

## TITLE 12

### BUILDING, UTILITY, ETC. CODES

#### CHAPTER

1. VARIOUS CODES ADOPTED.
2. BUILDING PERMITS.
3. PROPERTY MAINTENANCE CODE.
4. OFFICE OF ADMINISTRATIVE HEARING OFFICER.

#### CHAPTER 1

### VARIOUS CODES ADOPTED<sup>1</sup>

#### SECTION

- 12-101. Codes adopted by reference.
- 12-102. Officials.
- 12-103. Interference with officials.
- 12-104. Certificate of occupancy required.
- 12-105. Short-term rental and bed and breakfast homestay facilities.

#### **12-101. Codes adopted by reference.<sup>2</sup>**

- (1) The 2018 edition of the ICC International Building Code.
- (2) The 2018 edition of the ICC International Residential Code.
- (3) The 2018 edition of the ICC International Fuel Gas Code.
- (4) The 2018 edition of the ICC International Mechanical Code.
- (5) The 2018 edition of the ICC International Plumbing Code.
- (6) The 2018 edition of the ICC International Existing Building Code.
- (7) The 2018 edition of the ICC International Property Maintenance Code.
- (8) The 2009 edition of the ICC International Energy Conservation Code.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.  
 Planning and zoning: title 14.  
 Streets and other public ways and places: title 16.  
 Utilities and services: titles 18 and 19.

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

(9) The ICC/ANSI A117.1 - 2017 (Standard on Accessible and Usable Buildings and Facilities). (Ord. #07-699, June 2007, as replaced by Ord. #13-792, Feb. 2013, and Ord. #21-1011, Sept. 2021 **Ch5\_02-10-22**)

**12-102. Officials.** Within said ICC 2018 International Building Code and the ICC 2018 International Residential Code, and any subsequent revisions or additions thereunto, when reference is made to the duties of certain officials names therein, that designated official of the City of Goodlettsville, Tennessee, who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

**BE IT FURTHER RESOLVED THAT THE 2018 INTERNATIONAL BUILDING CODE IS AMENDED WITH THE FOLLOWING STIPULATIONS:**

1. Appendix I (Patio Covers) is adopted by reference.
2. Delete Section 1612 Flood Loads. (Locally adopted Flood Ordinance will be used.)
3. Section 202 Definitions: added two (2) items:
  - a. **NORMAL MAINTENANCE REPAIRS** - shall be defined as repairs to an existing building or structure, including but not limited to exterior and interior painting, papering, and window and door maintenance, minor repairs to chimneys, stairs, porches, floor re-finishing, underpinning, and re-roofing. The replacement of roof sheathing, as well as the alteration or movement of any structural building components, does not fall under the purview of normal maintenance.
  - b. **TEMPORARY** - shall mean no longer than 90 calendar days.

**BE IT FURTHER RESOLVED THAT THE 2018 INTERNATIONAL RESIDENTIAL CODE IS AMENDED WITH THE FOLLOWING STIPULATIONS:**

1. Chapter 2 - Definitions: added two (2) items:
  - a. **NORMAL MAINTENANCE REPAIRS** - shall be defined as repairs to an existing building or structure, including but not limited to exterior and interior painting, papering, and window and door maintenance, minor repairs to chimneys, stairs, porches, floor re-finishing, underpinning, and re-roofing. The replacement of roof sheathing, as well as the alteration or movement of any structural building components, does not fall under the purview of normal maintenance.
  - (b. **TEMPORARY** - shall mean no longer than 90 calendar days.
2. Table R301.2(l)

## Climatic and Geographic Design Criteria

Ground Snow Load	15 pounds
Wind speed	115 mph
Topographic effects	No
Special Wind Region	No
Windborne Debris Zone	No
Seismic Design Category	B
Subject to Damage from Weathering	Severe
Subject to Damage from frost line depth (inches)	12 inches
Subject to Damage from Termites	Moderate to Heavy
Winter Design Temp (degrees)	14 Degrees, Fahrenheit
Ice Barrier Underlayment Required	No
Flood Hazards	See City Flood Ordinance
Air Freezing Index	366
Mean Annual Temperature	59 Degrees Fahrenheit
Manual J Design Criteria Elevation (feet)	640
Latitude (Degrees North)	36
Winter Heating	14
Summer Cooling	94
Altitude Correction Factor	*
Indoor Design Temperature	70
Design Temperature Cooling	75
Heating Temperature Difference	*
Cooling Temperature Difference	*
Wind Velocity Cooling	*

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Coincident Wet Bulb	74
Daily Range	M
Winter Humidity	*
Summer Humidity	*

\*This value to be determined using Manual J Design criteria.

3. Section R309.3 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by deleting Section R309.3 in its entirety. The City of Goodlettsville Adopted Flood Ordinance will be the ruling document.

Section R309.5 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by deleting Section R309.5 in its entirety.

4. Section R313.1 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by creating a new Section R313.1.

Section R313.1 Townhouse automatic fire sprinkler systems. A townhouse shall be considered a separate building with independent exterior walls and shall be separated by a two-hour fire-resistance rated wall assembly. A townhouse shall be built according to local and statewide adopted building codes; provided, however a fire sprinkler system shall not be required for a townhouse. For the purposes of this Code, "townhouse" means a single family dwelling unit constructed in a group of three (3) or more attached units that extends from foundation to roof, not more than three (3) stories in height, with a separate means of egress, and a open space of public way on at least two (2) sides.

5. Section 313.2 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by deleting Section R313.2 in its entirety.

6. Section 302.13 Exception 2 amended to read: Floor assemblies located directly over a crawl space not intended for storage, with a standard opening of 18 inches by 24 inches, or for the installation of fuel fired or electric - powered heating appliances.

7. Section P2603.5 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by deleting Section P2603.5 and substituting the following:

P2603.5. Freezing. Plumbing fixtures, water, soil and waste pipes shall not be installed outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other places subject to freezing temperatures unless adequate provision is made to protect such pipes

from freezing by insulation of heat or both. Exterior water supply system piping shall be installed not less than eighteen (18) inches below grade.

8. Section P2801.6 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by deleting Section P2801.6 and substituting the following:

P2801.6. Required Pan. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a pan constructed of one of the following:

1. Galvanized steel or aluminum of not less than 0.0236 inches in thickness.
2. Plastic pans of the approved type.
3. Other approved materials.

A plastic pan beneath a gas-fired water heater shall be constructed of material having a flame spread index of 25 or less and a smoke-development index of 450 or less when tested in accordance with ASTM E84 or UL 723.

Exception: When water heaters are installed in a crawl space or in a basement without living space, no pan shall be required.

Water heater relief valve piping shall terminate 6 to 10 inches above the floor.

9. Section P2903.5 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by deleting Section P2903.5 and substituting the following:

P2903.5. Water Hammer. The flow velocity of the water distribution system shall be controlled to reduce the possibility of water hammer. A water-hammer arrestor shall be installed where quick-closing valves are utilized. Water hammer arrestors shall be installed per the plan design, but at a minimum at all washing machines, dishwashers and standalone ice makers. Water-hammer arrestors shall conform to ASSE 1010.

10. Section P2903.9.1 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by deleting Section P2903.9.1 and substituting the following:

P2903.9.1. Service Valve. A main shut-off valve on the water service line shall be installed for each dwelling unit within a building and shall be accessible in the living portion of the dwelling unit or an attached garage. Additionally, the water service shall be valved at the curb or property line in accordance with local requirements.

11. Chapter 19 of the 2018 Edition of the International Residential Code is hereby amended by adding section M1901.3.

M1901.3. Prohibited Location. Cooking appliances designed, tested, listed or labeled for use in commercial occupancies shall not be installed

within dwelling units or within any area where domestic cooking operations occur.

12. Section G2417.1.1 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by deleting Section G2417.1.1 and substituting the following:

G2417.1.1 Inspections. On completion of the installation, alteration, repair or replacement of gas piping, and prior the use thereof, the building official shall be notified the gas piping is ready for inspection.

13. Section G2417.1 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by adding Section G2417.1.1.3, G2417.1.1.4 and G2417.1.1.5.

G2417.1.1.3. Rough fuel-gas inspection. This inspection shall be made after gas piping authorized by the permit has been installed and before such piping has been covered or concealed or a fixture or appliance has been attached thereto. This inspection shall include a determination that the gas piping size, material and installation meets the requirements of this chapter. It shall also include an air pressure test at which time the gas piping shall stand a pressure of not less than 30 pounds per square inch gauge (68.9 kPa gauge) and shall hold this pressure for a length of time of no less than twenty (20) minutes, with no perceptible drop in pressure. The test shall be made using air pressure only. Necessary apparatus for conducting the test shall be furnished by the permit holder.

G2417.1.1.4 Gas Meter Release Inspection. Gas meter release inspection shall be conducted when all fuel gas appliances are connected to the gas pipe system or plugged with a cast iron plug. All appliance venting shall be in place at the time of the meter release inspection. A shut-off valve in the off position with no appliance connected, shall not be an acceptable termination of the building gas pipe.

G2417.1.1.5. Final Inspection. This inspection shall be made after piping authorized by the permit has been installed and after all portions thereof which are to be covered or concealed and after all fixtures, venting, appliances, shut off valves, and cast iron plugs have been installed.

14. Section G2417.4.1 of the 2018 Edition of the International Residential Code for One and Two Family Dwellings is hereby amended by deleting Section G2417.4.1 and substituting the following:

G2417.4.1. Air Pressure Test. This inspection shall be made after gas piping authorized by the permit has been installed and before such piping has been covered or concealed or a fixture or appliance has been attached thereto. This inspection shall include a determination that the gas piping size, material and installation meets the requirements of this chapter. It shall also include an air pressure test at which time the gas piping shall stand a pressure of not less than 30 pounds per square inch

gauge (68.9 kPa gauge) and shall hold this pressure for a length of time of no less than twenty (20) minutes, with no perceptible drop in pressure. The test shall be made using air pressure only. Necessary apparatus for conducting the test shall be furnished by the permit holder.

15. Section N1102.4.1.2 (R402.4.1.2) Testing is replaced with Section N1102.4.2.1 Testing Option and Section N1102.4.2.2 Visual Inspection from 2009 IRC. 6.

16. Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory) and Section N1103.3.4 (R403.3.4) Duct Leakage (Prescriptive) are optional.

17. Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirement by Component and Table N 1102.1.4 (R402.1.4) Equivalent U-Factors from 2018 ONE AND TWO FAMILY DWELLINGS AND TOWNHOUSES are replaced with Table N 1102.1 Insulation and Fenestration Requirements by Component and Table N1102.1.2 Equivalent U-Factor from 2009 IRC.

BE IT FURTHER RESOLVED THAT THE 2018 INTERNATIONAL PLUMBING CODE IS AMENDED WITH THE FOLLOWING STIPULATIONS:

1. The 2018 Edition of the International Plumbing Code Published by the International Code Council, adopted with Appendices B, C, D and E.

2. Section 305.4 and 312.3 of the 2018 Edition of the International Plumbing Code is hereby amended by deleting Sections 305.4 and 312.3 and substituting the following:

305.4. Freezing. Plumbing fixtures, water, soil and waste pipes shall not be installed outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other places subject to freezing temperatures unless adequate provision is made to protect such pipes from freezing by insulation of heat or both. Exterior water supply system piping shall be installed not less than eighteen (18) inches below grade.

312.3. Drainage and vent air test. Plastic piping shall not be tested using air. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5 kPa) or sufficient to balance a 10-inch column of mercury. This pressure shall be held for a test period of not less than 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

Exception: Air testing on plastic pipe shall be permissible when water is not readily available or when the temperature is forecast to be below 32 degrees.

3. Section 503.1 of the 2018 Edition of the International Plumbing Code is hereby amended by deleting Section 503.1 and substituting the following:

503.1. Cold water line valve. The cold water branch line front the main water supply line to each hot water storage tank or water heater

shall be provided with a shutoff valve, located within 3 feet of the equipment and serving only the hot water storage tank or water heater. The valve shall not interfere or cause a disruption of the cold water supply to the remainder of the cold water system. The valve shall be provided with access on the same floor level as the water heater served.

4. Section 504.7 of the 2018 Edition of the International Plumbing Code is hereby amended by deleting Section 504.7 and substituting the following:

504.7. Required Pan. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a pan constructed of one of the following:

1. Galvanized steel or aluminum of not less than 0.0236 inches in thickness.
2. Plastic pans of the approved type.
3. Other approved materials.

5. Section 604.9 of the 2018 Edition of the International Plumbing Code is hereby amended by deleting Section 604.9 and substituting the following:

604.9. Water Hammer. The flow velocity of the water distribution system shall be controlled to reduce the possibility of water hammer. A water-hammer arrestor shall be installed where quick-closing valves are utilized. Water hammer arrestors shall be installed per the plan design, but at a minimum at all washing machines, dishwashers and standalone ice makers. Water-hammer arrestors shall conform to ASSE1010.

6. Section 903.1 of the 2018 Edition of the International Plumbing Code is hereby amended by deleting Section 903.1 and substituting the following:

903.1. Stack required. Open vent pipes that extend through the roof shall be terminated not less than 12" above the roof. Where a roof is to be used for assembly or as a promenade observation deck, sunbathing deck or similar purposes, open vent pipes shall terminate not less than 7 feet above the roof.

**BE IT FURTHER RESOLVED THAT THE 2018 INTERNATIONAL FUEL GAS CODE IS AMENDED WITH THE FOLLOWING STIPULATIONS:**

1. Appendices A, B, C and D are adopted by reference.
2. Section 406.4 of the 2018 International Fuel Gas Code is hereby amended by deleting Sections 406.4.1 and 406.4.2 and substituting the following:

406.4.1. Method of testing. Gas piping shall withstand a pressure test of 30 psi for a period of twenty (20) minutes without showing and drop in pressure. (Ord. #07-699, June 2007, as replaced by Ord. #13-792, Feb. 2013, and Ord. #21-1011, Sept. 2021 *Ch5\_02-10-22*)



**12-103. Interference with officials.** It shall be unlawful for any person, whether owner or occupant, to refuse to permit the entry of any building official of the City of Goodlettsville or to interfere in any manner with the performance of the duties of such official. (2000 Code, § 12-103)

**12-104. Certificate of occupancy required.** It shall be unlawful to occupy any structure without having first obtained a certificate of occupancy. Anyone occupying a structure without having first obtained such certificate shall be subject to a civil penalty of one hundred dollars (\$100.00) and may be forced to vacate the premises. (2000 Code, § 12-104)

**12-105. Short-term rental and bed and breakfast homestay facilities.** Short-term rentals and bed and breakfast homestay uses shall be considered a one- and two-family dwellings per the State of Tennessee Transient Rental Home and Cabin ruling and the following additional fire and life and safety protection requirements shall apply:

(1) Any short-term rental facility building containing more than two (2) separate and fully independent dwelling units with kitchen, living space, bedrooms, and bathrooms shall require the building to be protected with a fire sprinkler system meeting requirements of an NFPA 13D or 13R system. The NFPA 13D sprinkler system is for one- and two-family residential structures only. Fire separation requirements of the city's residential code would apply between separate and fully independent dwelling units.

(2) All rental units in short-term rentals and bed and breakfast homestay uses shall include an exterior door in the unit to the building exterior or shall require the building to be protected with a fire sprinkler system meeting the requirements of an NFPA 13D or 13R system. The NFPA 13D sprinkler system is for one- and two-family residential structures only. All sleeping rooms shall contain emergency egress per the city's residential code requirements and the exterior exit door would meet that requirement if the door is in the sleeping room. The city may permit a single residential rental sleeping room in an owner occupied short-term rental and bed and breakfast homestay facility with emergency egress per the city's residential code and without a fire sprinkler system if the rental room is on the same level as other non-rental residential rooms.

(3) A multi-station interconnected fire and smoke detection and alarm system and if applicable a carbon monoxide detection and alarm system shall be installed for all short-term rental and bed and breakfast homestay uses per the city's residential code. (as added by Ord. #19-955, Oct. 2019 ***Ch4\_1-23-20***)

## CHAPTER 2

### BUILDING PERMITS

#### SECTION

- 12-201. Building permit required.
- 12-202. Application and fee.
- 12-203. Criteria for granting permit.
- 12-204. Use and occupancy permit.
- 12-205. Records to be kept.
- 12-206. Tall buildings development fee.

**12-201. Building permit required.** Before commencing any work pertaining to the erection, construction, reconstruction, moving, alteration, or addition to any building or structure within the city, a building permit for each separate building or structure shall be secured from the city manager by the owner or his agent. The building permit shall state that the proposed construction, alteration, or repair of a building or structure is in compliance with the provisions of this chapter. (2000 Code, § 12-201)

**12-202. Application and fee.**<sup>1</sup> All applications for a building permit shall be presented to the city manager for approval and issuance and shall be accompanied by a plat, drawn to scale, showing the actual dimensions of the parcel of land to be built upon, the size of the building to be erected, the position of the building upon the lot, and such other information as may be deemed necessary by the city manager in determining the right of the applicant to the permit sought.

The application shall be accompanied by a fee. (2000 Code, § 12-202, modified)

**12-203. Criteria for granting permit.** The city manager shall grant the permit if:

- (1) He is satisfied that such work will not materially and adversely affect the public health, safety, and welfare; and
- (2) If such work is not of such a character as might cause or create a public or private nuisance. (2000 Code, § 12-203)

**12-204. Use and occupancy permit.** Before occupying a new building and premises on vacant land, or before changing the use classification or enlarging the use in any building or on any land, a use and occupancy permit

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<sup>1</sup>All codes department fees (and any amendments) are of record in the office of the city recorder.

shall be secured from the city manager by the owner or his agent. The use and occupancy permit shall state that the use of the building, structure, or land complies with the provisions of this chapter. Application for a use and occupancy permit shall be made with the application for a building permit, or may be directly applied for where no building permit is necessary and shall be issued or refused, in writing, within five (5) days after the city manager has been notified, in writing, that the building or premises is ready for occupancy. In the event no building permit is necessary, a charge of five dollars (\$5.00) shall be made for the use and occupancy permit. (2000 Code, § 12-204)

**12-205. Records to be kept.** It shall be the duty of the city manager to keep a record of all building permits and of all permits for use and occupancy issued, and of all applications for such permits refused by reason of failure to comply with the provisions of this chapter, with notations thereon of the reason for refusal to issue the same. (2000 Code, § 12-205)

**12-206. Tall buildings development fee.** A tall buildings development fee is hereby established in the City of Goodlettsville said fee system to be implemented as follows:

Each person who shall receive development permission from the City of Goodlettsville to construct a tall building shall pay a development fee in the amount and manner set forth in this chapter.

(1) **Definitions.** When used in this chapter, the following terms shall have the meanings herein ascribed to them:

(a) "Development permission" shall mean any rezoning, plat approval, master plan approval, site plan approval, special use permit approval, and/or building permit issuance by the city.

(b) "Feepayer" is the property owner or developer obligated to pay the development fee required by this chapter.

(c) "Increase in level of fire protection" shall mean the acquisition by the city of a new piece of fire fighting equipment of the aerial ladder or elevated platform type which will provide access to the upper stories of buildings.

(d) "Tall buildings" shall mean any building of any type occupancy in excess of three (3) stories or thirty feet (30') in height.

(2) **Payment of fee.** At the time the feepayer pays the appropriate building permit fee, the development fee shall also be paid. Payment of such fee shall be the responsibility of the feepayer as defined above.

(3) **Basis of fee calculation.** The development fee shall be a percentage relationship of the total cost of the building which requires payment of the fee. Said fee shall be calculated based upon the following schedule:

<u>Building cost</u>	<u>Percent</u>
Up to \$1,000,000.00	0.025
\$1,000,001.00 – \$1,500,000.00	0.02
\$1,500,001.00 – \$2,000,000.00	0.015
\$2,500,001.00 – \$3,000,000.00	0.0125
\$3,000,001.00 and over	0.005

(4) Development fee fund. There is hereby established a separately earmarked development fee fund into which all development fees generated by this chapter shall be deposited. Said fund shall be used only for the purchase of required fire fighting equipment and apparatus.

(5) Termination of fee. As of the time when the purchase of said fire fighting equipment has been realized and all debts incurred by the city paid, the tall building development fee shall be terminated. Any monies remaining in the fund shall be distributed on a pro rata basis to those feepayers who contributed to the fund.

(6) Liberal construction. The provisions of this chapter shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, and welfare. (2000 Code, § 12-206)

## CHAPTER 3

### PROPERTY MAINTENANCE CODE

#### SECTION

- 12-301. Property maintenance code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violations.

**12-301. Property maintenance code adopted.** The International Property Maintenance Code<sup>1</sup>, 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as though it was fully copied herein.. (2000 Code, § 12-301, modified)

**12-302. Modifications.** (1) Definitions. Whenever the property maintenance code refers to the "chief appointing authority," or the "chief administrator" it shall be deemed to be a reference to the board of commissioners. When the "building official" is named it shall, for the purposes of the property maintenance code, mean such person as the board of commissioners has appointed or designated to administer and enforce the provisions of the property maintenance code.

(2) Section 302.4 of the International Property Maintenance Code shall read: 302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve inches (12") in height. All noxious plant growth shall be prohibited. Weeds shall be all grasses, annual plants and vegetation other than trees or shrubs provided; however, this term shall not include cultivated flowers or gardens.

Upon failure of the owner or agent having charge of the property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent of the property.

(3) Section 304.2 of the International Property Maintenance Code shall read: 304.2 Protective Treatment. All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces,

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

other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling flaking and chipped paint shall be eliminated and surfaces repainted. All exterior surfaces shall be repainted in a low reflective, subtle, neutral, or earth tone colors. The use of high intensity or metallic paints colors shall be prohibited except for accents. All paint colors shall encompass the entire surface. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces shall be coated to inhibit such rust and corrosion and shall be stabilized and coated to inhibit future rust and corrosion. All metal surfaces shall be coated in a low reflective, subtle, neutral, or earth tone colors. The use of high intensity or metallic coating colors shall be prohibited except for accents. All coatings shall encompass the entire surface. Oxidation stains shall be removed from exterior surfaces. All oxidized surfaces shall be repainted or coated in a low reflective, subtle, neutral, or earth tone colors. The use of high intensity or metallic paint or coating colors shall be prohibited except for accents. All paint or coating colors shall encompass the entire surface.

(4) Section 302.10 shall be added to the International Property Maintenance Code, Exterior Property Areas, and shall read:

302.10 Graffiti. 302.10.1 General. The purpose of this section is to reduce the potential for blight and gang violence due to graffiti. It shall be unlawful for any person to deface property with graffiti or to permit graffiti to be placed upon property that they own.

302.10.2 Definitions. "Graffiti" shall mean marks, symbols, signs, letters, pictures, names, phrases or sentences, which are painted or inscribed, marked or otherwise placed on real property or other surfaces for the purpose of defacing said property, or making a personal statement that is inconsistent with the zoned character of the neighborhood or, contributes to continued defacement and blighting conditions in the neighborhood.

"Property" shall mean a building structure, garage, shed, fence, deck, signage, culvert, bridge, landing or other improvement to a parcel of land, or the public way.

"Reasonable time" shall mean five (5) calendar days from the posting of the property unless the codes director of their designee shall approve a greater period of time.

"Remove(al)" shall mean to obliterate and eliminate graffiti by such means as will restore the property to its condition existing prior to defacement by graffiti.

302.10.3 Graffiti Prohibited. 1. It shall be unlawful for any person to paint, inscribe, mark, or otherwise apply graffiti on any public or private property located within the corporate limits of the city.

2. It shall be unlawful for the owner of any property to permit graffiti to remain in a manner visible to persons using rights-of-way and public or private parking areas to the general public, provided the codes director or their

designee has given the property owner proper notice to remove the graffiti within the specified period as prescribed in sections 107.2 and 107.3 of the International Property Maintenance Code, 2006 edition, and said period has elapsed.

302.10.4 Hardship. 1. In the event a private property owner has a financial hardship and the codes director or their designee determines that graffiti is located on private property in a manner visible to persons using right-of-way accessible to the general public, the city manager is authorized to provide for the removal of the graffiti or otherwise furnish the owner with materials necessary to accomplish such removal. Said funds and materials shall come from the public works department operating budget.

2. Financial hardship must be verified by appropriate documentation provided by the property owner to the City of Goodlettsville or their designee and verified at an income level at or below fifty percent (50%) of the median income as stated annually by the Department of Housing and Urban Development for Metropolitan Nashville, Davidson County.

3. The city manager shall not authorize the undertaking that provides for the painting or repair of any more extensive area than the area where the graffiti is located.

4. Prior to commencing removal of the graffiti, the city manager or their designee shall obtain the written consent from the affected property owner to access their property and that releases and holds harmless the city from any damage or workmanship that results for the work performed.

302.10.5 Violations and Penalties for Non-Removal. It shall be unlawful for any person, firm, corporation, agent, or government entity to violate or fail to comply with a notice of violation to remove graffiti from their property. Any violations of this section or property maintenance code as herein adopted and as herein adopted and modified shall be punishable by a fine of fifty dollars (\$50.00) for each day or portion thereof that a violation continues after due notice has been served and shall be considered separate offenses.

302.10.6 Violations and Penalties for Painting, Inscribing, Marking or Otherwise Applying Graffiti. Any violation of Section 302.10.3(1) is hereby determined to be an act of willful misconduct as defined by the Tennessee Code Annotated for which victims suffering damages have the right to reimbursement from the violator for said damages. Further, any parent or guardian, having custody and control of a minor who violates Section 302.10.3(1) shall be jointly and severally liable for such damages. The city at the discretion of the city manager, undertake to recover damages on behalf of any victim suffering damages as a result of any violation of this section.

302.10.7 Community Service. Alternative Remedy. In lieu of, or as a part of, prosecuting a civil action pursuant to the terms of Section 302.10.3(1), the city manager or their designee shall be authorized to offer a minor or his or her parent or guardian an option to perform such community service as the city manager or their designee deems appropriate.

302.10.8 Appeals. An appeal from any final decision of the codes director or their designee maybe made in accordance with application for appeals as outlined in Section 111 of the International Property Maintenance Code, 2006 edition. (2000 Code, § 12-302, modified, as amended by Ord. #09-733, Dec. 2009, Ord. #10-743, May 2010, and Ord. #10-749, Jan. 2011)

**12-303. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated § 6-54-502 one (1) copy of the property maintenance code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (2000 Code, § 12-303, modified)

**12-304. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. (2000 Code, § 12-304, modified)



## CHAPTER 4

### OFFICE OF ADMINISTRATIVE HEARING OFFICER

#### SECTION

- 12-401. Municipal administrative hearing officer.
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**12-401. Municipal administrative hearing officer.** (1) In accordance with Tennessee Code Annotated, 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 City of Goodlettsville Municipal Code relating to building and property maintenance including:

- (a) Building codes found in International Building Code 2006;
- (b) Residential codes found in 2006 International Residential Code;
- (c) Plumbing codes found in 2006 International Plumbing Code;
- (d) Gas codes in the 2006 International Gas Code;
- (e) Mechanical codes in the 2006 International Mechanical Code;
- (f) Energy codes in the 2006 International Energy Code;
- (g) Property maintenance codes in the 2006 International Property Maintenance Code; and
- (h) All ordinances regulating any subject matter commonly found in the above-described codes.

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

§ 68-120-101(a) enforced by deputy building inspector pursuant to Tennessee Code Annotated, § 68-120-101(f).

The utilization of the administrative hearing officer shall be at the discretion of the administrative hearing officer and shall be an alternative to the enforcement in the city of City of Goodlettsville Municipal Court.

(2) There is hereby created one (1) administrative hearing officer(s) position to be appointed pursuant to § 12-405 below.

(3) The amount of compensation for the administrative hearing officer shall be approved by the board of commissioners.

(4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city manager.

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in Tennessee Code Annotated, title 6, chapter 54, section 1001, et seq. (as added by Ord. #11-766, Dec. 2011)

**12-402. 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 page record. Any party desiring to rebut the 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. #11-766, Dec. 2011)

**12-403. 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 counselor, unless prohibited by any provision of law, other representative. (as added by Ord. #110766, Dec. 2011)

**12-404. 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 representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative 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 in justice.

(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, 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 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. #311-766, Dec. 2011)

**12-405. Appointment of administrative hearing officer/administrative law judge.** (1) The administrative hearing officer shall be appointed by the city manager and serve at the pleasure of the city manager. 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 subsections 6-54-1007 (a) and (b). (as added by Ord. #11-766, Dec. 2011)

**12-406. Training and continuing education.** (1) Each person appointed to serve as an administrative hearing officer shall, within the six (6) month period immediately following the date of such appointment, participate in a program of training conducted by The University of Tennessee's Municipal Technical Advisory Service, (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. #11-766, Dec. 2011)

**12-407. Jurisdiction not exclusive.** 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 commissioners may direct a municipal officer or employee to develop criteria for determining when to exercise administrative enforcement. (as added by Ord. #11-766, Dec. 2011)

**12-408. Citations for violations - written notice.** (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. #11-766, Dec. 2011)

**12-409. Review of citation - levy of fines.** (1) Upon receipt of a citation issued pursuant to section 107, 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. #11-766, Dec. 2011)

**12-410. 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. #11-766, Dec. 2011)

**12-411. 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 intervenor 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. #11-766, Dec. 2011)

**12-412. 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 Tennessee Code Annotated, 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. #11-766, Dec. 2011)

**12-413. Evidence and affidavits; notice.** (1) In an administrative hearing:

(a) 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 there under 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 (b), 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 or material so noticed.

(2) The notice referred to in subdivision (2) shall contain the following information and be substantially in the following form:

The accompanying affidavit of \_\_\_\_\_ (here 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 testify orally and you will not be entitled to question such affiant unless you notify \_\_\_\_\_ (here insert name of the proponent or the proponent's attorney) at \_\_\_\_\_ (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to \_\_\_\_\_ (here insert 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 party). (as added by Ord. #11-766, Dec. 2011)

**12-414. 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 therefore, 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 designated 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 (a) 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. #11-766, Dec. 2011)

**12-415. Final order effective date.** (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. #11-766, Dec. 2011)

**12-416. Collection of fines, judgments and debts.** 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. #11-766, Dec. 2011)

**12-417. Judicial review of final order.** (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to Tennessee Code Annotated, 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 their viewing 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. #11-766, Dec. 2011)

**12-418. 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. #11-766, Dec. 2011)