appeal, grantee shall have the right to operate this cable television system pursuant to the provisions of this franchise.

Section 17 – Surrender right. Grantee may surrender this franchise at any time upon filing with the Mayor of the City of Tullahoma a written notice of its intention to do so at least six (6) months before the surrender date. On the surrender date specified in the notice, all of the rights and privileges and all of the obligations, duties and liabilities of grantee in connection with this franchise shall terminate. Further, should the grantee, his and/or its successors and assigns discontinue the business for which this franchise is granted, all poles, wires, cables, and other devices shall be removed without expense to the City of Tullahoma, within ninety (90) days after demand for such removal is made by the City of Tullahoma.

Section 18 – Transfers. All of the rights and privileges and all of the obligations, duties and liabilities created by this franchise shall pass to and be binding upon the successors of the City of Tullahoma and the successors and assigns of grantee; and the same shall not be assigned or transferred without the written approval of the board of mayor and aldermen, which approval shall not be unreasonably withheld; provided, however, that this section shall not prevent the assignment or hypothecation of the franchise by grantee as security for debt without such approval; and provided further that transfers or assignments of this franchise between any parent and subsidiary corporation or between entities of which at least fifty percent (50%) of the beneficial ownership is held by the same person, persons, or entities shall be permitted without the prior approval of the board of mayor and aldermen.

<u>Section 19 – Franchise fee.</u> Grantee shall pay to the city for the use of the streets and other facilities of the city in the operation of the cable television

system and for the municipal supervision thereof a sum equal to three percent (3%) of the annual gross receipts, as defined herein, from receipts from subscribers within the city. Said fee shall be paid on a quarterly basis within forty-five (45) days after the end of a calendar quarter, with an adjustment fee being the final quarterly payment of the year. Quarterly payments shall be a reasonable estimate of anticipated and realized receipts. The final payment ill be adjusted upward or downward by grantee based on gross revenues received for the year in order to arrive at the three percent (3%) per year fee.

In the event this franchise should be terminated or forfeited prior to the end of the franchise term, as defined herein, grantee shall immediately submit to the city an audited financial statement prepared by a certified public accountant acceptable to the city showing the annual gross revenues of grantee for the time elapsed since the last fiscal year report. Grantee shall pay to the city not later than forty-five (45) days following the termination of this franchise a like percentage of such annual gross revenues and any other sums legally due and owing the city.

In the even that any payment is not made on or before the applicable date fixed herein, grantee shall be subject to the penalty provided for hereinafter.

The city shall have the right to inspect the grantee's records showing the annual gross revenues from which its franchise payments are computed. The right of audit and computation of any and all amounts paid under this franchise shall always be open to inspection by the city. Should the city notify the grantee in writing of its desire to inspect and/or audit grantee's records, grantee shall be obligated to produce such records and make them available to the city within twenty (20) working days of such notification.

Section 20 - Liquidated damages — Should it be found, after conducting the hearing and appeal procedure provided for herein, and after written receipt by the grantee of a finding of violation by the city administrator or his/her designee, that grantee is in violation of the terms of this ordinance, the liquidated damages chargeable to the performance bond, provided for under section 13 herein, shall be as follows:

- A. For failure to provide or maintain data and reports as requested by the city or as required herein, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues, if after ten (10) days written notice of such data or reports are not supplied.
- B. For failure to comply with the operation standards as specified in section 6 thereof, following the city board's resolution directing grantee to make

improvements within a reasonable time period, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues.

- C. For failure to test, analyze and report on the performance of the system following the request of the city, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues.
- D. For failure to pay the franchise fee when due pursuant to section 10 herein, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues ten (10) days after written notice.
- E. The rights in this section are separate, distinct and in addition to those enumerated elsewhere in this ordinance.
- F. Any liquidated damages imposed by the City of Tullahoma in accordance with this license may be reduced by the city if it finds that the failure of the grantee resulted from conditions beyond the grantee's control and/or Acts of God.
- G. Any damages assessed under this section 20, shall be subject to judicial review at the request of the grantee.

#### Section 21 – Franchise to have no recourse -

- A. Except as expressly provided for in this franchise, grantee herein shall have no recourse whatsoever against the city for any loss, cost or expense of damage arising out of any of the provisions or requirements of this franchise or because of the enforcement thereof by the city.
- B. Grantee further acknowledges by the acceptance of this franchise that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the city or by any other third person concerning any term or condition of this franchise not expressed herein.
- C. Grantee further acknowledges by the acceptance of this franchise that it has carefully read the terms and conditions hereof and is willing to and does accept all of the risks of the meaning of such terms and conditions.
- D. Grantee further acknowledges by the acceptance of this franchise that this franchise is non-exclusive.

- $\underline{\text{Section } 22-\text{Rights reserved to the city}}$ . Without limitation upon the rights which the city might otherwise have, the city does hereby expressly reserve the following rights, powers and authorities:
- A. To exercise its governmental police powers now or hereafter to the full extent that such powers may be vested in or granted to the city.
- B. To grant additional franchises within the city to other persons for the construction of a cable television system or other related systems.
- C. To exercise any other rights, powers or duties required or authorized under the Constitution of the State of Tennessee, the laws of Tennessee or the city charter.
- Section 23 Effective date and acceptance. This ordinance shall become effective on February 1, 1992 and, after acceptance by grantee, shall then be and become a valid and binding contract between the City of Tullahoma and grantee; provided, however, that this ordinance shall be void unless grantee shall, within ninety (90) days after the final passage of this ordinance, file with the Mayor of the City of Tullahoma a written acceptance of this ordinance and the franchise herein granted, agreeing that it will comply with all of the provisions and conditions hereof and that it will refrain from doing all of the things prohibited by this ordinance.
- <u>Section 24 Severability.</u> If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any federal or state court or administrative or governmental agency of competent jurisdiction, specifically including the Federal Communication Commission, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.
- <u>Section 25 Amendment to Cable Act</u> Anything to the contrary contained herein notwithstanding, in the event the Congress of the United States shall amend the Cable Act whereby certain additional rights, privileges and/or obligations of the city are allowed, granted, or changed thereby and such amendment (s) are in conflict with this ordinance, such amendment(s) shall prevail.
- <u>Section 26 Passage and effective date.</u> For purposes of becoming a law, this ordinance shall be effective fifteen (15) days from and after its final passage, and after the publication of the caption hereof in a newspaper of general circulation in Tullahoma, Coffee County, Tennessee, the public welfare requiring

it.	For	all	other	purposes,	it	shall	be	effective	as	provided	for	in	Section	23
abo	ve.													

# CITY OF TULLAHOMA, TENNESSEE

	BY s/ MAYOR
ATTEST:	
s/Patricia H. Williams CITY RECORDER	
PASSED ON FIRST READING:	12-9-91
PASSED ON SECOND READING:	12-10-91
PASSED ON THIRD READING:	1-13-92

### APPENDIX "F"

### SEWER USE ORDIANCE

Appendix "F" can be found in Title 18, Chapter 1, "Sewer Use Regulations," of this municipal code.

### APPENDIX "G"

## INFECTIOUS DISEASE EXPOSURE CONTROL

Appendix "G" can be found in Title 4, Chapter 3, "Infectious Disease Control Policy," of this municipal code.

#### **ORDINANCE NO. 1224**

#### ADOPTING ORDINANCE

An ordinance adopting and enacting a new "Tullahoma Municipal Code"; establishing the same; providing for the repeal of certain ordinances not included therein, except as herein expressly provided; providing for the effective date of such code and a penalty for the violation thereof; and providing for the manner of amending such a code.

Be it ordained by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee:

Section 1. That the code of ordinances, consisting of titles 1 through 20 each inclusive, is hereby adopted and enacted as the "Tullahoma Municipal Code," and shall be treated and considered as a new and original comprehensive ordinance which shall supercede all other general and permanent ordinances passed by the board of mayor and aldermen on or before the adoption of this ordinance to the extent provided in section 2 hereof.

Section 2. That all provisions of such code shall be in full force and effect from and after the passage hereof, and all ordinances of a general and permanent nature of the City of Tullahoma, enacted on final passage on or before the adoption of this ordinance, and not included in such code or recognized and continued in force by reference therein are hereby repealed from and after the passage hereof, except as hereinafter provided. No resolution of the city, not specifically mentioned, is hereby repealed.

Section 3. That the repeal provided for in section 2 hereof shall not affect:

- (a) 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 such code;
- (b) Any ordinance or resolution promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligations assumed by the city;
- (c) The administrative ordinances or resolutions of the city not in conflict or inconsistent with the provisions of said code;
  - (d) Any appropriation or budget ordinance;
  - (e) Any ordinance assessing or levying any tax;
  - (f) Any right or franchise granted by the city;
- (g) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;
  - (h) Any ordinance establishing and prescribing the street grades of any street in the city;
  - (i) Any ordinance providing for local improvements and assessing taxes therefor;
  - (j) Any ordinance dedicating or accepting any plat or subdivision in the city;
     (k) Any ordinance prescribing or extending the boundaries of the city;
  - (l) Any traffic ordinance relating to specific locations not inconsistent with this code;
  - (m) The subdivision or zoning ordinances of the city;

- (n) Sections 38 through 42, of Chapter 3, Code of 1939, relative to emergency water supply; or
- (o) Ordinance No. 483, passed on June 9, 1969, ratifying Chapter 148 of Private Acts of 1969, pertaining to electric system payments;
  - (p) Any ordinance passed after the adoption of this ordinance.

Such repeal shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. That whenever in such code an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of such code shall be punished by a fine of not more than fifty dollars (\$50.00) and/or imprisonment for not more than thirty (30) days, as provided in 1-107 of such code.

Section 5. That any and all additions and amendments to such code when passed in such form as to indicate the intention of the board of mayor and aldermen to make the same a part thereof, shall be deemed to be incorporated in such code so that reference to the "Tullahoma Municipal Code" shall be understood and intended to include such additions and amendments.

Section 6. In case of the amendment of any section of such code for which a penalty is not provided, the general penalty as provided in section 4 of this ordinance and 1-107 of such code shall apply to the section as amended; or, in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 7. That a copy of such code shall be kept on file in the office of the city recorder preserved in looseleaf form, or in such other form as the city recorder may consider most expedient. It shall be the express duty of the city recorder, or someone authorized by him or her, to insert in their designated places all amendments or ordinances which indicate the intention of the board of mayor and aldermen to make the same a part of such code when the same have been printed or reprinted in page form, and to extract from such code all provisions which may be from time to time repealed by the board of mayor and aldermen. This copy of such code shall be available for all persons desiring to examine the same.

Section 8. That it shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Tullahoma to be misrepresented thereby. Any person violating this section shall be punished as provided in section 4 of this ordinance.

Section 9. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 10. This ordinance shall become effective from and after its passage and upon publication as required by law and shall be fully effective and implemented on that date.

PASSED AND APPROVED by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on the 9 day of 120.

MAYOR

ATTEST:

City Recorder: Yatricia N. Theciam

Passed on first reading: 4-10-00
Passed on second reading: 4-24-00
Passed on third reading: 5-9-00